

Equality Impact Assessment Form

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1. Document Control

1. Control Details

Title:	Adoption of Banning Order and Database of Rogue Landlords Policy
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Department:	Commercial and Operations
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2. Document Amendment Record

Version	Author	Date	Approved
1.	Rebecca Brooker	13/11/2019	

3. Contributors/Reviewers

Name	Position	Date
Ceri Davies	Housing Strategy Specialist	January 2020
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4. Glossary of Terms

Term	Description

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2. Assessment

1. Brief description of proposal / policy / service being assessed

Banning Orders and the use of the Rogue Landlord Database are powers available to Local Housing Authorities (“LHAs”) introduced under the provisions of the Housing and Planning Act 2016. The ability for the LHA to make an application for a Banning Order for a landlord where they have been convicted of a Banning Order offence became available on 6 April 2018. The entry of a person or organisation on to the Rogue Landlord Database is a power available to the LHA where a person has been convicted of a Banning Order offence or has received two financial penalties within a 12 month period in respect of a Banning Order Offence. The LHA are under a duty to place a landlord on the Rogue Landlord Database where they have received a Banning Order.

The LHA is committed to using its new and existing powers contained within both the Housing Act 2004 and the Housing and Planning Act 2016. This will help to drive up standards of accommodation and therein prevent the negative impacts of poor accommodation that can put pressure on services such as homelessness prevention and health; help ensure that properties are effectively managed and contribute to achieving higher levels of citizen satisfaction within the private rented sector across the City.

The LHA is proposing to adopt the use of these new enforcement measures to enable it to take robust enforcement action against the most serious offenders. It is believed that the adoption of Banning Orders and use of Rogue Landlord Database will expand upon the current tools available to deal with landlords who persistently fail to meet the standards expected of them as part of a staged approach to enforcement; these being the options of last resort. This will prevent landlords who knowingly flout the law from letting their properties and therefore protect tenants on both a local and national basis.

Where the LHA deem that it is appropriate to make an application for a Banning Order, they will serve a Notice on the person to be subject of that Order (e.g. landlord/agent) under section 19 of the Housing and Planning Act to request

information in relation to the landlord's portfolio. They will then serve a Notice under section 15 of the 2016 Act of their intention to make such an application. At this stage, the landlord will have an opportunity to make a representation in relation to this proposed course of action that the LHA will consider and respond to accordingly. Once completed, an application is made by the LHA to the First-Tier Property Tribunal for a Banning Order. The decision as to whether the Order is undertaken by the Tribunal.

Where the LHA deem that it is appropriate to make an entry onto the Rogue Landlord database they will serve a notice under s31 of the Housing and Planning Act 2016 of their intention to make such an entry and this will specify the period of time for which the entry will be made. The recipient will have an opportunity to appeal the decision to the First-tier (Property) Tribunal.

Overall these new enforcement tools will help drive up housing standards within the private rented sector within Nottingham and help the Council achieve its aims set out within the Council Plan 2019-2023 and ensure there are improved outcomes for Citizens living within Nottingham City. The adoption of the use of these powers will also have implications on a wider basis as Banning Orders ban the landlord from letting out properties; engaging in letting agency work; engaging in property management or doing two or more of those things in England. It will also mean that they are unable to hold a House in Multiple Occupation (HMO) Licence and their property may be subject to a Management Order. By placing a person or organisation on the Rogue Landlord Database this will enable other LHAs to keep track of known rogue landlords and help LHAs target their enforcement actions where it is most needed.

For further information on the Council's Housing Enforcement procedures and proposed use of Banning Orders and Rogue Landlord Database please see the attached Housing Enforcement Guidance and the Banning Orders and Rogue Landlord Database Policy and Guidance.

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2. Information used to analyse the effects on equality:

1. Census 2011 and Household Projections;
2. Issues and indications arising from full consultations for both the Additional Licensing scheme and the Selective Licensing scheme
3. Ethnicity monitoring via additional Licensing applications

4. Building Research Establishment (BRE) 2016 www.nottinghaminsight.otg.uk/f/183870

3. Impacts and Actions:

<u>screeintip-sectionD</u>	Could particularly benefit X	May adversely impact X
People from different ethnic groups.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Men	<input type="checkbox"/>	<input type="checkbox"/>
Women	<input type="checkbox"/>	<input type="checkbox"/>
Trans	<input type="checkbox"/>	<input type="checkbox"/>
Disabled people or carers.	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/ Maternity	<input type="checkbox"/>	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	<input type="checkbox"/>	<input type="checkbox"/>
Lesbian, gay or bisexual people.	<input type="checkbox"/>	<input type="checkbox"/>
Older	<input type="checkbox"/>	<input type="checkbox"/>
Younger	X <input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).	<input type="checkbox"/>	<input type="checkbox"/>
<i>Please underline the group(s) /issue more adversely affected or which benefits.</i>		

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How different groups could be affected
(Summary of impacts)

Impacts on Landlords

There is no data set which links rental property ownership to ethnic origin, so it is not possible to quantify the impact. It is however, acknowledged that there is a high level of ownership amongst the South Asian community, and therefore the Council must have regard to this potential adverse impact. Licence applications made under the 3 licensing schemes operating within the City provide an opportunity to capture ethnic monitoring data and provide better data on ownership of the PRS. However, very few landlords have completed the ethnic monitoring.

It is also not known what level of enforcement action has been taken against landlords of different ethnic origin as this data is not collected or recorded as part of enforcement activity. However, due to the high level of ownership amongst the South Asian community it may be that a higher level of enforcement action is taken against this ethnic group compared to other ethnic groups but this would only be higher due to the higher percentage of properties owned.

The Housing Enforcement Guidance sets out the Safer Housing and Housing Licensing and Compliance teams approach to dealing within non-compliance with housing

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Details of actions to reduce negative or increase positive impact
(or why action isn't possible)

1 Actions will need to be uploaded on Pentana.

Actions to mitigate against impacts on landlords

Ensure all staff are trained in the relevant investigation practices and procedures as well as competent in the area of Housing Law.

Undertaking Equality and Diversity and Unconscious Bias training to reduce any potential unconscious bias that may occur during the enforcement process and ensure that enforcement duties are carried out with full regard to the Councils equality and Diversity Policy.

There is no statutory requirement to consult on the proposed changes. In fact, this is a power provided to the LHA under the Housing and Planning Act 2016. The MHCLG guidance on Banning Orders does require that the LHA have their own policy on the matter. However, the LHA will actively promote the new enforcement powers available to it and the enforcement actions that are taken by the Safer Housing and Housing Licensing and Compliance teams.

The LHA will continue to provide general information, advice and guidance to all landlords to ensure that relevant

related issues. In all cases a graduated approach to compliance will be taken in line with the principles of Better Regulations and the Regulators Compliance Code. However, where a landlord has been convicted of a Banning Order Offence consideration will be given as to whether it is appropriate to make an application for a Banning Order. This will help enable the LHA will more effectively deal with serious and persistent non-compliance. This decision making process will apply to all landlords operating within the Nottingham City boundary who have been convicted of a Banning Order offence and these decisions will be documented.

There are a number of factors contained within the MHCLG guidance on Banning Orders, which should be taken into account when the LHA is determining whether it is firstly appropriate to make an application for a Banning Order and the duration of the Banning Order. The use of Banning Orders will only be for the most serious offenders and it will enable the Council to take robust enforcement actions against the most persistent offenders who show a blatant and continued disregard for the law. Banning Orders are only allowed to be taken where the landlord has been convicted of a Banning Order offence. An application will be made to the First-tier Tribunal who will make a determination on whether it is appropriate to impose a Banning Order and the length of time this will be for. Therefore, Banning Orders will not be applied across the board and will only affect a small minority of landlords.

It will not be appropriate to make applications for Banning Orders in all cases and detailed consideration will be given to this in consultation with the Council's legal team. In addition to this, although the minimum period for a Banning

enforcement changes are understood. This will be through the introduction of the Landlords Forum and the landlord newsletter as well as information provided on the website.

The LHA will review its use of Banning Orders including looking at any issue of disproportionality.

Order will be 12 months' consideration will be given to what an appropriate length of time will be for this Banning Order to be in place.

An adverse impact of the Banning Order is that they will have to employ a managing agent or an appropriate person to operate their properties, this will mean a potential loss of income for the landlord for the period of time. It may be that as a result of the Banning Order the LHA feel that a Management Order should be considered, this will result in the LHA taking over the management of the property and therefore the landlord will not be able to collect rent for the property during the time in which the Management Order is in place.

In a small number of cases this may lead to landlords selling properties due to the Banning Order being imposed which in turn may lead to potential tenant evictions from those properties. However, where the landlord has been shown to be persistently non-compliant the properties may be bought by reputable landlords who will improve the quality of the accommodation for the tenants and it is these landlords the Council would encourage to grow within the City.

Benefits for Landlords

The benefits for the majority of landlords is that the Council takes robust action against those landlords who continually flout their legal requirements and receive a financial advantage for not complying with the law.

<p>Impacts on Tenants</p> <p>Where an application for a Banning Order is made this should not have any adverse impact on the tenant of the property as their tenancy will be protected, this would include where the property is subject to a Management Order.</p> <p>However, the Council recognises that although there should not be any adverse impact on tenants upon the commencement of the process of applying for a Banning Order or entry on the Rogue Landlord database this may aggravate a landlord who already has a disposition to poor management and tenancy practices which may result in an detrimental impact on the health, safety and welfare of the tenants.</p> <p>Benefits to Tenants</p> <p>The potential benefit is that by taking more robust enforcement action in the PRS it will improve the quality and safety of accommodation and ensure that the management arrangements are suitable. Life chances/opportunities are affected by housing. As accommodation improvement outcomes of those living in the accommodation will also improve this will include physical and mental health outcomes.</p> <p>BME citizens are over represented in areas of the City where there is a high concentration of PRS. Overcrowding is likely to be an issue in some areas and illegal conversions of properties particular affect new and emerging communities. By ensuring robust enforcement action is taken this will ensure that BME citizens are protected and are not disadvantaged by living in the</p>	<p>Actions to mitigate against impacts on tenants</p> <p>The LHA will support tenants in properties where a Banning Order application is made to make sure they fully understand the process and what is happening.</p> <p>Before any notice of intended proceedings is served on a person attempts to communicate with the tenants will be made (so far as is reasonable practicable). This will be to explain the proposed course of action to be taken and the impact that this may have. Information will also be provided on their rights, and what action can be taken if the landlord acts in an inappropriate way. This will be done verbally and backed up through an advisory letter.</p> <p>The Council will ensure that at all stages of the process the tenants are kept informed and know who to contact should they need to speak to someone, a high level of tenancy support will be provided.</p>
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<p>PRS.</p> <p>Vulnerable Tenants will be protected through ensuring there is a robust method to ensure they are not the exploited by a criminal landlord.</p> <p>The PRS also accommodates younger age cohorts compared to older, in particular students and those under 35. These are the age range which are more likely to have children or be starting families and therefore improving conditions and standards in the PRS will therefore be of benefit to the health, education and welfare of children within the City.</p> <p>By ensuring that rogue landlords are robustly tackled this will ensure the wider aims of licensing schemes and driving up property standards are met and that issues of Anti-social behaviour are tackled.</p>	
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4. Outcome(s) of equality impact assessment:

<input checked="" type="checkbox"/>	No major change needed	<input type="checkbox"/>	Adjust the policy/proposal
<input type="checkbox"/>	Adverse impact but continue	<input type="checkbox"/>	Stop and remove the policy/proposal

5. Arrangements for future monitoring of equality impact of this proposal / policy / service:

<p>The proposed Banning Order and Rogue Landlord Database Policy and Guidance and associated documents will be reviewed and amended in accordance with any changes in legislation or official guidance. Where no other changes occur, a review of the guidance will take place at least annually and in line with decisions made by the First-tier (Property) Tribunal process.</p>

Use of Banning Orders and entries on the Rogue Landlord Database will be monitored for disproportional application to any particular community although it is acknowledged that the number of Orders is likely to be very small.

6. Approved by (manager signature) and Date sent to equality team for publishing:

Approving Manager:

The assessment must be approved by the manager responsible for the service/proposal. Include a contact tel & email to allow citizen/stakeholder feedback on proposals.

Date sent for scrutiny:

Send document or Link to:
equalityanddiversityteam@nottinghamcity.gov.uk

SRO Approval:

Date of final approval:

Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:

1. Read the guidance and good practice EIA's
<http://intranet.nottinghamcity.gov.uk/media/1924/simple-guide-to-eia.doc>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.
4. Written in clear user-friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly, when this is going to happen.
7. Clearly cross-referenced your impacts with SMART actions.