

## **Rogue Landlord Database Reform Consultation: Generation Rent Response**

Generation Rent welcomes the Government's decision to widen access to the rogue landlord database, and to broaden the list of offences on the register. This will give tenants greater protection from landlords who are known to have broken the law, by allowing them to make informed choices and aiding enforcement. However, the database alone will not provide an accurate picture of the market and will not cover non-compliant landlords who have not yet come to the council's attention. We therefore suggest that alongside widening the database, the Government creates a National Register of Landlords. Such a register would mean that renters could be assured that their landlord was meeting minimum standards, not exploiting their position and that their complaints would be taken seriously if their landlord was acting unscrupulously. We have provided general comments on the proposed database below, as well as answers to specific questions.

### **Access to the database**

- The database will only function as an effective deterrent and enforcement tool if all tenants and prospective tenants have access to the register.
- Tenants at the lower end of the income scale will be most affected by the register, as due to paying lower rents they are both more likely to encounter poor conditions and less able to move to escape them. This limits the effectiveness of the database alone as an enforcement tool, as tenants may have little choice but to accept a property owned by a rogue landlord. In the short term, the Government should invest in outreach, ensuring that the register is available to and used by those who need it most, for example through partnerships with local advice centres. Longer term, widening access to the database should be part of a wider set of proposals to bring housing benefit in line with rents, and to improve enforcement at a local level.
- The database must be easily accessible and offered to all prospective tenants as standard. Tenants preparing to move already have to provide extensive information and have limited time to take on an additional burden of registering for and accessing the database. We recommend that all tenants be able to access the database using the property's postcode and property number. In the event that they don't know the property number, the tenant should be able to access the database using an email address.
- The database should ideally be used by tenants before entering a property, as it is much easier to avoid rogue or criminal operators before contracts have been signed and tenants move in.
- The database should display the landlord's full name and address. This strikes a balance between protecting landlords' rights to privacy and providing tenants with sufficient information to make an informed decision. These details are already in the public domain if the landlord has committed a criminal offence; the database simply collates this information. Without full names and addresses, tenants will not be able to verify if the name on the tenancy matches the property record.

## Scope of the database

- In order to establish the scope of the database, it is crucial to define a rogue landlord. As the term encompasses both criminal and non-criminal behaviour, the definition is currently subjective, making it difficult to establish which acts should be included in the scope of the database. We propose that a rogue landlord is defined as a landlord breaking the law, and/or knowingly or unknowingly letting a property that is endangering a tenant's mental or physical health. This definition should inform the list of offences that warrant inclusion on the database, particularly the more minor offences.
- Broadening the list of the offences on the database is welcome, as currently only very high-level offences are included. Councils have to seek out banning orders for them to be included, which is time-consuming and costly. The fact that only 10 entries have been included on the database since its creation in April 2018 is evidence that the register is too narrow.
- The focus on more minor housing-related breaches which the council does not have a duty to enforce is welcome, as tenants currently have limited options in these cases. Generation Rent surveyed renters who contacted their local council regarding problems with a privately rented property, and found that in 50% of cases, the council did not arrange an inspection as the problem was not deemed severe enough.
- Currently, local authorities have the discretion to make entries in certain circumstances. It should be compulsory for local authorities to add entries at all levels, to ensure these offences are consistently reported.
- The roll-out of the register must be integrated with the roll-out of the Housing Complaints Resolution Service, as proposed in January 2019. Landlords of properties which have been referred to the complaints service should be included on the register. Likewise, tenants who find their landlord on the rogue landlord database should be signposted to the complaints resolution service to enable them to receive the help they need.
- While opening up the database is a positive step, without reforms to council enforcement, many rogue landlords will not be identified, and it will be difficult to establish the true extent of substandard or unsafe housing. A national register of landlords would be the first step in addressing this.

### 1. Are you responding as:

A tenant representative body

2. Email: caitlin@generationrent.org

### Widening Access

3. Do you think that the database should allow tenants and potential tenants access to the details of rogue landlords and property agents contained within it?

Yes

In order for the database to be effective, it must be freely available to tenants and potential tenants, who should be informed about the database as a matter of course before signing a new tenancy agreement. Landlords should not be informed about tenants' use of the database.

Widening access would also act as an incentive for landlords to improve their knowledge of safe property conditions, good management practices and their obligations as a landlord.

**4. (If yes) Please give your reasons for allowing access to the database.**

- *Allows tenants to check they are not renting from a known rogue landlord or property agent*
- *Allows tenants to make an informed choice*
- *It will act as a deterrent to rogue landlords and property agents*
- *For tenant protection*
- *Other - please specify (there is a limit of 750 characters).*

All of the above

In addition to the above, the database will help improve local authority enforcement. Tenants who discover that their landlord is on the register because of a banning order, and therefore in breach of the terms of the banning order, will have the option to report this to the local authority. This will relieve the burden of council enforcement officers, many of whom have to deal with thousands of requests annually.

**5. (If tenant protection) Why do you think it is necessary for their protection (there is a limit of 750 characters)?**

- Many housing offences directly threaten tenant safety and conviction of an offence does not mean that problems with the landlord or property are resolved overnight. The database will make tenants aware of any offences relating to their landlord and what their landlord's obligations are in order to remedy them.
- If the database is used before the start of a tenancy, it will prevent tenants from experiencing unsafe and dangerous housing. The effect of reducing demand for criminal landlords' properties will encourage some to exit the market.
- Once tenants are in a property, they have few avenues of redress if they are experiencing unsuitable or dangerous housing. Therefore, preventing tenants from experiencing this is preferable to putting the burden on to them to navigate the enforcement and redress process.

**6. Do you think access to the database of rogue landlords and property agents would be a useful tool for tenants and potential tenants in making a decision on properties to rent?**

Yes.

- If a tenant finds that their prospective home is owned by a landlord on the database, they can make a more informed choice about living there. Some may accept the higher risk involved but they would do so with the knowledge of their landlord's record and an understanding of where to turn if they experience problems.
- However, a shortage of affordable and suitable housing will mean that in many areas tenants may have little choice regardless of whether a landlord or agent is on the database. The database is welcome but must be part of a wider package of reform.

**7. (If yes) Under what circumstances do you think a potential tenant would make use of the database prior to a tenancy?**

- *Only if a tenant had concerns about the property*
- *If a tenant had concerns about a landlord*
- *As a matter of course (due diligence)*
  - As a matter of course. The state at which tenants access the database depends on the individual. Some well-informed tenants will do the latter while others who have concerns need to be signposted towards the database.
  - To ensure it serves all tenants, access to the database must be offered as a matter of due diligence, and confidentially, to protect tenants from being seen as 'difficult' or less desirable than tenants who do not look at the database. Prevention is preferable to settling a dispute as a tenant.

**8. Under what circumstances do you think a tenant would make use of the database during a tenancy?**

- *Only after attempting to have the landlord/agent to rectify the issue*
- *As soon as the issue arises*
- *At the same time as complaining to the local authority*
- *All of the above*
  - All of the above. Knowledge of a landlord's history is useful to tenants at all stages of the dispute resolution process and may give them extra information or act as an encouragement for a landlord to fix a problem.

**9. Why do you think a tenant would not make use of the database?**

- *Would complain to the local authority about the issue*
- *The information held on the database would not rectify the issue.*
- *Other - please provide further information (there is a limit of 750 characters).*

Other

- Tenants may not know about the database. It should be compulsory for landlords and letting agents to make tenants aware of the existence of the database as a matter of course before signing a new contract. The Government should partner with local advice services to ensure that all tenants know about the database, including those who are vulnerable.
- A tenant may not feel the database is useful, if they cannot afford to move.

**10. Who else might benefit from access to the database? Please also provide your reasons (there is a limit of 750 characters).**

- Listings sites (Rightmove, Zoopla etc.): this would enable them to ensure that properties and agents listed on the sites were not on the register.
- Councillors & MPs: to enable them to carry out enforcement duties and casework effectively.
- Tenants' rights organisations: to enable them to provide accurate advice and support.

**11. To meet data protection requirements the database would require an access portal, which of the following options do you think would be appropriate?**

- *Signing up for a user account and providing your details such as name, address and email address.*
- *Sign up with an email address*
- *Access by entering your postcode and property number*

Tenants should have multiple ways of accessing the database, either through signing up with an email address, or entering a postcode and property number. The email address could serve as an alternative for tenants who do not know their landlord's property number.

**12. Should a redacted version of the landlord/agent's address be viewable to tenants, for example the local authority area, town, street and partial postcode?**

Yes

**13. (If yes) Please provide reasons why a redacted version of the landlord/agent's address should be viewable to tenants (there is a limit of 750 characters).**

The tenant is most likely to have access to this information, making it easy to verify their landlord. Tenants would be able to check this against the Land Registry and/or tenancy agreement as part of due diligence. If the details don't match then this could indicate that the property has been sold since the entry on the database, giving the tenant more assurance.

**14. (If no) Please provide reasons why a redacted version of the landlord/agent's address should not be viewable to tenants (there is a limit of 750 characters).**

**15. Should potential or existing tenants be able to view the landlord/agent's full name?**

Yes

**16. (If yes) Please provide reasons why a potential or existing tenant should be able to view the landlord/agent's full name? (there is a limit of 750 characters)**

Tenants should be able to view this in the interests of transparency & accountability. Providing the full name will make it easier for tenants to know if it is their landlord. The property's address alone may not tell the whole story as the property could have changed hands.

**17. Do you think a landlord or agent should be required to disclose to an existing or prospective tenant that they are included on the database?**

Yes

- The burden should not fall on the tenant. This should be disclosed by the landlord or agent prior to contracts being signed.
- Requiring a landlord to disclose their entry on the database would add a further layer of accountability to the landlord. It should be an offence to fail to disclose inclusion on the database. Non-compliance should enable the tenant to apply for a Rent Repayment Order and protect them from a no-fault eviction.

**18. (If yes) Please give your reasons for why a landlord or agent should be required to disclose to an existing or prospective tenant that they are included on the database.**

- *Provides additional level of tenant protection.*
- *Other - please specify (there is a limit of 750 characters)*

- Disclosure is necessary to ensure that the database is useful. It will only be useful if widely used and accessible. Tenants (already dealing with the burden of moving home) should not have an additional burden, it should be disclosed without them having to search for it.
- Tenants already provide extensive referencing to landlords through disclosing information, and it is therefore reasonable to ask landlords/agents to provide the same.
- Requiring the landlord to notify the tenant of the existence of the database and their inclusion on it (or otherwise) would help to raise awareness of the database among tenants, create a mechanism for enforcing obligations on landlords, and an incentive on landlords to comply with the law.
- Requiring a landlord to disclose their entry on the database would add a further layer of accountability to the landlord. It should be an offence to fail to disclose inclusion on the

database. Non-compliance should enable the tenant to apply for a Rent Repayment Order and protect them from a no-fault eviction.

**20. Should full details of the offence a landlord or agent has been convicted of, including nature of the offence be viewable?**

Yes -full details of the offence as at question 20 and the sentence received

- If a sentence has been received, information about the sentence is usually already publicly available, for example in local press reports. There is therefore no reason not to give tenants full information about the sentence received.

**22. How long should a landlord remain on the database?**

- Landlords should remain on the database for as long as the conviction remains unspent and in line with the Rehabilitation of Offenders Act.

**Widening the scope of the database**

**23. Do you agree with the list proposed additional offences contained in annex B? (there is a limit of 1000 characters)**

Generation Rent agrees with the proposed additional offences, in particular:

- **Charging fees outlawed under the Tenant Fees Act 2019**
- **Not publicising relevant agent fees under the Consumer Rights Act 2015**

However, we would also propose including additional offences on the database. These are:

- **Banning orders under the Environmental Protection Act 1990.** Failure to comply with notices under the Environmental Protection Act 1990 should be included. An example of this is the conviction of Judith Wilson in 2019<sup>1</sup>, for her failure to provide heated water at a property.
- **Failure to comply with minimum space requirements for HMOs under the Housing Act 2004.** This will help reduce overcrowding, which the Government has already included on the proposed new offences list. An example of this was the September 2019 conviction of a landlord who illegally converted properties into flats which did not meet minimum space requirements<sup>2</sup>
- **Failure to comply with a Rent Repayment Order under the Housing Act 2004.** Landlords are required to repay rent under a Repayment Order if they let a property illegally, so landlords would in theory already be on the database for a separate offence, making this inclusion simple to enforce.

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<sup>1</sup> <https://www.kentonline.co.uk/ashford/news/judith-wilson-appears-in-court-amid-boiler-row-207838/>

<sup>2</sup> <https://www.arla.co.uk/news/september-2019/landlord-hit-with-over-500k-fine-after-illegally-converting-property.aspx>

- **Failure to meet minimum standards of energy efficiency.** These are set out in the Government's Fuel Poverty Strategy. Fuel poverty disproportionately affects private tenants on lower incomes, who are likely to live in the least energy efficient homes. Landlords who do not meet these standards subject tenants to unsafe conditions which are harmful to health, and tenants need better protection from this.
- **Breaching an Emergency Prohibition Order** which prevents them from letting a property.
- **Failing to provide information about the ownership and management of a property** if requested by the council as part of a notice.
- **Failure to comply with electrical safety regulations,** including failing to undertake safety checks of their electrical installations in line with, in line with existing British Standards (BS7671) every five years as mandated by the Government earlier in 2019.

**24. Do you think that landlords/agents who receive a single civil penalty notice should be included on the database?**

Yes

**25. Where a landlord/agent has been issued with an improvement notice, should they be included on the database?**

Yes

**26. (If yes) Please give your reasons why a landlord who has been issued with an improvement notice should be included on the database (there is a limit of 750 characters)**

- Improvement notices are an issue of tenant safety. Regardless of whether the landlord has taken action to improve the property or not, tenants deserve to know if their landlord has in the past let a property which has posed serious health and safety hazards.

**27. Are there any other offences not listed in the annexes that should be included? Please specify and give your reasons for inclusion (there is a limit of 750 characters).**

*We are interested to know if minor housing related breaches should be included on the database. This includes less serious hazards or defects where the local authority does not have a duty to take enforcement action, but that still may suggest poor management.*

Yes

- The focus on more minor housing related breaches which the council does not have a duty to enforce is welcome, as councils currently have no duty to enforce these. Generation Rent surveyed renters who contacted their local council regarding problems with a privately rented property, and found that in 50% of cases, the council did not arrange an inspection as the problem was not deemed severe enough. These nonetheless have significant impacts on tenants' lives



- The fact that the local authority does not have a duty means tenants currently have very little protection against poor management, and the database would address this. In most cases, councils can merely serve an 'advisory' notice, which the landlord is not legally required to act upon.

**28. Should landlord/agents who fail a fit and proper person test be included on the database?**

Yes

**29. (if yes) Please give your reasons why landlords/agents who fail a fit and proper person test should be included on the database**

Yes

- Tenants deserve to know if a landlord is able to hold a license for different properties. For example, tenants should be aware of whether a landlord has been denied an HMO license.
- However, landlords should only be included once a fit and proper person test has become standardised. Without this, landlords will be included on a national register for a regional offence which could constitute different offences in different local authorities. Tenants will have no way of knowing what failing a fit and proper person test entails without it being standardised.

**30. Should the reason for failing the fit and proper person test be included and viewable?**

Yes

**31. Would it be helpful to introduce a standardised fit and proper person test?**

Yes

**32. (If yes) Please provide further detail on why you think it would be helpful to introduce a standardised fit and proper person test (there is a limit of 750 characters).**

- Councils currently have confusing and disparate licensing schemes. This means fit and proper person tests do not always cover a full range of offences and can mean different things in different areas of the country.
- To ensure all landlords adhere to the same standards and prevent a variation in housing standards regionally, the fit and proper person test should be standardised. This would also ensure that landlords who had failed a fit and proper person test and were therefore on the national register would have committed the same offences regardless of region.
- Having a robust and standardised fit and proper person test may also make councils more confident in using them.

**33. (If no) Please provide further detail on why you think it would not be helpful to introduce a standardised fit and proper person test (there is a limit of 750 characters).**

## **Selective Licensing Schemes**

**34. Where a landlord/agent has a licence to let a House in Multiple Occupation, or a property subject to selective licensing denied or revoked, should the landlord or agent be included on the database?**

Yes

**35. (If yes) Please give your reasons why a landlord/agent who has had a licence to let a House in Multiple Occupation or a property subject to selective licensing denied or revoked should be included on the database. (there is a limit of 750 characters)**

- HMOs are more likely to be of poorer standard as they are usually at the lowest end of the market, and unlicensed HMOs are common. Tenants in unlicensed HMOs often suffer poor quality housing and overcrowded conditions, with little effective enforcement.
- Councils need more resources to enforce licensing. The database alone will not solve it, as many HMOs operate informally and are unknown to councils.
- Tenants should have access to a list of licensed properties (selective or HMO) and the ability to check whether their home is licensable. This would help them determine whether their landlord is flouting the law, even if the council is unaware of the property.

**36. Should the reason for a licence being denied or revoked be viewable?**

Yes

- Tenants deserve to view this for the same reason that tenants deserve to have a reference check on their landlord. If someone with control over your home has had a license revoked in the past, then tenants have the right to know about this to make an informed choice about going forward with the tenancy.

**37. In relation to question 34, please give further details (there is a limit of 750 characters).**

**38. Should a landlord or agent whose property is subject to a management order be included on the database?**

Yes

**39. (If yes) Please give your reasons why a landlord or agent whose property is subject to a management order should be included on the database (there is a limit of 750 characters).**

- This would protect tenants in HMOs in areas where the licensing is not sufficient to protect them from poor conditions.

**40. Should landlords and property agents who are expelled from a redress scheme be included on the database?**

Yes

**41. (If yes) Please give your reasons why landlords and property agents who are expelled from a redress scheme should be included on the database (there is a limit of 750 characters)**

- As membership of a redress scheme will be compulsory for all landlords in the private sector, expulsion from these would indicate a failure to comply with standards which are a legal requirement.
- Failure to comply with the code of practice and failing to abide by the rules of a compulsory scheme is a strong indicator of poor practice. Tenants deserve to know this.

### **Local authority access**

**42. Should local authorities retain access to information held on the database after it is no longer available for tenant access, for specific purposes such as legal and/ or audit?**

Yes

**43. Please provide further detail for your answer to question 42 (there is a limit of 750 characters).**

Councils may be called on to enforce against the same landlords on multiple occasions, and knowledge of prior convictions will inform them of past problems and allow them to tailor and prioritise enforcement accordingly.

**44. Is there anything else you would like to add? (there is a limit of 1500 characters)**

Opening up the rogue landlord database is a step in the right direction. However, the database alone will not provide an accurate picture of the market and will only cover landlords who have been subject of enforcement action by the council, rather than those who have not yet come to the council's attention.

The decision to add a landlord to the register is at the local authority's discretion, and given that an application can become an issue of contention and so be very costly in time, it has to be worth a local authority's while to apply. Some authorities will be more proactive at adding and removing landlords to the database than others, so the database will not provide an accurate picture.

A solution to this would be to create a national register of all landlords across the country, based on membership of the proposed redress scheme. This would mean that landlords would have to meet certain standards in order to rent out their homes and could be struck off if not. Such a register would mean that renters could be assured that their landlord was not exploiting their position and that their complaints would be taken seriously if their landlord was acting unscrupulously. A national register could be linked to local authority licensing schemes to meet specific conditions locally. It would also allow government to communicate much more effectively with the industry and use its powers to focus on the bad, 'rogue' landlords that would operate 'off-register'.

A tenant would immediately be able to establish whether a landlord is compliant through checking the register. By contrast, a landlord not featuring on the rogue landlord database would not offer the same certainty, due to the possibility that the landlord had simply not been prosecuted or added by the local authority.