

REQUEST FOR MAYORAL DECISION – MD1357

Title: London Rental Standard - GLA Licensing Accreditation Providers of the LRS

Executive Summary:

The GLA is undertaking a series of projects to improve London's private rented sector, the centrepiece of which is the London Rental Standard initiative. The aim of the project is to accredit 100,000 private landlords and letting agents to the London Rental Standard by 2016. In order to do this the Mayor plans to license new and existing accrediting organisations ("AOs") in London to provide the London Rental Standard single badge of accreditation. The GLA will assess whether an AO provides a product that is consistent with the requirements of the London Rental Standard and, if so, the GLA will permit them to use the badge.

This Mayoral Decision seeks the approvals necessary for the GLA to do this.

Decision:

That the Mayor:

1. approves the framework set out in paragraph 1.13 of the report below for the Greater London Authority (GLA), acting by the Mayor, to license organisations to become Accreditation Providers of the London Rental Standard;
2. delegates authority separately to the Executive Director – Housing and Land and the Executive Director – Resources to do the following after having consulted, as appropriate, with the Deputy Mayor for Housing, Land and Property:
 - (i) consider and determine applications from organisations seeking to become Accreditation Providers of the LRS, and appeals against decisions not to grant such a licence;
 - (ii) grant Accreditation-Provider-status to successful applicants and execute the attendant Accreditation Provider Agreements on behalf of the GLA including the licensing of the Accreditation Provider both to use the London Rental Standard Badge ("Badge") and to sub-licence the use of the Badge by those of its members, who are compliant with the London Rental Standard; and
 - (iii) terminate any Accreditation Provider Agreement and thereby revoke the relevant accreditation provider's licence to use the Badge and its members' corresponding sub-licences, where the Accreditation Provider fails to comply with any one or more requirements of the London Rental Standard.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.
The above request has my approval.

Signature:

Date: 27 May 2014

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1 Introduction and background

Contextual background

- 1.1 In 2012, the Mayor of London launched his Housing Covenant for London. The third part of that covenant, *“Making the private rented sector work for Londoners”* (published in December 2012), set out the compelling reasons for empowering consumers in the private rented sector and introduced a standard – the London Rental Standard (“LRS”) – that sets a benchmark, to be implemented by accrediting bodies, for the services that tenants should expect from their landlords and letting agents.
- 1.2 The LRS is also an integral part of the proposals for improving the private rented sector contained in the Mayor of London’s statutory draft London housing strategy, which has been submitted to the Secretary of State for Communities and Local Government.
- 1.3 Assuming the Secretary of State does not direct any modifications be made to the strategy, the final statutory London housing strategy will be published later this year.

Background information on the LRS

- 1.4 The LRS has been developed by the Mayor of London in collaboration with London boroughs and organisations that currently accredit landlords, and letting and managing agents under a variety of different accreditation schemes (“accrediting organisations”).
- 1.5 Published in July 2013, the LRS sets out a new standard that is expected of such accreditation schemes (and therefore landlords and letting and managing agents). The LRS is attached at Appendix 1 to this Mayoral Decision.
- 1.6 One in four Londoners are now renting in the private sector, and the number of households with children renting privately in London has increased dramatically in the last ten years. More people are renting for longer as home ownership becomes increasingly expensive. The London Rental Standard seeks to improve standards within London’s private rented sector, to give London’s private renters a better deal and, accordingly, to further the promotion of social development in Greater London.

The London Rental Standard Badge of Accreditation

- 1.7 The GLA commissioned the production of a London Rental Standard Badge of Accreditation (“LRS Badge”), in order to have a symbol, by which AOs and their accredited members could demonstrate that they have achieved accreditation in accordance with the LRS.
- 1.8 The GLA intends to register the LRS Badge with the UK Intellectual Property Office (“UK IPO”). The registration will afford the mark greater protection in relation to challenges from users of similar marks and will bolster the GLA’s legal position, if it ever sought to challenge another organisation’s use of a similar mark. This notwithstanding, the LRS is not currently registered and accordingly, there is a risk that, following its public launch, that the owner of a similar mark might challenge the GLA’s use of the LRS Badge.
- 1.9 In order to mitigate this risk, the GLA instructed specialist intellectual property lawyers at Eversheds to undertake searches of all relevant registrations of trade marks; being national trade marks, community trade marks and international registrations with a corresponding UK designation. No identical or confusingly similar marks were revealed following this search. However, as is the GLA’s intention, Eversheds recommended that the LRS Badge be registered with the UK IPO.

- 1.10 Furthermore, notwithstanding the searches of the registers, there may be in use unregistered marks, which are similar to the LRS Badge. However, throughout the development of the London Rental Standard to date, the officers have not become aware of any unregistered marks, which are similar to the LRS Badge.
- 1.11 Further to the framework set out below, the GLA will be responsible for licensing organisations to use the LRS Badge on their marketing, promotional and communications materials to demonstrate that they meet and comply with the standards of the LRS.

The framework for the GLA licensing organisations as Accreditation Providers of the LRS

- 1.12 Set out below is the framework under which it is proposed the GLA will licence organisations as Accreditation Providers of the LRS.
- 1.13 The Mayor is asked to approve this framework, and the GLA licensing organisations as Accreditation Providers.

The proposed framework

- The GLA will be responsible for licensing accrediting organisations as Accreditation Providers of the LRS;
- Where an accrediting organisation wishes to become an Accreditation Provider of the LRS, GLA officers, under delegated authority in consultation with the Deputy Mayor for Housing, Land and Property as appropriate, will consider whether the organisation meets the requirements of the LRS;
- If the GLA considers that the LRS provisions and requirements are met, it will licence the organisation as an Accreditation Provider;
- The GLA may engage a third party to make recommendations to the GLA as to whether or not an organisation should be licensed, or have any licence that has previously been granted revoked;
- Accreditation Providers will be required to enter into an Accreditation Provider Agreement, under which they will be licensed to use the LRS Badge; and permit or sub-licence their accredited members who meet the LRS to use the LRS Badge;
- The Accreditation Provider Agreement will specify the basis and terms upon which the LRS Badge can be used, which will include being displayed on marketing, promotional and communications materials of Accreditation Providers and any individuals or organisations they accredit as meeting the LRS.

Further work and delegations to GLA officers

- 1.14 Further work will need to be done for the GLA to implement and actually operate the licensing framework set out above.
- 1.15 Such work and activities are likely to include but not be limited to:
- publishing and amending detailed documentation relating to the operation of the licensing process;
 - entering into any necessary agreements with third parties, including to obtain recommendations from that party as to whether or not an organisation should be licensed, or have a licence that has previously been granted revoked;
 - authorising necessary expenditure; and
 - securing the registration of the London Rental Standard Badge of Accreditation at the UK IPO.
- 1.16 Such activities may be undertaken by under the General Delegation contained in section 2 of the Mayoral Scheme of Delegation, and it is expected that they will be undertaken by the Executive

Director of Housing and Land in consultation, as appropriate, with the Deputy Mayor for Housing, Land and Property.

- 1.17 A specific delegation has been requested in the terms below to each of the Executive Director Housing and Land and the Executive Director – Resources, in consultation with the Deputy Mayor for Housing, Land and Property as appropriate, in order to facilitate the GLA’s management of the Accreditation Provider Agreements and the corresponding licensing of AOs and their members to use the LRS Badge. To this end, this Mayoral Direction delegates to the aforementioned directors, in consultation with the Deputy Mayor for Housing, Land and Property as appropriate, the authority to:
- (i) consider and determine applications from organisations seeking to become Accreditation Providers of the LRS, and appeals against decisions not to grant such a licence;
 - (ii) grant Accreditation Provider status to successful applicants and execute the attendant Accreditation Provider Agreements on behalf of the GLA including the licensing of the Accreditation Provider both to use the London Rental Standard Badge (“Badge”) and to sub-licence the use of the Badge by those of its members, who are compliant with the London Rental Standard; and
 - (iii) terminate any Accreditation Provider Agreement and thereby revoke the relevant accreditation provider’s licence to use the Badge and its members’ corresponding sub-licences, where the Accreditation Provider fails to comply with any one or more requirements of the London Rental Standard.

2 Objectives and expected outcomes

- 2.1 The aim of the LRS project is to accredit 100,000 private landlords and letting agents to the LRS by 2016. In order to do this the Mayor plans to license new and existing accrediting organisations (“AOs”) in London to provide the London Rental Standard single badge of accreditation.

3 Other considerations

- a) Key risks and issues
- 3.1 There are legal risks relating to the LRS Badge and intellectual property, which are set out in paragraphs 1.8 – 1.11 above. In addition, even when or if the LRS Badge is registered with the UK IPO, there is a risk that it could be used improperly and unlawfully by unaccredited bodies or persons, which will need to be addressed by the GLA going forward. There are potentially reputational risks to the GLA arising from the above.
- b) Links to strategies and Mayoral and corporate priorities
- 3.2 Policy 9 of the London housing strategy provides that *“the London Rental Standard will be implemented to improve management standards, with a target to accredit 100,000 landlords and agents by 2016.”* Section 2.2 of The Mayor’s Housing Covenant; making private renting work for Londoners provides that, *“The Mayor will: publish a London Rental Standard to underpin a more professional sector and more consistent standards work with the industry and boroughs to increase the number of accredited landlords and letting agents to 100,000 by 2016 ”*
- c) Impact assessments and consultations

Impact assessment

- 3.3 The London Rental Standard is a policy contained in the Mayor's draft London housing strategy.
- 3.4 In January 2014 the GLA published an integrated impact assessment ("IIA"), including an equalities impact assessment, of that strategy. This considered the Mayor's policies to improve access to, and the condition of, the private rented sector; concluding that these should have a number of positive impacts and should improve the quality of private rented accommodation, in particular through wider accreditation of landlords. It also concluded that the increasing numbers of children living in the private rented sector are likely to be an important beneficiary group of the proposals.
- 3.5 The IIA also concluded that the actions related to the London Rental Standard should have an indirect positive effect on security and equality of access. It concluded that the policies should promote health and well-being, security, empowerment and potentially access to work for vulnerable and homeless households, by providing access to appropriate private sector rented accommodation when low cost rented housing is in short supply. It should also empower and increase the financial security of private sector tenants on lower incomes by improving information on rent levels and by protecting rental deposits.

Consultation

- 3.6 The Mayor consulted extensively on the London housing strategy with the public and a wide range of stakeholders and voluntary, community and equalities groups. That consultation is detailed in Mayoral Decision 1331.
- 3.7 The Mayor consulted extensively on the Mayor's Housing Covenant; *making the private rented sector work for Londoners*. The consultation included stakeholders, voluntary and communities groups and equalities groups. The consultation received 80 responses from stakeholder organisations and 5,000 responses from private renters, coordinated by Shelter.

4 Financial comments

- 4.1 This decision has no financial implications for the GLA.

5 Legal comments

Legal powers

- 5.1 Under section 333A of the Greater London Authority Act 1999 ('the GLA Act'), the Mayor is required to publish the London housing strategy which, amongst other things, must contain any proposals or policies of the Mayor to promote the improvement of housing conditions in Greater London.
- 5.2 The London Rental Standard is a policy contained within the draft London housing strategy.
- 5.3 Under section 30(1) of the Greater London Authority Act 1999 ('the GLA Act') the Mayor, acting on behalf of the GLA, is entitled to do anything that he considers will further the promotion, within Greater London, of economic development and wealth creation, social development and the improvement of the environment. To be lawful, the proposals for the GLA to licence Accreditation Providers of the LRS must fall within the scope of section 30(1) of the GLA Act.
- 5.4 In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the Mayor must:
- (i) have regard to effect that his decision will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable

development in the United Kingdom and climate change and its consequences (sections 30(3-5) of the GLA Act;

- (ii) pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act); and
- (iii) have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010);

- 5.5 As noted in paragraphs 3.3 – 3.5 above, in January 2014 the GLA published an integrated impact assessment (“IIA”), including an equalities impact assessment, of the London housing strategy, which assessed the Mayor’s policies relating to the private rented sector, including the London Rental Standard.
- 5.6 In addition to paragraph 5.2 above, where the Mayor is proposing to use the power conferred in section 30(1) of the GLA Act, the Mayor must consider consult in accordance with section 32 of the GLA Act. Paragraphs 3.6 – 3.7 above set out the consultation that has been undertaken in respect of the London housing strategy and on the Mayor’s Housing Covenant; *Making the private sector work for Londoners*.
- 5.7 Under section 34 of the GLA Act, the Mayor is empowered to do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor.

Delegation to GLA Officers

- 5.8 Section 38 (1) of the Act provides that any function exercisable on behalf of the GLA by the Mayor shall also be exercisable on behalf of the GLA by any member of staff of the GLA if or to the extent that the Mayor so authorises, whether generally or specially, and subject to any conditions imposed by the Mayor.
- 5.9 Further to section 38(1), the Mayor is empowered to delegate to the Executive Director – Housing and Land, and the Executive Director – Resources, as provided for in decisions 2 in this Mayoral Decision.

Intellectual property and the LRS Badge

- 5.10 As set out in section 1 of this report, the LRS Badge has been developed so that AOs and their accredited members may demonstrate publicly that they have achieved accreditation in accordance with the LRS. Pursuant to the accreditation provider agreement, the GLA will be licensing the AOs to use the LRS Badge and to sub-licence its use to their accredited members.
- 5.11 In order to mitigate, so far as possible, the risk of an owner of a similar mark challenging the GLA’s, the AOs’ and their accredited members’ right to use the LRS Badge following its public launch, Eversheds was instructed to undertake searches of registered marks. As further set out in section 1 of this report, those searches did not reveal any marks, which were considered by Eversheds’s specialist intellectual property lawyers to be identical to or to be confusingly similar to the LRS Badge.
- 5.12 As the said searches check only registered trade marks, there is still a risk that the LRS Badge may be identical or confusingly similar to an unregistered mark, which by the nature of its use has acquired common law rights, which are similar to those of a registered trade mark. However, as the officers

have reported in section 1, throughout the development of the LRS to date, they have not become aware of any such unregistered trade marks.

- 5.13 Finally, as has been indicated by the officers, the GLA intends to register the LRS Badge with the UK IPO in order to bolster the GLA's rights vis-a-vis any third party, which, in the future, uses a mark that is confusingly similar to the LRS Badge. To this end, the officers should liaise with Transport for London's legal team in order to instruct external specialist intellectual property lawyers to carry out the said registration.

6 Investment & Performance Board

- 6.1 The draft London Housing Strategy was considered and approved by the Housing Investment Group on 19 March 2014. The London Rental Standard is part of the draft Strategy

7 Planned timetable

- 7.1 The London Rental Standard will be launched by the Mayor on Wednesday 28th May 2014. At this point accreditation will go live and landlords and agents will be able to sign up. The campaign will run until the end of 2016, and the LRS will be reviewed annually on a date to be determined by the GLA in order to implement any changes or improvements that the LRS steering group and the GLA deem necessary. The list of licensed providers will be updated from time to time when new schemes that may apply to become providers are deemed compliant.

Appendices and supporting papers:

- The London Rental Standard (Appendix 1)

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? YES**

In order to ensure that the launch of the LRS have maximum impact it is essential to ensure that no public communications be made about the LRS until after the launch.

Until what date: Until the programme of LRS-related launch events has been completed and the registration of the Badge with the IPO has commenced. Expected to be 28 May 2014.

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Rhona Brown has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

Jamie Ratcliff has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

David Lunts has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Richard Blakeway has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date 23 May 2014

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Date 27 May 2014