

## **Leeds City Council Private Sector Housing Policy – Banning Orders and the National Rogue Landlord Database.**

This guidance is intended to work in accordance with the Leeds City Council – Enforcement Policy (the enforcement Policy) published by the Council and the statutory guidance ‘Database of Rogue Landlords and Property Agents under the Housing and Planning Act 2016’ and the non-statutory guidance ‘Banning Order Offences under the Housing and Planning Act 2016’ and published by the Ministry of Housing, Communities and Local Government.

### **1. Introduction**

1.1. The Housing and Planning Act 2016 (“The Act”) introduced a range of measures to help local housing authorities tackle rogue landlords and drive up standards in the private rented sector. On 6 April 2018, new measures came into force:

- Banning Orders for the most serious offenders;
- A database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties.

1.2. In order to make use of banning order powers the Council is required to have in place its own policy on when to pursue a banning order and to decide which option it wishes to pursue on a case-by-case basis in line with this policy.

1.3. This policy explains how Leeds City Council (LCC) will use the powers in The Act to determine whether to make a Banning Order Application and whether to add a landlord or property agents details to the National Database of Rogue Landlords and Property Agents (“the database”). The policy also documents the procedure LCC will follow when determining the length of time of a Banning Order or an entry on the database.

1.4. The database was established and is operated by the Secretary of State, but it is Local Housing Authorities (LHA’s) in England that are legally responsible for maintaining and updating the content of the database. Only LHA’s and the Secretary of State have access to the database and may only use the information in the ways defined in Section 39 of the Act

1.5. In this policy, the term “landlords” also includes property agents, letting agents and property managers defined in Chapter 6 of Part 2 of the Act.

### **2. Banning Orders**

2.1. Chapter 2 of the Act gives Local Housing Authorities the power to make an application to the First Tier Tribunal to ban a person who has been convicted of a banning order offence from –

- a) Letting housing in England
- b) Engaging in English letting agency work
- c) Engaging in English property management work, or
- d) Doing two or more of those things

2.2. Breach of a banning order is a criminal offence.

2.3. A banning order offence is an offence of a description specified in the Housing and Planning Act (Banning Order Offences) Regulations 2017. A list of banning order offences is in appendix A.

2.4. The guidance produced by the Ministry of Housing, Communities and Local Government specifies that *“Banning orders are aimed at rogue landlords who flout their legal obligations and rent out accommodation which is substandard”*.

2.5. Leeds City Council will pursue a banning order for the most serious offenders.

2.6. Decisions on whether to make an application for a Banning Order will be made on a case-by-case basis in line with this policy.

### **3. Determining Whether to Apply for a Banning Order**

3.1. When a landlord of a property in the Council’s area has been convicted of a housing related offence, as recommended by the MHCLG guidance, the Council will consider the following factors when deciding whether to apply for a banning order and when recommending the length of any banning order:

- **The seriousness of the offence.**

All banning order offences are serious. When considering whether to apply for a banning order the Council will consider the sentence imposed by the Court in respect of the banning order offence itself. The more severe the sentence imposed by the Court, the more appropriate it will be for a banning order to be made.

- **Previous convictions/rogue landlord database.**

The Council will check the rogue landlord database in order to establish whether a landlord has committed other banning order offences or has received any civil penalties in relation to banning order offences. A longer ban may be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be aware of their legal obligations.

- **Upper Tribunal Decisions**

The Council will refer to Upper Tribunal decisions.

3.2. The Council will also consider the likely effect of the banning order on the person and anyone else that may be affected by the order. These factors should include;

- **The harm caused to the tenant.**

This is a very important factor when determining whether to apply for a banning order. The greater the harm or the potential for harm (this may be as perceived by the tenant), the longer the ban should be. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants, and could therefore be considered more harmful than other offences (such as fraud).

- **Punishment of the offender.**

A banning order is a severe sanction. The length of the ban should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. It is, therefore, important that it is set at a high enough level to remove the worst offenders from the sector. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

- **Deter the offender from repeating the offence.**

The ultimate goal is to prevent any further offending. The length of the ban should prevent the most serious offenders from operating in the sector again or, in certain circumstances; help ensure that the landlord fully complies with all of their legal responsibilities in future. The length of ban should therefore be set at a long enough period such that it is likely to deter the offender from repeating the offence.

- **Deter others from committing similar offences.**

An important part of deterrence is the realisation that (a) the local authority is proactive in applying for banning orders where the need to do so exists and (b) that the length of a banning order will be set at a high enough level to both punish the offender and deter repeat offending.

The Council may also have regard to other relevant matters deemed appropriate to the case.

- 3.3. As per the Ministry of Housing, Communities and Local Government guidance, spent convictions will not be taken into account when determining whether to apply for a banning order. A list of the periods before which a conviction/caution becomes spent can be found in Appendix D.
- 3.4. The Council is not able to determine the length of a banning Order but can make a recommendation to the First-Tier Tribunal as to how long the banning order should be imposed for. A banning Order must be for a minimum period of 12 months but there is no statutory maximum period.
- 3.5. Appendix B sets out the matrix the Council will use to determine whether to apply for a banning order and the recommended length of time of the ban.

#### **4. Process for Making a Banning Order**

- 4.1. Where the Local Authority is considering applying for a banning order an officer group will convene.
- 4.2. In advance of this officer group meeting, the case officer will complete and circulate the "Banning Order Checklist" (referred to as checklist) to all group members. The checklist includes background information on the case, consideration of all factors laid out in the government guidance and this policy, and the recommendation for whether to apply for a banning order, and if so the recommended length of time.
- 4.3. The officer group can consider other matters deemed to be relevant to the case being discussed and these will be added to the checklist following the meeting.
- 4.4. Upon considering the above, the officer group will decide the most appropriate course of action.
- 4.5. Where it is considered that it appears appropriate to make an application for a banning order the council will follow the following process:

A “Notice of Intent” shall be served on the landlord against whom the application for a banning order is proposed notifying the landlord of the Council’s proposal to apply for a banning order. The Notice of Intent must set out:

- That the local housing authority is proposing to apply for a banning order and the reasons for this;
- The length of each proposed ban;
- Information about the right of the landlord to make representations during the notice period which must not be less than 28 days.

4.6. The Notice of Intent must be served within six months of the landlord being convicted of the offence.

4.7. The person to whom the notice relates will be given 28 days to make written representation to the council about the proposal to apply for a banning order. Representations can be made about the proposal to apply for the banning order or the length of time of the ban, including any mitigating circumstances. To enable the council to consider any representations made, it is the responsibility of the recipient of the notice to provide appropriate and satisfactory documentary evidence to support their submission. Failure to provide such evidence may mean that the council will not be able to consider any representation made.

4.8. After the end of the period for representations, the Council will decide whether to pursue a banning order on the basis of any representations received. Should the Council wish to proceed an Application to the First-tier Tribunal will be made. It is the First Tier Tribunal which has the power to make the banning order.

4.9. Where a banning order has been made, the entry on the database must be maintained for the period for which the banning order has effect and must then be removed.

4.10. A landlord can apply to the First-Tier Tribunal to revoke or vary a banning order in certain circumstances. These circumstances are set out under Section 20 of The Act.

## **5. Publicity Following a Banning Order**

5.1. Subject to legal advice, the Council will consider publishing details of successful banning orders including the names of individual landlords/any business (managing or lettings agency). The Council will also consider making information on banned landlords available to a tenant upon request.

## **6. National Rogue Landlord Database**

6.1. The Act enables Local Authorities to make an entry onto the National Rogue Landlord Database in respect of a qualifying individual.

6.2. The database was established and is operated by the Secretary of State, but it is Local Housing Authorities (LHA’s) in England that are legally responsible for maintaining and updating the content of the database. With exception to requests for anonymised data which may be made by any person, only LHA’s and the Secretary of State have access to the database and may only use the information in the ways defined in Section 39 of the Housing Planning Act 2016.

6.3. Under Section 29 of The Act, the Council *must* make an entry on the database in respect of a person if a banning order has been made against that person, provided no entry was made in respect of the offence to which the banning order relates.

6.4. Under Section 30 of The Act, the Council *may* decide to make an entry on the database in respect of a residential landlord or a property agent if they have:

- Been convicted of a banning order offence at a time when they were a residential landlord or a property agent or
- Within a period of 12 months, received two or more financial penalties in respect of a banning order offence.

## **7. Determining Whether to Make an Entry on the Database**

7.1. When deciding whether to make an entry on the Database under Section 30 of the Act, the statutory guidance sets of the following criteria the Council will consider:

- **Severity of the offence**  
The more serious the offence, the stronger the justification for including the offender on the database.
- **Mitigating factors**  
In cases where a less serious offence has been committed and/or there are mitigating factors, local housing authorities may decide not to make an entry on the database. Mitigating factors could include personal issues, for example, health problems or a recent bereavement. It is for local housing authorities to decide on a case by case basis whether mitigating factors are strong enough to justify a decision not to record a person's details on the database.
- **Culpability and serial offending**  
Whether the offender has a history of failing to comply with their obligations. Where there is a clear history of knowingly committing banning order offences and/or non compliance, the stronger the justification for making an entry on the database. Conversely, where it is a first offence and/or where it is a relatively minor, a local housing authority may decide that it is not appropriate to record a person's information on the database.
- **Deter the offender from repeating the offence**  
The ultimate goal is to prevent landlords and property agents, who have failed to comply with all of their legal responsibilities, repeating the offence. An important part of deterrence is the realisation by the offender that (a) the local housing authority has the tools and is proactive in recording the details of rogue landlord and property agents and (b) that they will be unable to simply move from one local housing authority to another and repeat the same offences as the information will be available to other local housing authorities. It will also encourage joint working between local housing authorities who will be able to establish whether rogue landlords operate across their local housing authority areas. For example, including someone on the database might be an important deterrent if they rent out property in multiple local housing authority areas, as inclusion on the database will make their information available to other local housing authorities
- **Deter other from committing similar offences**  
Knowing that they may be included on the database if they are convicted of a banning order offence or receive multiple financial penalties, may deter some landlords from committing banning order offences in the first place.

## **8. Determining the Length of an Entry on the Database**

8.1 If the Council decides to use its powers to make an entry on the database, it cannot be for less than two years. There is no maximum length of time an entry may remain on the database.

8.2 Once the period of time for the entry on the database has expired, the entry must be removed from the database.

8.3 When deciding the period of time for the entry to remain on the Database, the statutory guidance sets out the following criteria the Council will consider:

- **Severity of offence**

The severity of the offence and related factors, such as whether there have been several offences over a period of time, should be considered. Where an offence is particularly serious and/or there have been several previous offences; and/or the offence(s) have been committed over a period of time, then the decision notice should specify a longer period of time. Where one or more of those factors are absent, it may be appropriate to specify a shorter period

- **Mitigating factors**

These could include a genuine one-off mistake, personal issues such as ill-health or a recent bereavement. Where this is the case, a local housing authority may decide to specify a shorter period of time in the decision notice.

- **Culpability and serial offending**

A track record of serial offending or where the offender knew, or ought to have known, that they were in breach of their responsibilities may suggest a longer time period would be appropriate.

- **Deter the offender from repeating the offence**

The data should be retained on the database for a reasonable period of time so that it is a genuine deterrent to further offences.

8.4 Appendix C sets out the matrix the Council will use to determine whether to make an entry onto the database and length of time of the entry.

## **9. Process for Making an Entry onto the Database**

9.1 Where the Local Authority is considering making an entry onto the database under Section 30 of the Act, an officer group will convene.

9.2 In advance of this officer group meeting, the case officer will complete the “National Rogue Landlord Database Checklist” (referred to as checklist). The checklist includes background information on the case, consideration of all factors laid out in the government guidance and this policy, and the recommendation for whether to make an entry onto the database, and if so the recommended length of time.

9.3 it is considered that it appears appropriate to make an entry onto the Database under section 30 of the Act, the council will follow the following process:

A “Decision Notice” shall be served on the landlord against whom it is proposed to make an entry in respect of on the Database notifying them of the Council’s decision to make an entry. The Decision Notice must:

- a) Explain that the authority has decided to make an entry in the database after the end of the period of 21 days beginning with the day on which the notice is given (“the notice period”)
- b) Specify the period for which the person’s entry will be maintained, which must be at least two years beginning with the day on which the entry is made.
- c) Summarise the person’s right of appeal to the First-Tier Tribunal

9.4 A “Decision Notice” cannot be given after the end of six months beginning with the day on which the person was either convicted of the banning order offence to which the notice relates or received the second of the financial penalties to which the notice relates.

## **10. Right of Appeal Against Decision to Make an Entry onto the Database**

10.1 A person who has been given a “Decision Notice” may appeal to the First Tier Tribunal against

- a) The decision to make the entry in the database; and/or
- b) The decision as to the period for which the person’s entry is to be maintained.

10.2 The appeal must be made before the end of the notice period.

## **11. Removing or Varying an Entry on the Database**

11.1 The Council must remove an entry it made if all the convictions on which the entry was based have been overturned on appeal or if or ordered to do so by the First Tier Tribunal.

11.2 In circumstances where:

- a) One or more (but not all) of the convictions have been overturned on appeal;
- b) One or more of the convictions have become spent; or
- c) At least one year has elapsed since an entry was made which arose from the imposition of two or more financial penalties;

the Council has the power to remove or vary an entry on the database including reducing the period for which the entry it made must be maintained. In those circumstances, the Council will review the decision to make an entry and the length of that entry using the same factors set out in this policy to determine whether the entry should be removed or varied.

11.3 The person in respect of whom an entry in the database was made may also request that the Council considers removing or reducing the entry on the database in any of the circumstances noted above. Should this request be rejected by the Council, the person may appeal to the First Tier Tribunal against that decision.

## **12. Recording of the Decision**

12.1 A record of each decision and the reasons for the application for the banning order or for making an entry onto the database will be made by an officer and how the length of time was determined.

## Appendix A

### Banning Order Offences Under Schedule 1 of The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017

Statute	Provision	Offence
<b>Relevant Housing Offences*</b>		
<i>*Unless the sentence imposed on the person convicted of the offence is an absolute discharge or a conditional discharge.</i>		
Protection from Eviction Act 1977	Section 1(2), (3) and (3a)	Unlawful eviction and harassment of occupier
Criminal Law Act 1977	Section 6(1)	Violence for securing entry
Housing Act 2004	Section 30(1)	Failing to comply with an Improvement Notice
Housing Act 2004	Section 32(1)	Failing to comply with a Prohibition Order
Housing Act 2004	Section 72(1), (2) and (3)	Offences in relation to licencing of Houses in Multiple Occupation
Housing Act 2004	Section 95(1) and (2)	Offences in relation to licencing under Part 3 of the Act
Housing Act 2004	Section 139(7)	Contravention of an overcrowding notice
Housing Act 2004	Section 234(3)	Failing to comply with management regulations in respect of Houses in Multiple Occupation
Housing Act 2004	Section 238(1)	False or misleading information
Regulatory Reform (Fire Safety) Order 2005	Article 32 paragraphs (1) and (2)	Fire safety offences
Health and Safety at Work Act 1974	Section 33(1)(c) where a person contravenes Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(6)	Gas safety offences – duties on landlords
The Tenant Fees Act 2019	Section 12	Prohibitions applying to landlords and managing agents.

Statute	Provision	Offence
Immigration Offences – letting to someone disqualifies from renting as a result of their immigration status, resulting in an offence under Part 3 of the Immigration Act 2014 (as amended)		
Immigration Act 2014	Section 33A(1) and (10)	Residential tenancies – landlord offences
Immigration Act 2014	Section 33B(2) and (4)	Residential tenancies – agent offences



<b>Statute</b>	<b>Provision</b>	<b>Offence</b>
<p>Serious Criminal Offences – these are serious criminal offences for which an offender may receive a custodial sentence upon conviction.*</p> <p><i>*Applies if-</i></p> <p><i>(i) the offence was committed against or in collusion with a tenant occupying any housing (or another person occupying that housing with the tenant) or the offence was committed at or in relation to that housing;</i></p> <p><i>(ii) at the time the offence was committed, the offender was the residential landlord or property agent of that housing or an officer of a body corporate who was the residential landlord or property agent of that housing; and</i></p> <p><i>(iii) the offender was sentenced for the offence in the Crown Court</i></p>		
Fraud Act 2006	Section 1(1), Section 6(1), Section 7(1), Section 9(1), Section 11(1), Section 12(2)	Fraud offences
Criminal Justice Act 2003	Schedule 15	Specified violent and sexual offences
Misuse of Drugs Act 1971	Section 8, Section 9, Section 9A(1) and (3), Section 18(1), (2), (3) and (4), Section 19, Section 20, Section 21	Offences involving the misuse of drugs
Proceeds of Crime Act 2002	Section 327	Concealing criminal property
Proceeds of Crime Act 2002	Section 328	Arrangements
Proceeds of Crime Act 2002	Section 239	Acquisition, use and possession
Protection from Harassment Act 1997	Section 2	Offence of harassment
Protection from Harassment Act 1977	Section 2A	Offence of stalking
Anti-social Behaviour, Crime and Policing Act 2014	Section 30	Breach of criminal behaviour order
Anti-social Behaviour, Crime and Policing Act 2014	Section 48	Failure to comply with Community Protection Notice
Criminal Damage Act 1971	Section 1(1)	Destroying or damaging property
Criminal Damage Act 1971	Section 2	Threats to destroy or damage property
Criminal Damage Act 1971	Section 3	Possessing anything with intent to destroy or damage property
Theft Act 1968	Section 7	Theft
Theft Act 1968	Section 9	Burglary
Theft Act 1968	Section 21	Blackmail
Theft Act 1968	Section 22	Handling stolen goods

## Appendix B

### Framework for deciding whether to apply for a Banning Order and the recommended length of time for the ban.

#### Step 1:

Consider the seriousness of the offence as either high, medium or low.

When considering the seriousness of offence, officers shall have regard to:

<b>Seriousness of Offence</b> (May include but not limited to)	
High	<ul style="list-style-type: none"><li>- Serious Criminal Offences, as set out in Annex A of the Ministry of Housing, Communities &amp; Local Government's Banning Order Offences under the Housing and Planning Act 2016: Guidance for Local Housing Authorities.</li><li>- Serious housing offences, where the offence arose from dangerous property conditions.</li><li>- The offence(s) posed a serious risk or resulted in serious harm to individual(s)</li><li>- Serious and/or systematic failure to comply with their legal duties.</li></ul>
Medium	<ul style="list-style-type: none"><li>- The offence(s) posed a medium risk or resulted in medium harm to individual(s)</li><li>- Less severe housing offences (where the offence did not arise from dangerous property conditions) and immigration offences as set out in the list of Banning Order Offences under Schedule 1 of the Housing and Planning Act 2016 (Banning Order Offences) Regulations [2017].</li></ul>
Low	<ul style="list-style-type: none"><li>- The offence(s) posed a low risk or resulted in low harm to individual(s)</li></ul>

When considering the seriousness of the offence, officers should also consider the sentence imposed by the Court in respect of the banning order offence itself. The more severe the sentence, the more appropriate it will be for a banning order to be made.

#### Step 2

Consider the culpability (including previous convictions) of the offender as either high, medium or low.

When considering culpability officers shall have regard to:

<b>Culpability</b> (May include may not limited to)	
High	<ul style="list-style-type: none"><li>- A track record of serial offending and failing to comply with their obligations as demonstrated by a history of convictions and/or receipt of numerous civil penalties.</li><li>- The offender has committed the offences over a prolonged period of time.</li><li>- An entry has been made onto the National Rogue Landlord Database in respect of the individual.</li><li>- Where the offender knew they were in breach of their responsibilities – intentionally, recklessly breach or wilful disregard the law.</li><li>- The offender has not altered their compliance behaviour since committing a banning order offence.</li></ul>
Medium	<ul style="list-style-type: none"><li>- The offences were committed through an act or omission a person exercising reasonable care would not commit.</li></ul>

	<ul style="list-style-type: none"> <li>- Individual has several previous convictions or has previously received several financial penalties.</li> <li>- Are an experienced or professional landlord/property manager</li> <li>- Are a public figure and should have been aware of their actions.</li> </ul>
Low	<ul style="list-style-type: none"> <li>- Offence(s) were isolated occurrences.</li> <li>- The individual committed the offence(s) with little fault.</li> <li>- The offender has changed their compliance behaviour since committing the banning order offence.</li> </ul>

Consideration of the severity of offence and culpability will determine the initial recommended length of time of the ban.

		Severity of offence		
		Low	Medium	High
Culpability & serial offending	Low	No ban	2 years	5 Years
	Medium	2 years	5 years	5 Years
	High	5 years	5 Years	10 years or more

Following this the officer should consider the following to determine whether the initial length of time is appropriate or whether a longer/shorter time should be recommended, or whether a ban is appropriate at all. This will vary on a case-by-case basis and will be down to officer discretion (and agreed by the review panel). All decisions to vary the length of time must be recorded and justified on the evidence sheet.

**Step 3:**

Consideration of the harm caused to the tenant. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants, and could therefore be considered more harmful than other offences (such as fraud).

**Step 4:**

Consideration of the punishment of the offender. The length of the ban should be proportional. It is therefore important that it is set at a high enough level to remove the worst offenders from the sector.

Consideration of the effect of the banning order on the person and anyone else who may be affected by the order. Will the ban have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

Consideration of whether the length of time is appropriate in order to deter the individual or others from committing similar offences in the future (for example, whether the individual is in control of properties in multiple LA areas).

## Appendix C

### Framework for deciding whether to make an entry onto the database and the length of time of the entry.

#### Step 1:

Consider the severity of the offence as either high, medium or low.

When considering severity of offence officers shall have regard to:

<b>Severity of Offence</b> (May include but not limited to)	
High	<ul style="list-style-type: none"> <li>- Serious Criminal Offences, as set out in Annex A of the Ministry of Housing, Communities &amp; Local Government’s Banning Order Offences under the Housing and Planning Act 2016: Guidance for Local Housing Authorities.</li> <li>- Serious housing offences, where the offence arose from dangerous property conditions.</li> <li>- The offence(s) posed a serious risk or resulted in serious harm to individual(s)</li> <li>- Serious and/or systematic failure to comply with their legal duties.</li> </ul>
Medium	<ul style="list-style-type: none"> <li>- The offence(s) posed a medium risk or resulted in medium harm to individual(s)</li> <li>- Less severe housing offences (where the offence did not arise from dangerous property conditions) and immigration offences as set out in the list of Banning Order Offences under Schedule 1 of the Housing and Planning Act 2016 (Banning Order Offences) Regulations [2017].</li> </ul>
Low	<ul style="list-style-type: none"> <li>- The offence(s) posed a low risk or resulted in low harm to individual(s)</li> </ul>

#### Step 2

Consider the culpability and any serial offending of the offender as either high, medium or low.

When considering culpability/serial offending, officers shall have regard to:

<b>Culpability and Serial Offending</b> (May include may not limited to)	
High	<ul style="list-style-type: none"> <li>- A track record of serial offending and failing to comply with their obligations as demonstrated by a history of convictions and/or receipt of numerous civil penalties.</li> <li>- The offender has committed the offences over a prolonged period of time.</li> <li>- Where the offender knew they were in breach of their responsibilities – intentionally, recklessly breach or wilful disregard the law.</li> <li>- The offender has not altered their compliance behaviour since committing a banning order offence.</li> </ul>
Medium	<ul style="list-style-type: none"> <li>- The offences were committed through an act or omission a person exercising reasonable care would not commit.</li> <li>- Individual has several previous convictions or has previously received several financial penalties.</li> <li>- Are an experienced or professional landlord/property manager</li> <li>- Are a public figure and should have been aware of their actions.</li> </ul>
Low	<ul style="list-style-type: none"> <li>- Offence(s) were isolated occurrences.</li> <li>- The individual committed the offence(s) with little fault.</li> <li>- The offender has changed their compliance behaviour since committing the banning order offence.</li> </ul>

Consideration of the severity of offence and culpability/serial offending will determine the initial length of time of the entry.

		Severity of offence		
		Low	Medium	High
Culpability & serial offending	Low	No entry	2 years	5 Years
	Medium	2 years	5 years	5 Years
	High	5 years	5 Years	10 years or more

**Step 3:**

Consideration of any mitigating factors that may warrant a shorter period of time or which justify a decision not to record a person’s details on the database.

Mitigating factors may include:

- Health reasons prevented reasonable compliance resulting in the offences.
- The individual was experiencing a bereavement at the time of the offences.
- The individual is vulnerable where their vulnerability is linked to the commission of the offence(s).

**Step 4:**

Consideration of whether the length of time is appropriate in order to punish the offender and deter the individual or others from committing similar offences in the future (for example, whether the individual is in control of properties in multiple LA areas).

## Appendix D

Under the Rehabilitation of Offenders Act 1974 the periods before which a conviction/caution becomes spent is listed below:

Sentence/Disposal		Time it takes to become spent from date of conviction	
		Adult (18+ at conviction / disposal)	Young person (under 18 at conviction/disposal)
Prison including suspended prison sentences	Public protection sentence	Never spent	Never spent
	More than 4 years	Full sentence + 7 years	Full sentence + 3 ½ years
	More than 12 months and less than or equal to 4 years	Full sentence + 4 years	Full sentence + 2 years
	Less than or equal to 12 months	Full sentence + 1 year	Full sentence + 6 months
Community order / youth rehabilitation order		At the end of the order	At the end of the order
Fine		1 year	6 months
Conditional discharge		Length of the order	
Absolute discharge		Spent immediately	
Conditional caution/youth conditional caution		3 months or when it ends	3 months
Simple caution/youth caution		Spent immediately	
Compensation order		Once paid in full	
Bind over		Length of the order	
Hospital order (with or without restrictions)		Length of the order	
Reparation order		Length of the order	
Referral order		Spent immediately	
Endorsement imposed by a court		5 years	2 ½ years
Motoring disqualification imposed by a court		Length of disqualification	
Relevant order		Length of the order	