



EMPTY HOMES STRATEGY 2012-2015

Number:	2	Date:	17 December 2012
Approved:	Community & Resources Committee	Next Review Date:	December 2015

INTRODUCTION

This strategy sets out how Torridge District Council will address the problem of long-term empty homes.

The intention of this strategy is to bring back into use valuable stock that is currently a wasted resource and which could provide affordable housing for households in Torridge.

POLICY CONTEXT

Action on empty homes has an impact on several important themes from TDC's Strategic Plan 2012-2015. The themes are: Develop a Prosperous and Sustainable Economy; Support Stronger, Safer, Healthier Communities; Protect and Enhance the Quality Environment; and Be an Effective and Confident Council.

Empty homes work will contribute to delivering these themes as follows:

- Upgrading empty homes to make them habitable will include improving their thermal efficiency;
- Bringing more housing stock into use, including for use as affordable dwellings, will help meet sustainability targets and community needs;
- Works to bring empty homes back into use will provide opportunities for the building industry during the economic down turn and will increase Council Tax revenue, and the opportunity for the New Homes Bonus;
- Empty homes work will help to improve the availability, quality and balance of the housing stock to meet local need;
- Occupied and well maintained homes enhance community confidence and safety.

TORRIDGE EMPTY HOMES STRATEGY

The strategy has five elements - partnership working, identification, risk assessment, enforcement and financial assistance. The chart at Annex 1 identifies the hierarchy of actions that TDC could use, from advice and guidance to Compulsory Purchase Order or Enforced Sale. The experience of other empty homes partnerships shows that in the majority of cases activity at the lower levels will be all that is needed.

Partnership Working

Torridge DC adopts active multi-agency partnership working and other best practice as a means to deal with its empty premises. An inter-departmental empty properties action group, with officers from the Housing Renewal, Building Control, Community Safety, Planning, Environmental Protection, Legal Services and Council Tax Teams, has been set up to collect and share information about problematic voids.

Given the limited resources available, networking with the key players identified below is also essential: -

- Local builders and property developers,
- Elected Members and Town/Parish Councillors (and community stakeholders),

- Devon and Cornwall Police (information re. problematic voids, and support for the in-house action group),
- Devon and Somerset Fire and Rescue service (information re. problematic voids, and support for the in-house action group),
- Registered social landlords (for possible leasing or buying for renovation),
- The Devon Rural Housing Enablers team (who work closely with rural communities to deliver affordable housing in their areas),
- The Homes and Communities Agency (HCA),
- The Empty Homes Agency (for information on best practice),
- Private sector owners or future landlords (to promote the benefits of bringing empty properties back into use),
- Property professionals (e.g. estate agents and managing agents),
- Banks and building societies (for information on premises),
- Local businesses (may help with issues like vacant and underused space above shops),
- Community organizations (including local networks involved with homelessness),
- Safer North Devon,
- North Devon Plus.

Identification

Information on the extent of empty homes can be provided from: -

- Council Tax records
- Private Sector Stock Condition Survey
- Census data
- Referral from other Council departments, following complaints or representations
- Referral from local Members and others, following complaints or representations
- Local knowledge and properties identified by the community

The empty properties action group will gather and exchange information and can agree appropriate action on a corporate basis.

Risk Assessment

Empty homes will be assessed and scored in accordance with the criteria set out in Annex 2 to this strategy.

Priority for action and the level of action is determined objectively and based on a number of factors including the environmental and community impact, local housing need, health and safety issues, and available resources.

Where informal approaches (and in some cases financial incentives) prove unsuccessful then escalation to formal enforcement processes may be necessary, subject to the priority for intervention identified in the risk assessment.

Enforcement

Enforcement action should be taken in line with the Enforcement Concordat (details of which can be found in the Council's Private Sector Housing Renewal Policy).

Enforcement measures are a useful means to encourage owners to take responsibility for their properties and remedy the problems they cause to the community.

Enforcement interventions must always be proportional to the risk presented by the empty property and to the likelihood that the property will return to useful occupation without public intervention.

The use of more restrictive powers under Compulsory Purchase, Enforced Sale, or Empty Dwelling Management Orders will be rare and only as a last resort. The inclusion and use of such powers, is however necessary to ensure credibility of the strategy and to encourage constructive discussion in the advisory and incentive stages.

It is anticipated that the risk assessment accompanied by proportionate escalation of interventions will satisfy Article 8 (Human Rights Act 1998) scrutiny by ensuring that action is always in the public interest, proportionate to the objective and achieved by the least restrictive means.

The Council has a number of options with regard to enforcement, as follows:

1. Securing an open empty property against unauthorised access under Section 29, Local Government Act 1982, or under Section 76 of the Building Act 1984.
2. Statutory nuisance action (against fly-tipping, damp premises etc) under Section 80, Environmental Protection Act 1990.
3. Requiring the unblocking of defective drains under Section 59, Building Act 1984.
4. Major renovations to or demolition of the external envelope of premises under Section 79, Building Act 1984.
5. Remedying problems caused by vermin and refuse accumulations under Section 4, Prevention of Damage by Pests Act 1949.
6. Undertaking environmental improvements to premises that are adversely affecting the amenity of an area, to include clearing rubbish and renovating the external envelope of buildings under Section 215, Town & Country Planning Act 1990.

7. Compulsory Purchase Orders (CPOs) may be a useful device for local authorities, but this type of action tends to shift the 'burden of responsibility' to resolve the under-used property from the owner to the Council. The Council would also have to make funds available for the purchase from its capital programme. The process can be resource intensive in terms of officer time.
8. Enforced Sale Orders can be made using powers under S103, Law of Property Act 1925 in cases where owners are reluctant to address the problems that their empty property causes the neighbourhood. They can be used in conjunction with 'works in default', where notices have been served on owners insisting that works be done. If these are ignored then the local authority has the right to carry out the work in default of the notice served and recover their costs through enforced sale. However, enforced sale can only be utilised to recover the debt where there is an outstanding 'priority' debt charge on the property in favour of the local authority. The Council's Community and Resources Committee agreed an Enforced Sale Procedure on 4th October 2010 and this is attached to this strategy at Annex 3.
9. The Housing Act 2004 contains provisions allowing a local housing authority, in certain circumstances, to take management control of a long term void dwelling in order to secure its occupation. This is carried out using Empty Dwelling Management Orders (EDMOs). The process is complex and resource intensive and, consequently, relatively few such orders have been made nationally.
10. The Housing Act 2004 introduced a risk based consideration of 29 defined hazards that may be found in a property. The assessment leads to a numerical score for a particular hazard. A local authority is under a duty to deal with any high score (Category 1) hazard, and has power to deal with lower scoring (Category 2) hazards. The system may be applied to vacant properties.

In all cases of enforcement prior consideration should be given to the Human Rights Act 1998, in particular Article 1 of the first protocol – protection of property, and Article 8 – the right to respect for private and family life

Financial Assistance

This may be offered instead of or to accompany enforcement action. It will take the form of a loan. This is detailed in the Council's Housing Renewal policy. Discretionary loans can be made available to property owners whose property has been vacant for more than 6 months.

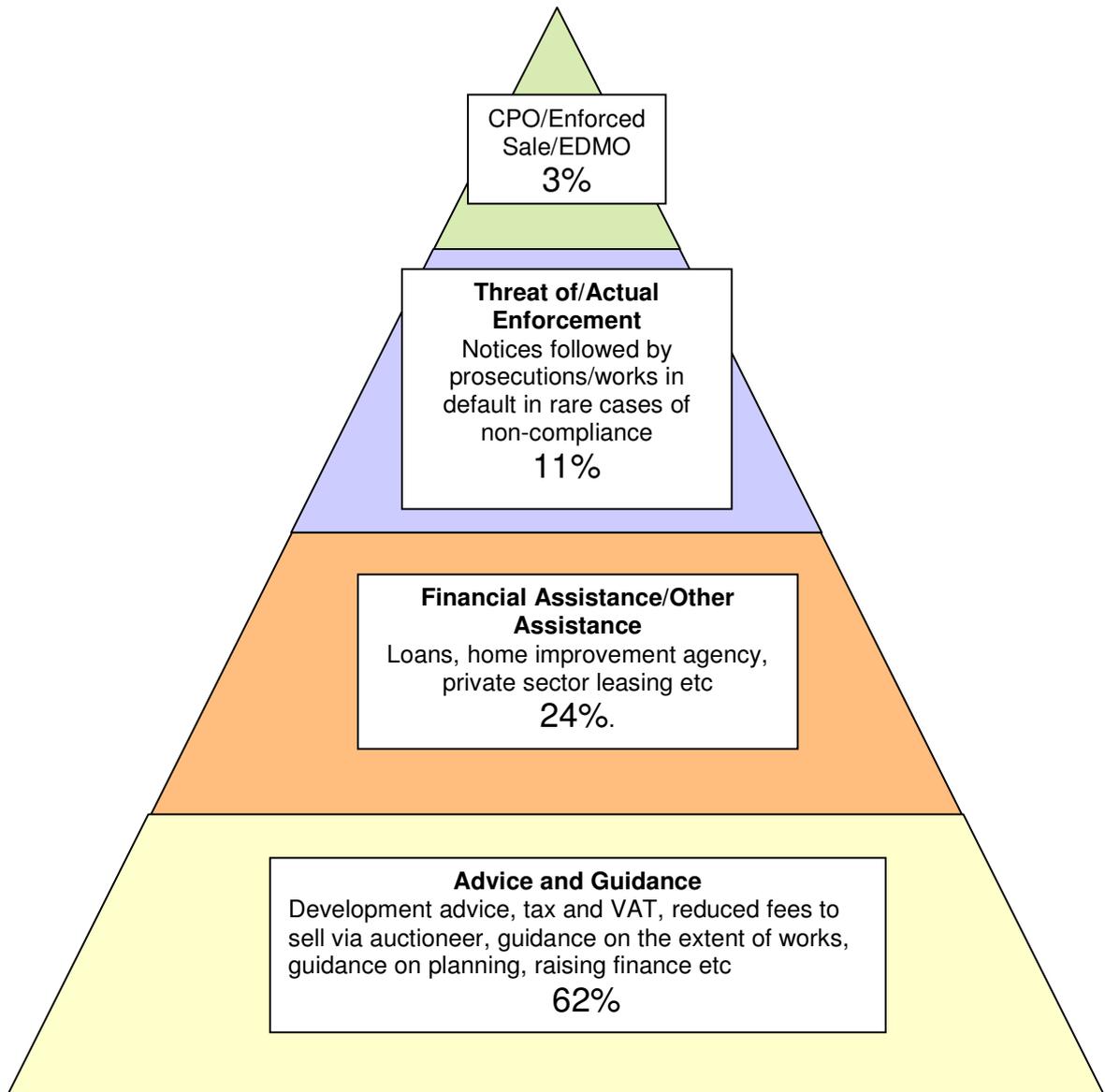
Council Tax

The majority of long term empty homes fall into either Class A (empty undergoing structural alterations/major repair) or Class C (empty and unfurnished). In the case of Class A properties, these are entitled to a 12 months exemption from Council Tax or until such works are complete whichever is the earlier, after which full tax is payable. In the case of Class C properties, these are entitled to a 3 months exemption after which full tax is payable. The Government has introduced regulations which from 1 April 2013, enables Councils to have the ability to award an additional (unlimited) term of discount (of up to 50%) for Class A empty properties, and in the case of Class C empties, the ability to vary the time period for the initial exemption plus levy a higher rate of Council Tax (up to 150%) where such properties have been empty for over 2 years. In Torridge, the Council has approved that Class A empties should have no additional period of discount beyond the initial 12 months (i.e. retain the status quo), that the initial

exemption period for Class C empties should be reduced from 6 to 3 months, and that Council Tax at 150% should be levied when such properties have been empty for over two years. This is all intended to ensure there are sufficient financial incentives for owners of empty properties to return them back to occupation. This will take effect from April 2013.

ANNEX 1

HIERARCHY OF EMPTY HOMES ACHIEVEMENTS BY TYPE OF ACTION (based on experiences of Kent 'No Use Empty' and other EH partnerships)



ANNEX 2 - EMPTY HOMES ASSESSMENT SHEET

Address			
Officer Assessing:			Date:
Description of property type		Residential/ Part residential & commercial/ Commercial (delete as appropriate)	
	Description	Points scale	Points awarded
Number of Storeys?	1 or 2 3 Over 3	5 10 15	
Property type?	Detached End Terraced/Semi Detached Mid Terraced/Flat	0 5 10	
Property appears empty?	No Possibly Yes	0 10 20	
How long has it been empty?	0-6 months 6-12 months 12 months or more	5 15 30	
Risk of Unauthorised access?	None Medium High	0 15 30	
Property in disrepair?	No Minor e.g. 1 broken window/loose tile Significant e.g. more than 1 broken window or guttering hanging down Serious Repair e.g. roof collapsed/walls in serious disrepair	0 5 15 30	
Appearance of the property?	Tidy Untidy e.g. garden slightly over grown/paint peeling Poor e.g. Garden badly overgrown, security concerns Very Poor e.g. evidence of graffiti/drugs/litter	0 10 15 30	
Property causing a public health (statutory) nuisance?	No Yes Not known/possibly	0 30 5	
Evidence of Antisocial Behaviour?	No Minor e.g. unauthorised access Serious e.g. evidence of graffiti/drugs/litter	0 15 30	
HHSRS rating	Category 1 Score 1000 plus Category 2 Score – 200 -999 Category 2 Score less than 200	20 10 0	
Fire risks in the curtilage of the premises?	None Low risk e.g. overgrown garden Medium risk e.g. dumping of flammable materials such as paper High risk e.g. Highly combustible materials such as gas cylinders	0 5 15 30	
Housing Need in Parish?	None/Unknown Low need (can be provided by existing affordable housing stock) Medium need (can't be fully met by existing affordable housing stock) High need (a need but no affordable housing stock)	0 5 15 30	
Parish Council/Community Interest?	Yes No	10 0	
EPAG to score			
Effect on community/locality? (on amenity, infrastructure and regeneration of area/parish)	None Low impact on area Medium impact on area High impact on area	0 5 15 30	
		Total	

Empty Property Banding Score

Score of:	200 or more	150-199	100-149	99 points or less
Priority Band	1	2	3	4

Notes: eg. For Sale/Rent sign clearly visible etc.

Photo No.'s:

ANNEX 3

ENFORCED SALE PROCEDURE

CONTENTS

1. Purpose / Scope
 2. Policy Background
 3. Identifying And Prioritising Potential Properties For ESP
 4. Pre-Action to ESP
 5. Service of Notices
 6. Legislative Basis for ESP
 7. Procedure Where the Property is Not Registered
 8. Human Rights Act 1998
 9. Recovery of Costs
 10. Instigating Sale
 11. Marketing and Sale
 12. Monitoring ESP
 13. Procedure Summary
 14. Records
- Appendix 1 – Enforced Sales Procedure Flowchart

1.0 PURPOSE/ SCOPE

1.1 The purpose of this guidance is to explain the procedures to be followed in the case of Enforced Sales.

2.0 POLICY BACKGROUND

2.1 The Enforced Sales Procedure (ESP) is a process by which the Council brings about the sale of a privately owned house. It is used as a means to “sell on” a long-term vacant house to a new owner, in circumstances where the present owner is either unwilling or unable to deal with the house and its associated problems.

2.2 By bringing about a change in ownership, it is hoped that a new owner will be more willing and able to invest in the property, and ensure its likely re-occupation, upkeep, and proper use.

2.3 The process of ESP is actually a method for debt recovery, but the main purpose of its operation in Torridge under this procedure is as a means of tackling problematic long term empty homes. It is a draconian measure, should only be used as a last resort, and can only be used in particular circumstances.

2.4 In order for a property to be considered suitable for ESP under this procedure, it must satisfy the following criteria.

.It must be:

- a dwelling
- vacant
- registered with the Land Registry (but see Section 7)
- a property where debt is owed to the Council, and the debt is registered in Part 2 of the Local Land Charge Register
- of sufficient priority within the context of the Council’s strategy (i.e. considered sufficiently problematic to warrant significant action).

These criteria always apply, either for legal and/or Council policy reasons.

3.0 IDENTIFYING AND PRIORITISING POTENTIAL PROPERTIES FOR ESP

3.1 Vacant private properties can be identified in a number of ways. For example:

- Council Tax information
- 'Hotline' (TDC website link to national Empty Homes website)
- Housing Renewal officers, other Council officers, local councillors
- Neighbours, general public, residents groups
- Other bodies (e.g. gas, electric, water companies)
- Stock and other surveys
- Electoral Register
- Publicity/ awareness campaigns, etc

3.2 To check if a vacant property is potentially one which could be the subject of ESP, the following need to be checked:

- a. Land Registry registration. This is most easily done on-line, via <http://www.landreg.gov.uk/>
- b. Debt. The TDC Property File will contain details of Works in Default, and will contain the Sundry Debtor Account Number of any Land Charge debts.

3.3 If other departments have outstanding debts on the property and to take those into account as well. In particular, Planning and Building Control may have taken action leading to work being carried out in default, and a debt created.

3.4 Potentially, any privately owned vacant dwelling could be subject to ESP ("privately owned" could apply to dwellings owned by a housing association, but in most cases any problems with such empty properties would be resolved by other routes).

3.5 Most of the information should be readily available, especially where the property is already problematic. Housing Renewal should enter the information onto their database of empty properties.

3.6 Housing Renewal should complete an empty property assessment sheet for each property in order to produce a score to allow prioritisation of properties.

3.7 One particular benefit of producing an Empty Property Score can be to justify decisions about individual properties, particularly if pressures are being applied, for example, by local residents. The methodology provides Housing Renewal with accountable and justifiable reasons for the decision making process concerning ESP.

4.0 PRE-ACTION TO ESP

4.1 Other courses of action, must always be considered before pursuing ESP, and reasons for not following them must be clearly documented on the property file.

4.2 The use of ESP should be seen as a means of last resort. It is expected that all informal and formal actions will have been taken and exhausted by the Council in order to resolve the existence of the empty property and its associated problems.

4.3 The first steps will be to trace and contact an Owner, if their whereabouts are not already known. To this end, the following may be of use:

- Serving a Notice requiring information under S 16 of the Local Government (Miscellaneous Provisions) Act
- Land Registry (On Line Service)

- TDC Empty Property Database
 - Neighbours
 - Council Tax (last payer)
 - Property files
 - Other Council departments and agencies
- Search Agency

4.4 Once an Owner is identified, they should be contacted in order to offer advice, clarify the problems the property poses, and discuss and offer potential solutions. These may include:

- Voluntary Sale or Leasing, either privately, or to an interested RSL
- Consequences of “letting the property go”, including its market value depreciation
- Effects on the neighbourhood
- Loan or Grant availability to repair the property
- Advice about letting and becoming a landlord
- Contacting relatives or others who may be able to assist

4.5 The appropriateness and emphasis to be given to such factors, and others, will very much depend on each individual case. The Housing Renewal officer’s assessment of the Owner’s attitude and capability will also strongly influence tactics.

4.6 Liaison with other departments and agencies, particularly those with an enforcement or financial role, should also be considered, together with all other legitimate means to put pressure on the Owner to deal with the property, for example:

- Other Departments’ enforcement actions (especially Planning and Building Control)
- Exemptions or relaxations for Council Tax payment should be re-considered
- Debt Recovery processes should be actively chased
- Involvement of mortgage lenders if property mortgaged (e.g. breach of occupation conditions, validity of buildings insurance policy)

5.0 SERVICE OF NOTICES

5.1 Statutory enforcement notices, which the Council should or could serve, will usually be actively pursued. The carrying out of Works in Default and the consideration of prosecution, as appropriate, should also be taken to a conclusion, in line with the Housing Renewal Policy and the Enforcement Concordat.

5.2 The pursuance of ESP is not a substitute for other formal and informal action. Rather, use of ESP will more likely be as a consequence of other such action, and its continuing failure to resolve the fundamental problem of the empty property.

5.3 If the property ultimately becomes an ESP case, great importance is attached to being able to ascertain that notices have been served in accordance with statutory provisions, the detail of which can vary according to the particular legislation. Evidence and a record of how and when a notice was served, by whom, and the person(s) on which it was served are essential. The notice must have been served correctly, in accordance with statutory provisions, and on the correct person(s).

5.4 Special attention needs to be paid to situations where it is necessary to serve a notice by affixing it to the premises, where this is appropriate. This must only have been done after reasonable enquiry has been exhausted to ascertain an owner, lessee, or occupier of the land.

5.5 Many statutory notice actions are taken as a response to complaints from neighbours or others affected by the vacant property. Notices will be served as an attempt to alleviate the actual problems, which may not include all of the matters complainants have raised.

5.6 Action can also be pursued on a pro-active basis. This may be done as a prompt to an Owner to take their responsibility of ownership and management more seriously. Should actions like this result in Works in Default being carried out, and should such debt created remain unpaid, then this will open the route to a potential ESP case.

5.7 Note that even though some enforcement actions do not permit entry in the Local Land Charge Register, the debt can still be recovered if the property goes to sale through ESP.

5.8 Note also that some other debts, such as Council Tax, which are personal rather than property based, are neither registrable nor recoverable through this process.

6.0 LEGISLATIVE BASIS FOR ESP

6.1 This section provides a brief summary of the legal process, which allows the Council to use ESP. In the main, these legal processes are carried out by staff in the Council's Legal Team.

6.2 The basis for using ESP is when action is taken by the Council results in the registration of a financial Charge in Part 2 of the Local Land Charges Register. This gives a Local Authority the power to enforce that Charge. Consequently, the Council has all the powers and remedies available to a mortgagee under the Law of Property Act 1925.

6.3 Sec 7 of the Local Land Charges Act 1975, provides that a financial Local Land Charge takes effect, as if it had been created by a Deed of Charge within the meaning of the Law of Property Act 1925.

6.4 Sec 101(i) of the Law of Property Act 1925, confers on a mortgagee a power of sale. An Order of the Court is not always necessary as the legislation itself provides that power, but may be required in some cases.

6.5 Sec 87(1) of the Law of Property Act 1925, confers a right of possession, subject to taking proceedings for possession in the County Court. In addition, many of the statutes used by the Council, which result in carrying out Work in Default, give to the Council a power of sale and a right of priority over other Charges

6.6 The first step in pursuing the legal process for ESP is to serve a notice under Sec 103(i) of the Law of Property Act 1925. The Head of Environmental Health, Housing, Planning and Public Protection has delegated power to sign such a notice. The Council may not exercise the power of sale unless and until this Notice (requiring payment of the mortgage money), has been given, and a default of payment has been made for 3 months after the service of the Notice.

6.7 The Council must also write to the Owner, and any other Chargees, stating that it intends to carry out an enforced sale. If another Chargee should pay the outstanding money, this prevents the Council taking priority over their charge.

6.8 Likewise, if, at any stage prior to the actual sale of the property, the Owner should pay the outstanding debt, then ESP is no longer an option.

6.9 Once default of payment is apparent (where the property is registered), the Council can apply to the Land Registry for registration of the Charge, claiming priority over all

other Charges. This will first be the subject of a report to Community and Resources Committee outlining the details of the case and seeking approval to proceed with ESP.

6.10 For registration of the charge the Land Registry will require the following to be submitted to them by the Legal Team:

- Form AP1
- Fee (currently £50)
- Certificate as to the value of the Charge (unless stated in the resolution)
- Resolution of the Council

6.11 When the Charge is registered, the property can be marketed for sale. It will normally be the case that an application to the County Court for a possession order must be made before marketing can begin. It is good practice to send another letter to the Owner and any Chargees to warn them again that the charge is to be enforced.

7.0 PROCEDURE WHERE THE PROPERTY IS NOT REGISTERED

7.1 In some instances, properties may be discovered which are not registered with the Land Registry. This will increasingly be the case for older properties, particularly where no recent sales have taken place, or property has changed ownership without proper conveyancing, etc.

7.2 The position as to whether ESP can be carried out is not straightforward in the case of unregistered land, as the Council cannot apply to be registered as mortgagee. So it is important to ensure that any purchaser will be able to be registered as proprietor following the sale. (See paragraph 7.4).

7.3 The extent of the property bound by the charge and that can be sold is ascertained by applying the facts to each case, and the particular statutory provisions that have given rise to the Local Land Charge. The position is clear in the case of Charges which arise under the following legislation. Thus, enforced sales should be able to proceed in these cases:

- Public Health Act 1936 Sec 291
- Prevention of Damage by Pests Act 1949
- Building Act 1984 Sec 107

7.4 Advice should always be sought from the Legal Team before pursuing ESP in the case of a property where the land is unregistered (this is implicit in the Committee report preparation process).

8.0 HUMAN RIGHTS ACT 1998

8.1 Consideration of the provisions of the Human Rights Act 1998, must be taken by the Council. In particular, Part 1, Article 8 “the right to respect for... private and family life..., home and... correspondence”, and Protocol 1, Article 1 “peaceful enjoyment of... possessions”, need to be balanced against the general benefits and rights of neighbours and the surrounding community.

8.2 A statement that the intended action of the Council in exercising its power of sale is considered to be proportionate, in accordance with the Act, should be included in letters

to the Owner and Chargees. This will be covered by correspondence issued by the Legal Team, in consultation with Housing Renewal.

9.0 RECOVERY OF COSTS

9.1 The registering of the Local Land Charge in Part 2 of the Register will be instigated as a matter of course by Housing Renewal Administration Officer, following Works in Default and non-payment. In most cases, it is not important on whom the notice was originally served, the Charge can still be registered. (For example, a Housing Act notice served on the "Person Having Control", who may not have been the Owner, would still be able to be registered against the property. Copies of the original notice, if properly served, should in any event have been served on "interested parties", which would have included the Owner at that time).

9.2 However, additional care needs to be taken in the case of the Environmental Protection Act 1990. Under this legislation, it must be the case that the original person on whom the notice was served was the Owner at that time. (And was therefore also the person who caused the nuisance by their own act or default).

9.3 It does not matter, in either scenario, whether the property then subsequently changes ownership. Once the Charge has been established, the land continues to be subject to the Charge even if it has passed to subsequent (possibly entirely innocent) owners.

9.4 Debts are affected by the Limitation Act, in that any debts over 12 years old (generally from the date when the expense was incurred) are no longer recoverable. Thus, any attempts to recover debts through Local Land Charges or by using ESP, are not permissible after this time has passed.

9.5 All debts owed to the Council on the property (excluding, as noted at 5.8 above, personal debts, such as Council Tax) can be recovered on sale. In addition, reasonable costs incurred by the Council in pursuing the sale can also be deducted. Thus, reasonable legal, surveying, marketing and administrative costs are recoverable.

10.0 INSTIGATING SALE

10.1 As previously stated at 6.9, a report recommending ESP must be approved by Council's Community and Resources Committee

10.2 Once Member approval has been obtained the property should be referred by Housing Renewal to the Legal Team:

10.3 The following information must be included with the referral:

- Property Address
- Name of Current Owner and Address (as per Land Registry)
- Details of each Notice served on which debt is still outstanding
- Legislation, Act and Section
- Date of Service
- Full Name and Address of Person(s) on whom Notice served
- Description of Works Required
- Details of Outstanding Debts created by Works in Default (see paragraph 3.3 b)
- Dates Works Carried Out (start & finish dates if known)
- Cost of Works
- Date registered in Part 2 of the Local Land Charge Register
- Copies of any relevant correspondence sent to, or received from, the Owner

NOTE: Much of the above information can be provided by supplying a photocopy of the original notice(s).

10.4 Once a property is in the ESP process, and action to pursue it has commenced by Legal Services, it should normally be pursued to a conclusion. This could be at the expense of other properties which may come to the fore in the meantime.

10.5 Properties may drop out of the ESP process at any point prior to an actual sale being achieved. This will usually be because:

- the debt has been paid, or
- the property is sold voluntarily by the present Owner, or
- the property is no longer vacant

10.6 In many cases, should any of these events occur, this can still be seen as a success, even though the property did not go to enforced sale. The situation of the long-term vacant house will have changed significantly and it is to be hoped that it will be re-occupied.

10.7 If this proves not to be the case, consideration will need to be given to other action.

10.8 Another scenario may be where a house has been sold to another Owner voluntarily, but that Owner does not make proper attempts and progress towards dealing with the empty property. Reviving the ESP to force another ownership change may be required.

10.9 Close liaison and co-operation needs to be maintained with the Legal Team throughout the pursuance of the legal matters explained above (see paragraphs 7 and 8). Once the Land Registry has registered the Charge, the property can be marketed for sale.

10.10 the Legal Team should provide the necessary information to the Property and Procurement Team to instigate the sale process, and also inform Housing Renewal that this has happened.

11.0 MARKETING AND SALE

11.1 The process of marketing and sale is dealt with by the Property and Procurement. These notes are provided mainly for information purposes for Housing Renewal staff, and describe the method by which properties may be sold, on receipt of the Charge Certificate from the Land Registry by Legal Services.

11.2 It is good practice to keep ward councillors and concerned neighbours informed of properties in the ESP process, especially where they have expressed interest.

11.3 It is good practice to carry out a risk assessment of the property prior to commencing marketing (and in particular viewings) to ensure the process is conducted safely and appropriately. It is also a legal requirement for an Energy Performance certificate to be produced for all dwellings being marketed for sale. Officers of the Property and procurement team are qualified to produce EPCs.

11.4 The Council has a duty to secure the best possible price on sale. This means that marketing techniques have to be sufficiently wide to ensure that a proper competitive bidding process takes place. Failure to be able to demonstrate this could mean the Council being legitimately challenged by the Owner (whether currently known or not), at a later date.

11.5 Properties will be marketed and advertised widely by the Property Department, including in the local press, and sealed bids will be invited by a deadline date.

Alternatively, properties may be considered to be put up for sale by auction. An undisclosed reserve should be placed upon the property being auctioned, to enable the Council to ensure that it can recover all of its costs from the proceeds of the sale.

11.6 The Housing Renewal Team will need to monitor the property during the ESP process. This is particularly important immediately prior to the sale date, when a final check on the state of the property needs to be carried out. It is particularly important to be vigilant in assessing if there is any evidence of habitation. If there is any sign, checks should be made with neighbours, etc., to make sure that the house is still vacant. The power of sale is seriously hindered if the mortgagee can not sell with vacant possession!

11.7 It is advisable to make a photographic record of the property, for future reference, at this stage.

11.8 Once the sale is complete the Council should pass the balance (i.e. sale price less debts due and its reasonable costs) of the sale proceeds to the owner. If the owner cannot be traced then the Council should hold the proceeds in trust for the owner in a clearly identified account on its balance sheet. Interest to be paid at ¼% below the Bank of England Bank Rate (or equivalent), compounded at six-monthly intervals on 30 September and 31 March. The calculation of interest shall be subject to review. Alternatively it may be considered preferable to pay the proceeds into Court.

12.0 MONITORING ESP

12.1 It is important to monitor the effectiveness of ESP, both of properties which are forcibly sold, and properties which drop out of ESP due to the Owner being persuaded to deal with them.

12.2 To this end, from time to time, an analysis of the effects of ESP will be carried out, including a survey of the properties and people affected by ESP. This will provide vital information and feedback, enabling a review of the service and procedures.

13.0 PROCEDURE SUMMARY

13.1 A simple flow chart in Appendix 1 to this procedure gives a summary of the responsibilities of the various departments involved in ESP, and shows indicative timescales for key parts of the process.

14.0 RECORDS

14.1 Records must be maintained on the Empty Property database.

4 October 2010 (updated 29 November 2012)

APPENDIX 1 TO ENFORCED SALE PROCEDURE – FLOWCHART

