



The Empty Homes Agency is an independent campaigning charity, which exists to highlight the waste of empty property in England and works with others to devise and promote sustainable solutions to bring empty property back into use.

Guide to Empty Dwelling Management Orders

NOTE TO READERS:

This guide was produced originally as a web-based document. This version has been published in response to requests from local authorities and others for something that could be distributed on paper. We have produced it in PDF format in order to retain the hyperlinks from references in the text to legislation. It has not, however, been possible to reproduce the process flowchart with its links to the detailed guide, along with some other functions such as cross-references within the guide itself.



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Introduction

Empty Dwelling Management Orders (EDMOs) were introduced by the *Housing Act 2004* and the powers subsequently made available to local authorities two years later.

A substantial body of technical information exists on how they are supposed to work, but to date very little practical help based on the experience of those who have actually used EDMOs has been available. We hope this guidance goes some way to filling that gap.

Drawing on the practical experience of empty property officers across the country, we have attempted to distil the most useful and important advice available. The guide includes a flow chart, a step-by-step guide to the process, top tips, pitfalls to avoid, detailed advice notes on each stage, and a set of model documents to use and adapt to your own circumstances.

Story of EDMOs so far...

The Empty Homes Agency takes credit for giving the concept of Empty Dwelling Management Orders their first public airing, but what happened thereafter was a magnificent concerted effort involving the work and efforts of a huge number of people from a wide variety of organisations. What collectively we achieved was a new legal power that not only gave more strength to the arm of local authorities but put empty homes firmly on the political map.

Back in 2001 empty homes were beginning to become an issue for local authorities. There were a quarter of a million of them in England, and people were demanding action. Councils quite reasonably said that their powers were limited and to meet the demand for action they needed more powers.

That first outing was at the DTLR select committee on empty homes back in November 2001. We spelled out the idea for what we called Compulsory Leasing to the committee chaired by the magnificent but slightly intimidating late Gwyneth Dunwoody. To our surprise the committee liked it and it formed one of their recommendations.

The government's response was warm but guarded. "*The government is attracted by the recommendation for a compulsory leasing scheme for long term empty properties where the owner has refused all approaches by the local authority to bring the property back into use voluntarily.*"

But privately government was saying that primary legislation was unlikely. Compulsory leasing had by then become an Empty Homes Agency campaign. We put together a diverse and formidable coalition of partners from RICS and the British Property Federation, through Crisis, Homeless Link, Housing Justice and Shelter to the TGWU. Local authority supporters included Hammersmith and Fulham, Harrow, Gateshead, Middlesbrough, Salford, Sheffield, South Oxfordshire and Southampton. All of whom supported the introduction of new legislation.

The Empty Homes Agency raised the issue compulsory leasing in meetings with a succession of housing ministers: Lord Falconer in March 2002, Lord Rooker the following

September, and Keith Hill in December 2003. The government was at that stage putting together the housing bill that would eventually become the Housing Act 2004. Weighed down with manifesto commitments on the right to buy, home information packs, licensing of houses on multiple occupation and technical changes to housing standards, there appeared to be no room for compulsory leasing in the bill; but ministers showed enthusiasm for exploring the idea in the long term. In February 2003 the government launched its Sustainable Communities Plan and within it there was a promise to consult on compulsory leasing.

At the Empty Homes Agency's joint conference with the Social Market Foundation in the summer of 2003 the ODPM launched a consultation paper on what it called "Empty Homes Management Orders (Compulsory Leasing wasn't a very New Labour phrase). The name was to change again later to empty dwelling management order when somebody noticed that the bill already included reference to HMOs and EHOs – EHMOs was surely an acronymic recipe for confusion. The response to the consultation was largely favourable but government appeared to be in no hurry.

In May 2004 Labour backbencher David Kidney MP tabled an amendment to include empty homes management orders in the bill. And in the Parliamentary debate on the housing bill both main opposition parties tabled amendments in support of including empty homes management orders.

On 19th May 2004 the Housing Minister, Keith Hill MP, announced that the Government wanted to introduce its own amendment to include empty homes management orders in the bill. The bill was passed (now including EDMOs) and became the Housing Act 2004 when it received Royal Assent in November 2005. Secondary legislation enabled the power to come into force in July 2006.

It turned out that the reasoning for the government's late enthusiasm was that they believed inclusion of something that appeared to have cross-party support would help the Bill pass through parliament. Perhaps it did, but the consensus was to be shattered by the press reaction when the power finally came into force in 2006. The Daily Express launched what it called a "Crusade against Blair's home snatch plans" Several other newspapers followed, latching onto some extravagant claims about the new power. The Express

claimed that the government was to use the power for a mass compulsory snatch programme of a quarter of a million homes. In the Sunday Times Kevin McLeod announced that with EDMOs Britain had effectively become a communist country.

The reality turned out to be much more modest. At the time of writing fewer than twenty EDMOs have been made. All carefully considered and applied, and at the forefront of many more empty homes that have been returned to use without the need to resort to legislation. With the numbers of empty homes in England back above three-quarters of a million, the need for action has never been stronger. I hope this guidance will help share the expertise and experience of those pioneering local authorities that have been the first to use EDMOs.

David Ireland

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Step-by-step guide to EDMOs

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1. Prerequisites

- An Empty Property Strategy in place (including publicity, forums, landlord panels etc.)
- A full set of incentives and sanctions
- Managing agents/contractors selected and signed up
- Political support
- Good intelligence
- Property identified!

Top Tip 1

Think of EDMOs as one of a range of tools you have available to you under your authority's Empty Property Strategy.

Top Tip 2

Before you embark on an EDMO make sure you have the prerequisites in place.

Pitfalls

- Don't think of EDMOs in isolation – if you do you might well end up using them on the wrong property.
- Don't try to serve an EDMO without doing your homework first.
- Don't start the process before you've signed up a managing agent/contractor.

Just deciding to slap an EDMO on any old empty property is not a good idea. Like any tool to tackle empty homes, it needs to be viewed within the context of all the powers local authorities have to address the problem – and that includes 'soft' powers of influence and encouragement as well as the grants, loans, and enforcement powers available. One of the most effective councils on empty homes, Manchester, includes EDMOs in its portfolio of solutions. Yet, despite threatening to use them forty times or more in a couple of years, it has yet to serve one. Why? because the council has always got its way without needing to serve one. And that, as every Empty Property Officer knows, is a sign of success, not failure.

Just because a council has a power doesn't mean it will sail through uncontested or even that it will work. So you need to make sure you've maximised your chances of success before you even start to work on an EDMO. Most of the time in most places most empty homes will come back into use through market forces eventually.

Councils' challenge is threefold: to tackle the really tough nuts that the market can't help; to speed up the return of empties to occupation; and to prevent long-term problems from arising in the first place.

An Empty Property Strategy with a range of incentives and sanctions is an excellent starting point. And don't ever forget the power of marketing and publicity: in Kent's *No Use Empty* initiative, for every one property the councils have directly helped return to use roughly nine are estimated to have been reoccupied without any intervention.

If you're thinking of using EDMOs you'll need to have managing agents in place in advance to take on any properties subject to a Final EDMO. There are different options for going about this, but the most flexible for the purposes of EDMOs is probably to use a framework agreement (see the LACoRS good practice guidance for local housing authorities [*Procurement of management orders under the Housing Act 2004*](#) for more details on options).

Political support is enormously helpful when things get tough, as they probably will at some point.

Good intelligence on empty properties, their condition, ownership, prospects for occupation and recent history is crucial background for success.

2. Choosing the EDMO route

Careful preparation will help smooth your path later on, preventing wasted effort. Make sure you've researched the case thoroughly and comprehensively before you embark on an EDMO. Key points to remember are to:

- Check whether the property falls into an exception category.
- Document the history of the property's vacancy so far (make sure you cover Council involvement with the property from a range of departments, e.g. there may be outstanding debt on Council Tax), planning issues, enforcement and environmental health.
- Try to trace and track down the owner/s – place advertisements in local and national papers; consider using a tracing agent.
- Carry out an up-to-date Land Registry search.
- Send the owner a questionnaire.
- Be prepared to visit/doorstep owner/s if necessary – if living somewhere else ask the relevant authority to do this and personally deliver letters.
- Ascertain what steps, if any, are being taken to return it to use.
- Assess prospects for occupation.
- Ask neighbours, other local residents and/or ward councillors for information and be prepared to act on residents' concerns.
- Find out the owner's attitude (if known).
- Identify the extent and cost of work necessary for occupation*.
- Assess the likelihood of occupation without an EDMO vs. effect on the owner's interests (the 'balancing exercise').

* Determine in which Council Tax band the property falls.

Top Tip 3

Do your homework thoroughly and keep meticulous records.

Pitfalls

- Don't skimp on research – if you do you will miss crucial information that could sabotage your case.
- Don't overlook the importance of gathering evidence from those affected – fire and police services, neighbours and councillors can all offer invaluable support for your case.
- Don't forget to assess the costs of returning the property to use - the sooner you have an idea of costs, the sooner you'll be able to assess the viability of an EDMO. Don't rely on the post to deliver letters – do it yourself.

It's vital to do as much as possible to trace the owner/s. One council's application for authorisation to make an Interim EDMO was refused by the RPT because it wasn't even aware of the existence of the owner's long-divorced wife, who then appeared on the scene when the process was well under way.

A questionnaire doesn't just help you clarify points that may not be clear; it gives the owner a chance to set out her/his case for the record and tell you what plans s/he has for bringing property back into use. See the [Model Questionnaire](#) for an idea of how you can encourage something other than tick-box or one-word answers.

It's not enough just to send post to the vacant property and any other relevant address/es (e.g. listed on Council Tax records). To be able to prove you've really tried to contact the owner you need to make sure all correspondence is hand-delivered. Where the owner lives in a different local authority area, perhaps far away, try asking the council concerned for help.

It sounds blindingly obvious, but before you decide to pursue enforcement action make sure you've checked whether the property falls into an exception category. At least one council has failed to do so and been sent packing by the RPT as a result. See the [Housing \(Empty Dwelling Management Orders\) \(Prescribed Exceptions and Requirements\) \(England\) Order 2006 \(SI 2006 no. 367, article 3\)](#) for the full list of exceptions.

To be in a position to decide whether an EDMO is the best route to occupation you need a good idea of how much it's all going to cost. A council has the power to enter any property that may, in its view, be a candidate for an EDMO under [Section 239\(1\)\(a\) of the 2004 Act](#) (see below), but at this stage it's better to enter with the owner's consent if possible. Have a look around, if possible with the owner, and take a surveyor with you so you can draw up a fairly detailed schedule of works and calculate what it might cost.

Don't underestimate the usefulness of soliciting, recording and marshalling supportive evidence from neighbours and public services. Neighbours' testimony regarding the effect of an empty property on their lives can help persuade the RPT to authorise an Interim EDMO. So can evidence of the number of times a property has required the attention of the fire brigade or the police, for example.

It's important to show that you've carried out an assessment – or 'balancing exercise' – of the pros and cons of using an EDMO. [Section 133 \(4\) of the 2004 Act](#) states that in reaching the decision to apply to the RPT for authorisation the council must "*take into account the rights of the relevant proprietor of the dwelling and the interests of the wider community*". There is no set format for this but you need to be able to show how and why you have reached your decision, having carefully considered all the evidence, and – importantly - have the documentation to prove it.

3. Preparation for an interim EDMO

- Deliver letter(s) setting out options (voluntary and enforcement) and offering help
- Arrange site meeting/survey of property
- Deliver final letter reiterating options, indicating intention to apply an EDMO in the absence of voluntary compliance, listing EDMO exceptions and giving 14 days to respond
- Deliver copies of letters to all those with an interest in the property, e.g. any banks or building societies and any other body or person with an interest/charge/caution relating to the property.

Top Tip 4

Make sure you offer all the help you possibly can to the owner at the same time as explaining the enforcement powers available to the council.

Top Tip 5

Be absolutely meticulous in your attention to fulfilling the statutory requirements.

Top Tip 6

Quote the exact text of the Act and Regulations in your second letter and enclosed questionnaire to the owner (see below for details).

Top Tip 7

Offer to meet the owner on site when you visit the property to survey it.

Top Tip 8

Use your Section 239 power of entry to gather the information you need.

Pitfalls:

- Don't miss a chance in your communication with the owner to offer a range of voluntary solutions - however unlikely you think it is that s/he will accept them.
- Don't just paraphrase the relevant legislation – quote it precisely or you'll reduce your chances of success later on.
- Don't be sloppy about observing all the requirements – if you are the RPT will refuse to authorise an Interim EDMO.
- Don't be shy of using your powers of entry if you need them.

EDMOs legislation and guidance repeatedly states that council must have made “*reasonable efforts*” to solve the problem of vacancy without resorting to an EDMO. This is very much in the spirit of the Act and it's also very likely to save you time, hassle and

resources. Experience suggests that Residential Property Tribunals have high expectations of what “reasonable” means. So, to improve your chances of success further down the line, make sure you make considerable efforts to reach a voluntary agreement with the owner before you even get as far as deciding to apply for authorisation to serve an Interim EDMO. And make sure you’re in a position to show you have made those efforts to the RPT’s satisfaction. The [DCLG Guidance Note on EDMOs](#) explains what is expected.

One thing the RPT will be assiduous in checking is that you made a serious effort to discover what steps the owner is taking or intends to take. [Section 133 \(30 \(b\) of the 2004 Act](#) stipulates that, before deciding whether or not to apply to the RPT for authorisation to serve an Interim EDMO, the council must make reasonable efforts “*to ascertain what steps (if any) [the owner] is taking, or is intending to take, to secure that the dwelling is occupied*”. In at least one case the RPT has refused authorisation to serve an Interim EDMO because the council did not quote this precise wording its letter/s to the property owner. Make sure you do.

Exceptions. In the same case, a second reason for refusing authorisation cited by the RPT was that the council had also failed to quote the precise wording of Article 4 (1) (a) of the [Housing \(Empty Dwelling Management Orders\) \(Prescribed Exceptions and Requirements\) \(England\) Order 2006 \(SI 2006 No. 367\)](#) (with reference to [Section 134 \(2\) \(e\) of the 2004 Act](#)) in its communications with the owner. Article 4 (1) (a) states that the local housing authority “*must make reasonable efforts to establish from the relevant proprietor whether he considers that any of the exceptions contained in article 3 apply to the dwelling*”.

The best time to make both these references is probably on the second contact with the owner, in the letter accompanying a [Questionnaire](#). To be on the safe side and to help the owner comprehend what is required, it’s a good idea to say the same thing in plain English too (but not instead). See the [Model Second Letter to Owner](#) for suggested text.

If you haven’t done so already, to survey the property so as to get an idea of what needs to be done and how much it will cost you will need to get inside. Naturally, owners can be rather sensitive about this. You can use a warrant under s.239 of the 2004 Act (see below), but at this stage it’s better to enter with the owner’s consent if possible. So it’s

always a good idea to invite the owner to meet you on site to discuss the property and what needs to be done to bring it back into use. S/he may well not want to come. If s/he does, you have a further chance to strike a voluntary agreement and you may well reduce the likelihood of the owner challenging the costs set out in any Management Scheme that you produce later on. If s/he doesn't turn up you can at least show the RPT you've tried.

[Section 239\(1\)\(a\) of the 2004 Act](#) gives the council power of entry to any property that may, in its view, be a candidate for an EDMO. Section 239 (4) explicitly mentions entry while an Interim or Final EDMO is in force, but you don't have to wait till then – in fact, to judge the viability of an EDMO you will need to assess the property's condition in some detail before you decide to pursue the EDMO route.

These powers are there to be used, so don't be shy of doing so. But also make sure you fulfil all the requirements. Unless you suspect an offence under Sections [72](#), [95](#) or [234\(3\)](#) of the 2004 Act, you must first give the owner and occupier/s (if any) at least 24 hours' notice of your intention to enter the property. If this receives no response you will need to obtain a warrant. Officers experienced in using these powers recommend arriving at the magistrates' court first thing in the morning before formal proceedings begin, armed with a warrant (giving reasons) ready to be signed, and approaching the magistrate for permission. [Section 239 \(8\) of the 2004 Act](#) lists whom you can take with you and what you're allowed to do. Note that the warrant remains in force "*until the purpose for which the entry is required is satisfied*" ([Section 240 \(9\) of the 2004 Act](#)) – which offers considerable leeway. And remember that "*If the premises are unoccupied or the occupier is temporarily absent, a person entering under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them*" ([Section 240 \(8\) of the 2004 Act](#)).

4. Application to serve an Interim EDMO

- Apply to the Residential Property Tribunal for authorisation to gain an Interim EDMO – (you may prefer to request a written submission).
- Submit to the RPT a bundle of supporting documents, including:
 1. an officer's statement of reasons;
 2. the authority's outline plan for the property;
 3. a detailed survey of the property's condition;
 4. outline costings (including a schedule of works);
 5. a statement on housing need in the area;
 6. who is likely to be housed in the property;
 7. a map of the property location;
 8. an Ordnance Survey map of the local neighbourhood;
 9. a layout drawing of the arrangement of rooms in the dwelling;
 10. extensive photographs (and video clips if possible) of the property – internally and externally;
 11. a statement of the Council Tax band within which the property falls;
 12. statements from expert witnesses and/or confirmation of witnesses'/experts'/neighbours' preparedness to give evidence; and
 13. the draft Interim EDMO.

Top Tip 9

First of all, read [Section 134 \(1\)-\(3\) of the 2004 Act](#) very carefully to make sure you understand exactly the terms under which the Residential Property Tribunal must determine your application.

Top Tip 10

Set out your officer's statement in a format that details each relevant section of the legislation and explains what steps the council has taken to ensure it has met the requirements.

Top Tip 11

Make sure you include the council's outline plan for the property so the Residential Property Tribunal knows exactly what you intend to do if authorised to make an Interim EDMO.

Top Tip 12

Collect and use supporting evidence from neighbours, councillors and other witnesses.

Pitfalls:

- don't omit any of the evidence required
- don't submit evidence to the Residential Property Tribunal in batches if you can avoid it - send everything together as a complete bundle
- don't forget to reference and cross-reference every document in the bundle for ease of identification
- don't forget to keep the owner fully informed (ideally supply her/him with copies of everything you send the RPT).

Section 134 91)-(3) of the 2004 Act explains simply the terms under which the Residential Property Tribunal (RPT) will assess your application and may decide to grant authorisation for an Interim EDMO. In summary, there are four main counts; the RPT must be satisfied that:

- the property has been empty for more than six months, with little prospect of occupation without an EDMO and more chance if an EDMO is authorised;
- the authority has notified the owner of its intention, tried to find out what plans, if any, s/he has to return the property to use, and complied with any other requirements;
- the authority has considered the rights of the owner and the interests of the wider community; and
- it has itself considered the interests of the wider community and the effects an EDMO would have on the rights of the owner and might have on those of third parties.

To increase your chances of success you need to make sure you have done everything necessary to comply with the requirements. The RPT has a responsibility to protect owners from unwarranted interference, so essentially the onus is on the authority to make sure it has not made any errors or omissions. If the RPT deems that it has, the application is likely to be dismissed.

On application to the RPT any of the parties may request a hearing. It's probably easier, quicker and cheaper to proceed with written submissions only, so it's unlikely that you will be the one making the request.

It's very important to include as much supporting information as you can with your

application. This will strengthen your case and help make the RPT's task as easy as possible.

Your statement of reasons is the most important supporting document. Make sure that it clearly and unambiguously shows you have observed all the requirements. You can do this best by setting it out in an order that corresponds and refers to the statutory bases of those requirements (in other words the 2004 Act). Beyond the requirements, you'll increase your chances of success if you frame your case in terms of helping the owner bring the property back into use and acting in the interests of the local community. Don't be verbose. Avoid jargon. See the model [Officer's Statement](#) for an example.

The outline plan for what you intend to do with the property if authorised to make an Interim EDMO is necessary to show the RPT that, by agreeing to your application, it will increase the likelihood of the property returning to use. This doesn't have to be exhaustive or a formal document like the Management Scheme you'll need for a Final EDMO later on.

It's helpful to accompany your outline plan for action with a detailed survey of the condition of the property and an outline schedule of works that you've had a go at costing, even if only roughly. This will add substance to your case by further highlighting the obstacles to reuse if the EDMO is not granted.

The desire to meet housing need is obviously one of the main reasons why EDMOs exist, so it does no harm at all to give evidence in support of this argument. Explain what the need for housing is in the area (how long is the waiting list? is this type of accommodation scarce?) and state, if you can, who – or what kind of household – is likely to live there if the council is authorised to make an EDMO.

Detailed information about the property, its location and layout is all helpful in painting a picture for the RPT. By providing visual evidence you can literally illustrate your case and reduce the need for RPT members to visit the property.

The point of gathering supporting evidence from neighbours, fire and police services and any others affected by the empty property is to support your case to the RPT; so don't forget to include these statements in the information you submit with your application. If you can include hard information on length of vacancy, actual problems it has caused and

costs inflicted on the public purse, so much the better.

See the [Model Documents](#) for an idea of how some of these documents should look.

[Section 133 \(6\) of the 2004 Act](#) allows the authority to include “*an application for an order under [paragraph 22 of Schedule 7](#) determining a lease or licence of the dwelling*” with its Interim EDMO application to the RPT if it so wishes.

Once you’ve amassed all this, don’t jeopardise your chances of success by submitting any of it late. Label/reference everything clearly and try to make sure you submit it as a single bundle of documents in good time. It’s also a good idea to supply the owner with copies so s/he cannot claim ignorance to the RPT.

5. Residential Property Tribunal hearing (if held)

- Arrange local authority legal representation or not as preferred.
- Preparation for officer's oral statement.
- Ensure ability to answer questions from RPT panel members.

Top Tip 13

Make sure you're prepared to answer the RPT's questions on how you've fulfilled all the statutory requirements and what your plans are for the property if authorised to make an Interim EDMO.

Top Tip 14

Remember that the RPT wants to see that the council is trying to help the owner and is acting in the public interest.

Pitfalls:

- don't allow yourself to come across as heavy-handed, cracking the enforcement whip
- don't assume you must have legal representation at an RPT hearing – it's up to you

Don't be intimidated by the prospect of a Tribunal hearing. It sounds daunting but it isn't - it's actually quite a brief, informal and (in most cases) reasonably good-humoured affair. The RPT Panel is usually made up of three people: one, usually a solicitor, will chair the proceedings; the others will probably include property surveying and housing within their areas of expertise. Your council (the applicant) and the owner (the respondent) may choose to have legal representation or not as they prefer. There is no particular advantage to be had either way. You (or your representative if you have one) may be required to read out your statement or not as the Panel wishes, but you must be ready to answer questions about it from Panel members, and also to address points raised by the owner (or her/his representative) in response to your application. Be clear and consistent; show you have fulfilled the statutory requirements; make sure you come across as having made (and continuing to make) every effort to help the owner bring the property back into use; and emphasise that you are acting in the public/community interest.

There's no dramatic moment of decision at the hearing; the Panel will promise a decision in due course and conclude the proceedings, leaving you on tenterhooks for the next few weeks. The time the RPT takes to reach a decision varies from a week to a couple of months, but around three weeks appears to be more usual. For examples of RPT decisions see www.rpts.gov.uk/decisions/rpts_decisions.htm. (Note that

decisions may take some weeks or months to appear on the RPT web site. The way they are set out varies from region to region and, because the documents tend to be scanned, they may sometimes be difficult to decipher.)

If the RPT declines to authorise you to serve an Interim EDMO, you will need to review your options. Depending on the reasons it gives, you may decide to go back a few stages and make changes before reapplying or to try a different (non-EDMO) approach.

6. Service of Interim EDMO

- Make the Interim EDMO itself.
- Within seven days of the Interim EDMO having been made, serve notice of having served it on all relevant persons.
- Add the property to the authority's Register of Management Orders.
- Apply for a restriction to be entered in the register of title held at the Land Registry.

Top Tip 15

Make sure you serve notice of having made the EDMO on the owner and all other relevant parties within the seven days allowed.

Top Tip 16

The Interim EDMO is a local land charge and it's a good idea to apply to the Land Registry for a restriction in the register of title. Pitfalls:

- Don't rely on the post - make sure you deliver the notice by hand.
- Don't forget to explain clearly the owner's right of appeal in the notice.
- Don't forget to add the property to the Register of Management Orders.

Once the RPT has authorised you to serve an Interim EDMO (under [Section 134 of the 2004 Act](#)) the next move is straightforward: you make the Order and then notify the owner within the seven days the law allows. [Schedule 6, paragraph 7 of the 2004 Act](#) sets out the requirements. In summary, you must send a copy of the Interim EDMO itself as well as a notice. The notice must set out the reasons for making the Interim EDMO, the date on which it was made, its general effect, the date on which it will cease to have effect and the owner's right of appeal against the terms on which it is made (see [Model documents](#) for examples of the Order and notice). Make sure you observe all the requirements.

The "relevant persons" include "*any person who, to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling (other than a person who is a tenant under a lease granted under paragraph 2(3)(c) of Schedule 7)*", as defined by [Section 133 \(8\) \(d\) of the 2004 Act](#). The exception refers to a person with an interest in the property or a licence to occupy it created by the authority. Be careful to make sure you don't miss anyone out.

Adding a restriction in the register of title at the Land Registry will make sure that anyone

interested in buying the property should become aware of the existence of the Interim EDMO. This may deter some buyers (and encourage an owner wanting to sell to cooperate in order to have the Interim EDMO revoked). If the property is sold, flagging up the EDMO in advance should make matters simpler later on.

Every authority has to have a register of all Interim and Final EDMOs made by it that are in force, and it must keep this up-to-date. The precise rules are set out in Section 232 of the 2004 Act and regulation 13 of the *Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (SI 2006/373)*.

7. Interim EDMO actions

- Insure the property.
- Continue discussions with the owner to seek voluntary agreement.
- Enter the property to conduct a detailed survey and secure it.
- Draw up a draft schedule of works required (if not done already).
- Add costings to produce a detailed, costed schedule of works.
- Invite contractors to tender for works.
- Select contractor/s.

Top Tip 17

Keep talking to the owner.

Top Tip 18

Now is an ideal time to survey the property and draw up a schedule of works if you haven't already.

Top Tip 19

Ask the owner to join you when you invite contractors to examine at the property.

Pitfalls:

- don't waste any time in cracking on once the RPT has authorised you to make the Order.
- don't forget to insure and secure the property straight away – it's now the council's responsibility.
- don't hesitate to change the locks if you have to force entry.

The authority's responsibilities once an Interim EDMO is in force include ensuring that "*reasonable provision is made for insurance of the dwelling*" ([Section 135 \(5\) of the 2004 Act](#)). This usually simply means making sure it is added to the council's own existing insurance policy.

The legislation is clear: an Interim EDMO is not merely the prelude to an inevitable Final EDMO; it's explicitly designed to provide a last chance to reach a voluntary resolution of the problem.

Of course, every case is different and there will be times when there is little need to wait anything like the full 12 months before moving to a Final EDMO; for example if the owner has died leaving no traceable successor to the title, or where the EDMO is being applied

with the co-operation of the owner as the best way to bring a property back into use).

In most cases, however, you should act quickly to make maximum use of the time the Interim EDMO is in force - there's a lot to do and it helps make the owner think you mean business. Keep in close touch with the owner if you can. While it's important to continue to offer help, s/he needs to feel the urgency of the approaching deadline for agreement. Accordingly, your aim is to further ratchet up the pressure on the owner to reach agreement - you could well get what you want without having to resort to a Final EDMO. (This is in your interest too, since a voluntary solution will enable the time and money that would have been expended on a Final EDMO to be diverted instead to helping bring other properties back into use.)

And if it does eventually come to a Final EDMO, a virtuous series of consequences flows from swift action: the sooner you have a detailed, priced schedule of works and contractors lined up, the quicker you'll be able to bring the property back into use, the earlier the council will begin to receive an income, the more financially viable the EDMO option will be.

If you haven't done so already, enter the property as soon as possible, make sure it's secure and carry out a detailed survey to draw up a schedule of works required to bring it back into use. If you did this before the Interim EDMO was authorised, invite contractors to come with you so they can quote you a price for the works identified. Either way, it can be a good idea to invite the owner to be present – not only do you fulfil the requirement to notify her/him of your intention to enter the property, but, by having a chance to explain exactly what needs to be done, you can help reduce the risk that the owner will appeal to the RPT against the Management Scheme, if it comes to that, later on.

The Interim EDMO may not give you power to install tenants of your choosing without the owner's consent, but if you need to force entry there's nothing to stop you changing the locks. Some councils use this tactic when they undertake works in default in order to bring the owner to the negotiating table, but it's handy if you're only surveying the property too. Simply drill the locks to get in and change them before you leave. Then write to the owner and let her/him know s/he can collect the new keys from your office.

Note that [Schedule 7, paragraph 26 \(1\) \(c\) of the 2004 Act](#) states that the owner may, "at

any time while the [Interim] order is in force”, appeal against the terms of the Interim EDMO on the grounds that they do not provide for payment of surplus rent as set out in [Paragraph 5 \(5\)\(a\) and \(b\) of the 2004 Act](#). In such cases the RPT is not empowered to revoke the Order, but “limited to determining whether the order should be varied by the tribunal so as to include a term providing for the matter or matters in question, and (if so) what provision should be made by the term” (see [Schedule 7, Paragraph 26 \(2\) \(b\) of the 2004 Act](#)).

According to [Section 138 of the 2004 Act](#), a similar right applies to third parties seeking compensation. The RPT may make an order requiring the authority to pay such compensation. Equally, the third party may make a request direct to the authority, which must then consider the case, inform the third party of its decision and, if it does decide that payment is due, amend the Management Scheme contained in the Order accordingly.

8. Preparation for Final EDMO

- Assess the likelihood of reoccupation without a Final EDMO.
- Produce a detailed Management Scheme.
- Liaise with the rent officer/housing benefit office to determine rent to be set.
- Appoint a managing agent.

Top Tip 20

Press ahead with the Final EDMO as soon as you judge it to be necessary – there's no need to wait till the Interim EDMO is nearing its end.

Pitfall:

- Don't assume you may only charge a market rent – some councils have successfully set affordable rents.

The Interim EDMO is the 'last chance saloon' for the owner to come to agreement. This is the time to produce a detailed Management Scheme for the property in preparation for a Final EDMO. The Management Scheme is part of the Final EDMO. [You ought by this stage already to have much of the content, including details of works required to the property and cost estimates \(for administration, works and management\). It should also cover payment arrangements \(including compensation, if any\). Schedule 7, paragraph 13 \(3\) of the 2004 Act sets out what it "must \(in particular\) include", and Schedule 7, paragraph 13 \(4\) lists additional, optional content; these lists are also set out at Chapter 8.4 of the \[DCLG Guidance Note on EDMOs\]\(#\).](#)

The intention is that the Interim EDMO should help solve the problem voluntarily if possible. The ultimate point of EDMOs, however, is to improve the chances of the property being occupied as soon as possible. Accordingly, as well as redoubling your efforts to reach agreement with the owner, you should keep the likelihood of occupation under continuous review. If this appears to be minimal you need to consider making a Final EDMO. The Interim EDMO usually lasts 12 months – to allow enough time to reach agreement if one is in prospect - but you are within your rights to proceed to the Final EDMO at any stage during that time if, in your judgement, no such resolution is likely to be reached. [Section 136 \(1\) \(b\) of the 2004 Act](#) states only that the council must first have "taken all such steps as it was appropriate for them to take" under the Interim EDMO. In

some cases, for example where there is no known owner, you can move from Interim to Final EDMO more or less immediately.

Note that the property doesn't necessarily have to be empty for the authority to move to a Final EDMO. [Section 136 \(1\) of the 2004 Act](#) allows that the authority may replace an EDMO with a Final EDMO if it thinks that, "*unless a final EDMO is made in respect of the dwelling, the dwelling is likely to **become** or remain unoccupied*" (our emphasis). In other words, even if the property has been occupied since the Interim EDMO was made, if you consider that occupation to be precarious you may still decide to make a Final EDMO.

The question of how much a property with an EDMO in force may be let for has been the subject of some debate among empty property officers. [Schedule 7, paragraph 13 \(3\) \(g\) of the 2004 Act](#) and the DCLG Guidance Note state that, should the council set a sub-market rent, it must reduce the sum it takes from the rental income by the same amount as the sub-market rent falls short of the market rent, e.g., if you could get £1,000 pcm for the property but decide to let it to occupants on the housing waiting list for £850, you (the council) should keep £150 less each month of the £850 than you would have of £1,000. Since many councils justify their investment in private empty homes by the boost to affordable housing they provide, this could give rise to problems. In practice this difference in rent does not yet appear to have arisen as an issue, however.

At least one authority has avoided the issue by considering EDMOs only for properties where the level of market rent is not appreciably higher than that for social housing. Other councils have taken the view - in line with their Empty Property Strategies - that EDMO properties should supply affordable housing, and effectively waited for the owner to challenge this by appealing against the draft Management Scheme. To date, no such appeal has been made.

Without the question having been tested at appeal or in the courts it is not possible to offer definitive advice, and market conditions – specifically the difference between market and social rents – will vary between places and times. It is nevertheless possible to provide some reassurance for councils looking to let EDMO properties as social housing. If your council's contract with the managing agent provides for the council to receive a regular monthly income, perhaps 15 per cent. below the market rate to cover management costs, the property only has to suffer fairly short void periods for the council to be no worse – or

even better – off than it would have been letting the property on the open market. What applies to the council applies also the owner, and in such circumstances it is difficult to see an appeal against a Management Scheme succeeding. In addition, there appears to be widespread recognition that affordable housing operates as a market in parallel with the open market and that in areas of acute housing need it is reasonable to charge an affordable rent provided it is not below the level of the local affordable housing market.

9. Service of final EDMO

- Serve notice of intention to make a final EDMO (14 days' consultation).
- Make the final EDMO, incorporating any changes resulting from consultation responses.
- Serve notice of the final EDMO on the owner within seven days (owner has 28 days to appeal to the local authority & RPT*).
- If there is no appeal, the final EDMO is confirmed at the end of the 28 days.
- If there is an appeal, the final EDMO is not confirmed pending the RPT's decision.

Top Tip 21

Take special care over your Management Scheme to reduce the risk of successful appeal.

Pitfalls:

- Don't forget you need to serve notice of intention on all the relevant parties.
- Don't rely on the post – make sure you deliver the notice by hand.

It's important to remember that there are three distinct stages to making a Final EDMO: consultation on the council's intention to make the Final Order; giving notice to the owner of the intention to make the order; and confirmation of the Final EDMO.

The 2004 Act states that you must serve a copy of the proposed Order and a notice (of intention to make the Final EDMO) on "*each relevant person*" (see [Schedule 7, paragraph 37 of the 2004 Act](#) for the definition of a relevant person). You must include a statement of the reasons for making the Order, the main terms of the proposed Order (including the Management Scheme) and the date on which the consultation ends. 14 days' consultation follows. If no-one responds you can then press ahead with making the Final EDMO. If you do receive any comments, however, you must consider them and you may need to modify the terms of the Final EDMO in the light of them. If the council is satisfied that any intended modifications are "*not material in any respect*" it may dispense with further notices, but in all other cases the initial documents must be served again together with the proposed modifications, reasons for them and the consultation deadline.

Once the consultation period has ended and any modifications have been made you may make the Final EDMO. Unlike at the Interim stage, the council may make the Final EDMO

itself without explicit authorisation. But that isn't the end of the matter. Within seven days of making it you must serve notice of it on the owner. S/he has 28 days to appeal to the Residential Property Tribunal if s/he wishes to challenge the Management Scheme. The rules on appeal are fairly complex and set out in [Schedule 7 of the 2004 Act](#). Note that the RPT may allow a later appeal "*if it is satisfied that there is a good reason for the failure to appeal*" before the deadline ([Schedule 7, Paragraph 27 \(3\) of the 2004 Act](#)). The things the owner may appeal against are listed in [Schedule 7, Paragraph 26 \(1\) of the 2004 Act](#) and include: the decision to make a Final EDMO; the decision to vary or revoke (or not) a Final EDMO; the terms of a Final EDMO (this includes the Management Scheme); and any decision not to pay compensation to a third party, or the amount to be paid.

If the owner appeals to the RPT, it must consider the case and make a determination. The RPT may confirm the Order, vary it (i.e. alter the terms and/or provisions under which it is made) or revoke it as from the date of its decision.

There is potentially one further stage to the process: [Section 231 \(2\) of the 2004 Act](#) allows a party to proceedings before the RPT to appeal to the Lands Tribunal regarding any decision by the RPT. Such an appeal requires the permission of the RPT or the Lands Tribunal and must be lodged within the time specified under the [Lands Tribunal Act 1949](#). In such cases the Lands Tribunal exercises any powers that were available to the RPT.

Bear in mind that the Management Scheme, setting out as it does the terms under which the property would be managed by the authority and its agents (potentially for several years), is likely to be the main target of appeals. It is therefore not just important as a practical help in managing the property once the Final EDMO has been made; getting it right is critical to your chances of success.

10. Once final EDMO in place

- Gain Entry
- Secure the property and change locks.
- Update the entry on the authority's Register of Management Orders.
- Clear the property and any gardens of rubbish, abandoned cars etc..
- Store or dispose of any furniture not required by the owner.
- Commission and oversee necessary works.
- Appoint a managing agent and ensure they keep detailed accounts of all income and expenditure.
- Ensure provision of floor coverings, furniture and white goods.
- Ensure the property is let and remains occupied or with minimal void periods.
- Monitor and review the management of the property on a regular basis and inform the owner of your findings.
- Ensure any surplus rental income is paid to the owner.
- Write to the owner when the property is repaired and let, confirming management arrangements and whom the property is let to and offering an opportunity to view and inspect the property.

Top Tip 22

Show the outside world you mean business and you're making progress by making clearance of any external mess your top priority.

Top Tip 23

Do your best to persuade the opener to take the property contents and her/his other possessions away – storage can be expensive.

Pitfalls:

- Don't forget to update the entry on the Register of Management Orders.
- Don't forget to review the Final EDMO from time to time and consider any need for changes.
- Don't assume the Final EDMO must remain in force for the full seven years.
- Don't forget that the owner may still apply to the RPT for an order at any time during the life of the Final EDMO.

The Final EDMO does not come into force until the deadline for an appeal has passed without one being made or, where there is an appeal, the Order has been confirmed on appeal (see [Schedule 7, paragraph 9 of the 2004 Act](#)).

Every authority has to have a register of all Interim and Final EDMOs made by it that are in force, and it must keep this up-to-date. The precise rules are set out in [Section 232 of the 2004 Act](#) and regulation 13 of the [Licensing and Management of Houses in Multiple Occupation and Other Houses \(Miscellaneous Provisions\) \(England\) Regulations 2006 \(SI 2006/373\)](#).

The default position is that a Final EDMO lapses seven years from the date it comes into force (schedule 7 paragraph 9 (3)). This does not mean that every Final EDMO will be in force for the full seven years, however. The Order may give an end date sooner than the seven-year deadline or, if the owner consents, later (see [Schedule 7, paragraph 9 of the 2004 Act](#)). It's also possible to vary or revoke the Order before the seven years are up. The period can also be extended by replacing an expiring Final EDMO with a new one. Where a new Final EDMO, being made to replace an existing Order that is expiring, is subject to an appeal, the Act provides ways to make sure the existing Order remains in force pending determination of the appeal.

[Section 137 of the 2004 Act](#) outlines an authority's the council's responsibilities once a Final EDMO is in force. In summary, it must do three things: take steps to bring the property back into occupation; do anything else it deems necessary for the "*proper management*" of the property in line with the Management Scheme ([Section 137 \(3\) of the 2004 Act](#)); and "*from time to time*" review the operation of the Order ([Section 137 \(4\) of the 2004 Act](#)).

When the council reviews the Order, if the property remains unoccupied it must consider what else it could do to secure occupation. It must also consider whether the Order (with or without variations) needs to remain in place to make sure the property "*becomes or remains*" occupied. Note: this implies that, once occupation is achieved, a Final EDMO need not necessarily remain in force until it lapses. In the case of the first Final EDMO ever to be made, for example, the Order was revoked once the property had been occupied (although this happened after it had been sold to a new owner, substantially altering the situation). In many cases the need to recover costs will limit councils' freedom to revoke Final EDMOs even where occupation has been securely achieved.

[Schedule 7, Paragraph 25 of the 2004 Act](#) sets out the authority's power "at all reasonable times to enter any part of the dwelling for the purpose of carrying out works" during Interim

and Final EDMOs. If you need to do this once the property has been occupied don't forget that you still need to give the occupier notice. Note this is additional to and distinct from the power of entry under Section 239 (1) (a).

Clearing up the exterior of the building is a good way to start. It's a quick and easy win, and it shows local people, local media and councillors that action is being taken to tackle the empty property.

Furniture and storage may be an issue, especially since some empty properties can be chock-full of hoarded stuff. The cost of storing this for years can be a burden on the authority, particularly if it lacks spare space of its own. [Schedule 7, paragraph 20 of the 2004 Act](#) explains that the council has the right possession of any furniture, fittings and other contents of a property on which an Interim or Final EDMO is in force. If it hasn't yet installed occupants the council must hand it over to the owner if s/he asks for it.

The council may renounce its right to possession of the furniture (etc.), serving notice on the owner a fortnight or more before this is due to take effect. If the authority does so, however, it must pay for the furniture to be stored at its own expense. By contrast, any new furniture and fittings supplied to the property by the council are counted as relevant (i.e. recoverable) expenditure.

The detailed rules governing the contents of properties in local authorities' possession are set out in [Section 41 of the Local Government \(Miscellaneous Provisions\) Act 1982](#). See the [Model Lost and Uncollected Property Notice](#) for an idea of how to draft one.

It's important to remember that "*a relevant person*", i.e. the owner or someone with an estate or interest in the property (see [Schedule 6, paragraph 35 of the 2004 Act](#) for the precise definition), may still appeal to the RPT against the terms of the Order (including the Management Scheme) at any time during the life of the Final EDMO (see [Schedule 6, paragraph 24 of the 2004 Act](#)). In such cases, the powers of the RPT are limited to "determining whether the order should be varied by the tribunal so as to include a term providing for the matter or matters in question, and (if so) what provision should be made by the term" ([Schedule 6, paragraph 24 \(4\) \(b\) of the 2004 Act](#)).

Appendices

Step-by-step flowchart – Please visit:

http://www.emptyhomes.com/usefulinformation/edmo_guide/edmo_flowchart.html

Step-by-step checklist

Model Documents

- 1 First letter
- 2 Second letter
- 3 Empty dwelling questionnaire
- 4 Third letter & questionnaire reminder
- 5 Officer statement for interim EDMO application
- 6 Interim EDMO notice
- 7 Final EDMO management scheme
- 8 Letter prior to final EDMO
- 9 Notice of intention to serve final EDMO
- 10 Final EDMO
- 11 Lost and uncollected property

Casebook

Step-by-step checklist

EDMOs guidance – Step-by-step check list

Prerequisites

- ❑ Empty Property Strategy (publicity, forums, landlord panels etc.)
- ❑ Full set of incentives and sanctions
- ❑ Managing agents/contractors selected and signed up
- ❑ Political support
- ❑ Good intelligence
- ❑ Property identified!

Choosing the EDMO route

Careful preparation will help smooth your path later on, preventing wasted effort. Make sure you've researched the case thoroughly and comprehensively before you embark on an EDMO. Key points to remember are to:

- ❑ Check whether the property falls into an exception category
- ❑ Document the history of the property's vacancy so far (make sure you cover Council involvement with the property from a range of departments, e.g. there may be outstanding debt on Council Tax), planning issues, enforcement and environmental health.
- ❑ Try to trace and track down the owner/s – place advertisements in local and national papers; consider using a tracing agent
- ❑ Carry out an up-to-date Land Registry search
- ❑ Send the owner a questionnaire
- ❑ Be prepared to visit/doorstep owner/s if necessary – if living somewhere else ask the relevant authority to do this and personally deliver letters
- ❑ Ascertain what steps, if any, are being taken to return it to use
- ❑ Assess prospects for occupation
- ❑ Ask neighbours, other local residents and/or ward councillors for information.
- ❑ Find out the owner's attitude (if known)
- ❑ Identify the extent and cost of work necessary for occupation*
- ❑ Assess the likelihood of occupation without an EDMO vs. effect on the owner's interests (the 'balancing exercise')
- ❑ Determine in which Council Tax band the property falls.

*This may include an HHSRS assessment of works required, works in default and threat of enforced sale as appropriate.

Preparation for an interim EDMO

- ❑ Deliver letter(s) setting out options (voluntary and enforcement) and offering help
- ❑ Arrange site meeting/survey of property
- ❑ Deliver final letter reiterating options, indicating intention to apply an EDMO in the absence of voluntary compliance, listing EDMO exceptions and giving 14 days to respond
- ❑ Deliver copies of letters to all those with an interest in the property, e.g. any banks or building societies and any other body or person with an interest/charge/caution relating to the property.

Application to serve an Interim EDMO

- ❑ Apply to the Residential Property Tribunal for authorisation to gain an Interim EDMO – (you may prefer to **request a written submission**)
- ❑ Submit to the RPT a bundle of supporting documents, including:
 - an officer's statement of reasons;
 - the authority's outline plan for the property;
 - a detailed survey of the property's condition;
 - outline costings (including a schedule of works);

- a statement on housing need in the area;
- who is likely to be housed in the property;
- a map of the property location;
- an Ordnance Survey map of the local neighbourhood;
- a layout drawing of the arrangement of rooms in the dwelling;
- extensive photographs (and video clips if possible) of the property – internally and externally;
- a statement of the Council Tax band within which the property falls;
- statements from expert witnesses and/or confirmation of witnesses'/experts'/neighbours' preparedness to give evidence; and
- the draft Interim EDMO.

Residential Property Tribunal hearing (if held)

- LA legal representation or not as preferred
- Officer's oral statement
- Ensure ability to answer questions from RPT panel members

Service of Interim EDMO

- Make the Interim EDMO itself.
- Within seven days of the Interim EDMO having been made, serve notice of having served it on all relevant persons.
- Add the property to the authority's Register of Management Orders.
- Apply for a restriction to be entered in the register of title held at the Land Registry.

Interim EDMO actions

- Insure the property
- Continue discussions with the owner to seek voluntary agreement
- Enter the property to conduct a detailed survey and secure it
- Draw up a draft schedule of works required
- Add costings to produce detailed, costed schedule of works
- Invite contractors to tender for works
- Select contractor/s

Preparation for final EDMO

- Assess the likelihood of reoccupation without a final EDMO
- Produce a detailed Management Scheme
- Liaise with the rent officer/housing benefit office to determine rent to be set
- Appoint a managing agent

Service of final EDMO

- Serve notice of intention to make a final EDMO (14 days' consultation)
- Make the final EDMO, incorporating any changes resulting from consultation responses
- Serve notice of the final EDMO on the owner within seven days (owner has 28 days to appeal to the local authority & RPT*)
- If there is no appeal, the final EDMO is confirmed at the end of the 28 days
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Once final EDMO in place

- Gain entry
- Secure the property and change locks
- Update the entry on the authority's Register of Management Orders
- Clear the property and any gardens of rubbish, abandoned cars etc.
- Store or dispose of any furniture not required by the owner
- Commission and oversee necessary works
- Appoint a managing agent and ensure they keep detailed accounts of all income and expenditure
- Ensure provision of floor coverings, furniture and white goods

- ❑ Ensure the property is let and remains occupied or with minimal void periods
- ❑ Monitor and review the management of the property on a regular basis and inform the owner of your findings
- ❑ Ensure any surplus rental income is paid to the owner
- ❑ Write to the owner when the property is repaired and let, confirming management arrangements and whom the property is let to and offering an opportunity to view and inspect the property.

1 First letter

[Department]
[Local authority]
[Address]

[Name of empty property owner]
[Address]

[Date]
Your reference
Our reference

Dear [Name of empty property owner],

UNOCCUPIED PROPERTY: [ADDRESS OF EMPTY PROPERTY] URGENT ACTION REQUIRED NOW HOUSING ACT 2004

My role in the council is to try and bring empty properties back into use. I am writing to you because I believe you to be the owner of the above premises, which are currently unoccupied. I wish to discover why the property is empty and would like to know what steps you are taking, or intending to take, to ensure that the property becomes occupied.

There are many possible reasons for your property being empty. It is not the intention of the council to place pressure upon owners of homes that are empty for a genuine reason. To this end I have broken down the most common reasons for a property being empty into four groups below.

You are currently renovating your property

If you fall into this category please let me know. I have access to a substantial amount of advice and information for home owners who are renovating their homes. For example:

If your property has been empty for two years or more I can provide a letter that will enable you to get a reduced rate of VAT (5%) on most of your renovations. This may enable you to make substantial savings on the costs.

You may be eligible for grants or loans towards the cost of the works, there are many available depending on your circumstances but I enclose a leaflet about our empty homes grant scheme, which can provide a grant of up to £25,000. The qualifying period for an empty homes grant has been reviewed since the leaflet was printed and properties now need to have been empty for 6 months prior to 1 July 2007.

If you are renovating a property the council will have significant sympathy for anyone who is doing this on a part time basis where works may take some time. The period is not however open ended and we ask that under these circumstances you provide a very brief schedule of works and approximate... stage dates including the date you expect the property to be occupied from or made available for sale or letting.

You wish to sell your property

If you wish to sell your property please let us know that this is your intention. We will need to know the name of the agent(s) appointed to handle the sale.

You wish to let your property

If you are actively trying to let your property please let us know that this is your intention. We are able to give substantial advice to landlords.

The Council may be able to help you to let the property through our leasing scheme and our tenancy signing payment scheme. Both schemes offer significant benefits to owners in return for the homes being made available for letting through the Council.

The leasing scheme aims to take all the stress out of letting a property and guarantees you a monthly income, whether it is occupied or not. If you are interested in joining the Private Sector Leasing Scheme and getting your property to provide you with an income please contact [*Officer's name and job title*], telephone [*xxxxx xxxxxx*] or email: [*xxxxx@xxxx.gov.uk*].

Alternatively look on the authority website [*www.xxxx.gov.uk*] and use the A-Z function to find [*Insert relevant departmental and section names*].

The property is empty for another reason

You may be temporarily living elsewhere and intending to return to the empty property and use it as you main residence. If this is the case please let me know the circumstances.

There may of course be another genuine reason for your property being empty but you should contact me to discuss this

If you do not contact me

It is important that you are made aware of certain changes in the way Local Authorities can deal with empty dwellings, since the commencement of the Housing Act 2004. When a property has been left uninhabited for six months or more, the Council may apply for an Empty Dwelling Management Order (EDMO), if it is apparent that the owner has no intention of bringing the property back into use. If the Council is successful in obtaining the Order, we can take over the running of the property and bring it back into use by force.

If you have any concerns about your property and would like to know more about how to get the most out of your asset please call me at this office.

Yours sincerely,

[*Officer's name*]
[*Officer's job title*]
[*Email address*]
[*Telephone*]

2 Second letter

[Department]
[Local authority]
[Address]

[Name of empty property owner]
[Address]

[Date]
Your reference
Our reference

Dear [Name of empty property owner],

UNOCCUPIED PROPERTY: [ADDRESS OF EMPTY PROPERTY] HOUSING ACT 2004

Further to my letter of [date], I am still keen to discover why the property is empty and would like to identify how it could be brought back into use.

The Council may be able to help you to let the property through our [private sector leasing scheme and our tenancy signing payment scheme]. These schemes offer significant benefits to owners in return for the homes being made available for letting through the Council.

The leasing scheme aims to take all the stress out of letting a property and guarantees you a monthly income, whether it is occupied or not. If you are interested in joining the Private Sector Leasing Scheme and getting your property to provide you with an income please contact:

[Officer's name] on tel. [xxxxx xxxxxx]
Email: [xxxx@xxxx.gov.uk].

Alternatively, you can look on the [council name] website [www.xxxx.gov.uk] and use the [xxxx] function to find [section title] section.

If you have a property that has been empty for more than six months you may be eligible for an empty property grant. The fund is limited and will be issued on a first-come, first-served basis to those properties in need of repair. So now is the time to deal with your empty home. In exchange for the grant money (maximum £xx,xxx), the property must meet the Decent Homes standard and be available for letting under our leasing scheme for a period of time determined by the amount of grant taken.

It is important that you are made aware of certain changes in the way Local Authorities can deal with empty dwellings, since the commencement of the *Housing Act 2004*. When a property has been left uninhabited for six months or more, the Council may apply for an Empty Dwelling Management Order (EDMO) if it is apparent that the owner has no intention of bringing the property back into use. If the Council is successful in obtaining the Order, we can take over the running of the property and bring it back into use by force.

Alternatively there may be a very good reason for your property being empty and remaining so. I enclose a questionnaire designed to help you explain why the property is empty and what steps (if any) you are taking, or are intending to take, to secure that the dwelling is occupied (i.e. brought back into use). Please would you complete this and return it to me within 14 days. The questionnaire includes a list of possible reasons why your property may be empty. If any of these apply to your property please return the form saying which reason(s) apply, with evidence demonstrating this. If the property is empty for any other reason please just let me know.

[*Council name*] is very active in returning empty properties to use and is willing to use the new powers available to it under the Housing Act 2004 where necessary. This includes the power to apply to make an Empty Dwelling Management Order (EDMO). The council is committed to using these orders where there is no alternative. Should your property remain empty and should you take no action the council will use these powers.

If you have any questions about this letter or anything else to do with your property please telephone me for an informal discussion on [xxxxx xxxxxx]. If I am unavailable please leave a message with your contact number and address (if different to that given above), and I will get back to you as soon as I can.

In any event please contact me to prevent any further action.

Yours sincerely,

[*Officer's name*]
[*Officer's job title*]
[*Email address*]
[*Telephone*]

Enc.

3 Empty dwelling questionnaire

EMPTY DWELLING MANAGEMENT QUESTIONNAIRE

Please read this questionnaire carefully, answer all the questions and give as much information as possible. Please return the completed form and any additional information to:

The Empty Homes Officer
[Council name and address]

1: WHY IS THE PROPERTY EMPTY?

Please read questions a) to k) below and then move to the following section.

a)	Was the property occupied by you as your main or primary residence? If so is now unoccupied because:
i)	you are temporarily resident elsewhere?
ii)	you are resident elsewhere to receive personal care due to old age, disablement, illness, past or present alcohol or drug dependence, or past present mental disorder?
iii)	you are absent to provide, or better provide, personal care for a person who requires such care due to old age, disablement, illness, past or present alcohol or drug dependence, or past or present mental disorder?
iv)	you are a serving member of the armed forces and are absent from the dwelling as a result of this service?
b)	Is the property in question a second or holiday home?
c)	Are you genuinely actively trying to sell or let the property?
d)	Is the property comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986 or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995?
e)	Is the property usually occupied by someone employed by you in connection with his duties under the terms of his contract?
f)	Is the property available for occupation by a minister of religion as a residence from which to perform his duties?
g)	Is the property subject to a court order freezing your property?
h)	Is the property prevented from being occupied as a result of a criminal investigation or proceedings?
i)	Is the property mortgaged and the mortgagees (lenders) have taken possession of the dwelling?
j)	Has the person who was the relevant proprietor of it died and six months have not elapsed since the grant of representation was obtained in respect of such person?
k)	Is the property empty for any other reason?
l)	Is there a planning application in progress?

If you can answer yes to any of the questions a) to k) above, please provide as much information as you can about the circumstances in which the property is empty in the space below. Please also send us any documentary evidence that you have in support of the information you provide.

4 Third letter & questionnaire reminder

[Department]
[Local authority]
[Address]

[Name of empty property owner]
[Address]

[Date]
Your reference
Our reference

Dear [Name of empty property owner],

UNOCCUPIED PROPERTY: [ADDRESS OF EMPTY PROPERTY] HOUSING ACT 2004

I refer to my recent letter and questionnaire regarding the above property, to which I do not appear to have received a response.

As you may be aware [Name of council] has an Empty Homes Strategy set up to ensure that homes do not remain empty unnecessarily. Empty properties often fall into disrepair and become a target for vandals and squatters, blighting the wider community. Vacant homes can be a burden for their owners and are a wasted asset. We are keen to work with owners of long-term vacant properties to bring them back into use by offering advice and assistance as an alternative to taking enforcement action under the *Housing Act 2004*.

We are offering owners the opportunity to participate in our Private Sector Leasing Scheme. This gives owners a grant of up to [£xx,xxx] to carry out any necessary repairs to the property in return for the property being included in the Private Sector Leasing scheme for five years. This will enable the council to let the property as affordable housing whilst giving you a guaranteed rental income for the period of the lease and relieving you of your council tax obligations.

In order to understand why the property is empty and enable us to start working towards bringing your property back into use I need you to please complete and return the questionnaire (sent with my previous letter - I enclose another copy in case you have mislaid the first) within the next ten days.

If you have any queries or wish to discuss your options please do not hesitate to contact me on tel. [xxxxx xxxxxx].

Yours sincerely,

[Officer's name]
[Officer's job title]
[Email address]
[Telephone]

Enc.

5 Officer statement for interim EDMO application

IN THE MATTER OF THE HOUSING ACT 2004 CHAPTER TWO

AND IN THE MATTER OF AN APPLICATION UNDER SECTION 134 OF THE HOUSING ACT 2004

AND IN THE MATTER OF [ADDRESS OF VACANT PROPERTY] EDMO

[COUNCIL NAME]

and

[OWNER'S NAME/S]

STATEMENT OF OFFICER

1. I am employed by the Applicant, [council name], as [officer's title]. I make this statement in response to the Directions Order issued on [date] by the Residential Property Tribunal with regard to [empty property address].
2. As required by section 134(2)(a) of the *Housing Act 2004* the dwelling in question has remained wholly unoccupied for at least the last six months. As stated in paragraph [x] of my first statement the Applicant's Council Tax records show that property has been empty since [year]. Indeed, as stated in paragraphs [y] and [z] of my first statement, inspections of the property by officers of the Applicant on [date/s] showed the property to be in a shabby, overgrown condition with an accumulation of rubbish in the yards. The property appeared to be uninhabited particularly as it was quite clear that neither the back nor the front door had been opened for some time. I again inspected the property on [date] and found it to be in the same shabby and apparently uninhabited condition as on both previous inspections. Copies of the photographs I took during this inspection are on pages [x] to [y] of [document reference].
3. As required by section 134(2)(b) of the *Housing Act 2004*, and as stated in paragraph [x] of my first statement, there is no reasonable prospect that the dwelling will be occupied in the near future as it has now remained unoccupied for at least [x] years and since the Applicant's involvement the Respondents have made no discernible efforts to bring the property back into occupation, despite the Applicant's offers of advice and assistance as well as the threat of the property being taken over by the Applicant through an Empty Dwelling Management Order. Although the Respondents have stated that they are actively trying to sell the property there has, to my knowledge, never been a 'For Sale' sign visible at the property.
4. As required by section 134(2)(c) of the *Housing Act 2004*, if the interim Empty Dwelling Management Order is to be made there should be a reasonable prospect that the dwelling will become occupied. Indeed it is the Applicant's duty, in terms of section 135(2) of the *Housing Act 2004*, to take appropriate steps for the purpose of securing that the dwelling becomes, and

continues to be, occupied. To this end I have already assessed the repairs that need to be done to the property and have calculated that cost implications of these repairs. I have also calculated the funding and income available to this project to demonstrate that it is cost-effective. These are detailed in paragraphs [x] and [y] of my first statement. It must be pointed out that the Applicant has the funds available to renovate the property and the Private Sector Leasing Scheme has the resources to manage it once it is occupied.

5. As required by section 134(2)(d) of the *Housing Act 2004* the Applicant has complied with section 133(3) of the *Housing Act 2004* by notifying the proprietor that they are considering making an interim Empty Dwelling Management Order, by letters detailed in paragraphs [x, y, and z] of my first statement, and by ascertaining what steps, if any, the proprietor is taking or is intending to take, to secure that the dwelling is occupied, as detailed in paragraph [x] below.
6. As required by section 134(2)(d) of the *Housing Act 2004* the Claimant has complied with the prescribed requirements as detailed in my first statement as well as in this statement.
7. In terms of section 134(3)(a) of the *Housing Act 2004* the Tribunal must taking into account the interests of the community when deciding whether or not to make an interim Empty Dwelling Management Order. As stated in paragraph [x] of my first statement, there are currently approximately x,000 people on [council name's] housing waiting list and making currently unoccupied properties available to as many of these people of possible is clearly of the utmost importance. Empty properties, particularly those in a shabby and overgrown condition such as [empty property address], have an impact on the property prices of surrounding properties which directly affects the financial position of their owners. Properties that have been unoccupied for some time are also more likely to attract squatters and anti-social behaviour, which is likely to blight the neighbourhood in general.
8. In terms of section 134(3)(b) of the *Housing Act 2004* the Tribunal must take into account the effect that the order will have on the rights of the proprietor and may have on the rights of third parties. I am not aware of any particular or special circumstances of these proprietors that would mean that making an Empty Dwelling Management Order would have an impact particular to them that was not envisaged to be the general impact of the legislation by parliament. The interests of any third parties, such as the mortgagee, [company name], can only be benefited by the Applicant taking over management of the property in order to bring it into a liveable condition and ensure that it is occupied.
9. As required by paragraph 4(1)(a) of The *Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006* (the Housing Order) the Applicant has made reasonable efforts to establish from the proprietors whether they consider that any of the exceptions contained in article 3 of The Housing Order 2006 apply to the dwelling. As stated in paragraph [x] of my first statement I sent a letter to the Respondents on [date], with a list of the exceptions contained in article 3 attached to it, asking the Respondents to let me know if any of these applied to them. As stated in paragraph [x] of my first statement I sent a letter to the Respondents on [date] with another copy of the exceptions contained in article 3 attached to it, asking the Respondents to let me know if any of these applied to them. I also asked the Respondents to provide further information regarding the sale of the property, which they had

previously mentioned. As stated in paragraph [x] of my first statement, an officer of the Applicant, [the legal officer], sent a letter to the Respondents on [date] with a further, updated list of exceptions contained in article 3 attached to it asking whether any of these exceptions applied to them and inviting them to provide information and evidence to back up any assertion they made. As stated in paragraph 16 of my first statement, [the legal officer] sent a further letter to the Respondents on [date] asking for further information and evidence regarding the purported sale of the property.

10. As required by paragraph 4(1)(b)(ii) of The Housing Order 2006, enquiries were made to ascertain what steps the proprietors are taking, or intending to take, to secure that the dwelling is occupied. As stated in paragraph nine of my first statement an officer of the Applicant, PSH Officer 1, sent a letter to the Respondents on [date] inviting them to identify to the Applicant a course of action that they intend to take that will ensure the property is not to remain empty. As stated in paragraph [x] of my first statement I wrote to the Respondents on [date] stating that I would like to identify how the property could be brought back into use. As stated in paragraph [x] of my first statement, I sent a letter to the Respondents on [date] inviting them to produce any evidence they may have to show that their property was soon to be re-occupied. As stated in paragraph [x] of my first statement, [the legal officer] sent a letter to the Respondents on 12 December 2007, with an attached questionnaire that specifically asked whether they were currently taking any steps, or intended to take any steps, to bring the property back into occupation. As stated in paragraph 16 of my first statement, [the legal officer] sent a further letter to the Respondents on [date] asking for further information and evidence regarding the purported sale, and therefore presumed re-occupation, of the property.

11. As required by paragraph 4(1)(b)(iii) of The Housing Order 2006, advice and assistance were provided to the proprietors with a view to them securing occupation of the dwelling. In fact, of the [x] letters that the Applicant has sent to the Respondents, [y] have included such advice and assistance. These letters are detailed in paragraphs [x, y and z] of my first statement.

12. As required by paragraph 4(1)(b)(v) of The Housing Order 2006, and as stated in paragraph [x] of my first statement, the Applicant's Council Tax records show that [empty property address] is classed as Band [X] for Council Tax purposes.

13. With regard to the issue of compensation raised by section 134(4) of the *Housing Act 2004*, I am not aware of any particular or special circumstances of these proprietors, or of any third party, that would mean that an order for compensation to be paid to them would be necessary.

14. I am duly authorised by the Applicant to make this statement in support of its application for an Interim Empty Dwelling Management Order in relation to number [empty property address] and the contents of this statement are true.

.....
Officer

.....

Signature

Dated this day of

6 Interim EDMO notice

Housing Act 2004

Section 133 (5)

INTERIM EMPTY DWELLING MANAGEMENT ORDER

*Mr J Smith
12 Smith Street
Smithton
Smithshire
SM12 3IT*

being the person who is the *["relevant proprietor" of / having control of / managing / having an interest in]* the premises known as

[The empty property address]

The *[xxxx xxxx]* Council of *[council address]* hereby makes the following interim Empty Dwelling Management Order under Section 133 of the *Housing Act 2004* in respect of

[the empty property address].

This order comes into force on the *[date]* day of *[month]* and shall cease to have effect at the end of the period of 12 months beginning with the date on which it is made, unless it ceases to have effect at some other time as provided for by Schedule 7, paragraph 1 of the Act.

Either Respondent may apply to the Applicant to vary or revoke the Order (paragraphs 6 and 7 of Schedule 7 to the Act) or for an Order that a particular item or items of expenditure in the accounts that the applicant must keep are not "relevant" expenditure (paragraph 5(7)).

A relevant person may appeal to a residential property tribunal against the terms of this Order if it does not provide for matters mentioned in Paragraph 5(5)(a) and (b) of Schedule 7 to the Act.

This order is made on the *[date]* day of *[month, year]*

The Corporate Seal of the *[xxxx]* Council of *[xxxx]* was hereunto affixed in the presence of:

.....
Authorised Signatory

Dated:.....

*[Name of signatory]
[Job title]
[address and contact telephone number]*

EXPLANATORY NOTES

(Unless otherwise stated, statutory references are to the Housing Act 2004.)

Dwelling

A dwelling is defined under section 132 4(a) and (b) of this Act.

Application of an Empty Dwelling Management Order.

An Empty Dwelling Management Order applies to a Dwelling if it meets one or more of the criteria defined under sections 133 of this Act.

Operation of the Order

If there is not an appeal, the order will become operative at the end of 28 days from the date it is served.

If there is an appeal and the Residential Property Tribunal confirms the order, it will not become operative until the period for appealing has expired without such an appeal being brought or when a decision is given confirming the order.

If you start an appeal to the Residential Property Tribunal and then withdraw it, it will not become operative until the period for appealing has expired or on the day on which it would have become operative if the tribunal had confirmed the order or a variation of the order.

Effect of the Order

The effect of the order is that the Council are taking control of this property from you. You remain the legal owner of this property. The council will undertake any works it feels necessary at the property and manage it, or arrange for it to be managed on its behalf. The Council will receive all rents from the property, however they are only entitled to grant a tenancy or a license of the dwelling with prior written consent from the Relevant Proprietor. (No consent is needed once a Final EDMO has been granted).

Whilst the order is effective, you, as the relevant proprietor, are not entitled to receive any rents or other payments from persons occupying the house. You are not entitled to exercise any rights or powers with respect to the property and may not create any leases, tenancies or licences with respect to the property.

Period of the Order

This interim order will remain in force for 12 months from the date it was made unless it is revoked at an earlier date. If the Council feels that the property is not likely to be reoccupied they may apply for a Final Empty Dwelling Management Order, which lasts for a period up to 7 years.

Financial Arrangements

Whilst the order is in force, the Council must keep full accounts of their income and expenditure in respect of this house. The Council must pay to the Relevant Proprietor any monies left over after deductions to meet relevant expenditure.

Appeals

The Relevant Proprietor has a right of appeal to the Residential Property Tribunal against certain decisions regarding Empty Dwelling Management Orders (*Housing Act 2004*, schedule 7, paragraphs 26, 30 and 34). If you disagree with the decision you have 28 days in which to appeal to the Residential Property Tribunal, beginning with the date specified in the notice as the date on which the decision was made.

Relevant Proprietor

The relevant proprietor is defined (section 132 (4) © of the Act) as the freeholder or, if the dwelling is let under one or more leases with an unexpired term seven years or more the lessee under whichever of those leases has the shortest unexpired term.

Advice

If you do not understand this order or wish to know more about it, you should contact the Council. If you want independent advice about your rights and obligations, you should go to a Citizens' Advice Bureau, Law Centre, Housing Aid Centre or a solicitor. You may be able to obtain help with all or part of the cost of legal advice from a solicitor under the Legal Aid Scheme.

Land Charge

When the order becomes operative it will be a local land charge on the premises to which it relates. This means that it will be recorded in the register of local land charges kept by the Council. This register is public and anyone may search for entries in it upon payment of a fee. Purchasers will normally search this register.

FINAL EMPTY DWELLING MANAGEMENT ORDER MANAGEMENT SCHEME

[*Council name*] (the “Local Authority”) in accordance with provisions of the *Housing Act 2004* Schedule 7, Part 1, paragraph 5 hereby set out the financial details of the Final Empty Dwelling Management Order made in respect of:

[*property address*]

- I. In accordance with the *Housing Act 2004*, Part 1 an assessment has been made of the property using the Housing Health and Safety Rating System. The schedule of works attached to the Order details the repairs and alterations necessary to remove and/or reduce to an acceptable level all identified hazards within the property and to ensure the property meets the decent homes standards.
- II. The estimated cost of the works is approximately [*£ amount*] inclusive of VAT.
- III. The Local Authority shall create a lease of the property in accordance with its Private Sector Leasing Scheme to [] once the works referred to in Schedule of the Order have been completed. Details of the Scheme are available to view at all reasonable hours at its offices at [*council address*].
- IV. [*Managing agent's name*] are appointed as Managing Agents for the Private Sector Leasing Scheme and will manage the property for the duration of the Final Management Order in accordance with the Scheme.
- V. The monthly rental income to be received by the Local Authority is [*£ amount*] per calendar month.
- VI. This amount will be paid to the Local Authority on a monthly basis and shall be used to reduce the capital expenditure until such time as the balance of the capital expenditure is Nil.
- VII. A Capital Expenditure Account [‘CEA’] will be kept by the Local Authority. The CEA is a record of the sums expended by the Local Authority for: a) the cost of the works in Schedule 1; b) annual insurance premiums and safety checks; c) repairs and maintenance and d) any other items of expenditure reasonably incurred. The CEA will be available for inspection and copying upon request by the owner at all reasonable hours.
- VIII. The owner has a right of appeal to the Residential Property Tribunal if he thinks that any amount shown in the accounts does not represent an expenditure that has been reasonably incurred.
- IX. At such time as the capital expenditure is reduced to Nil then the monthly rental income will become payable to the owner on a monthly basis.

When the period of the Final Empty Dwelling Management Order ends or the Order is revoked any surplus income will be paid to the owner. In the event of a budget deficit at the end of the Final Empty Dwelling Management Order any sum owed to the Local Authority remains a charge on the property until it is paid. The Local Authority retains its powers under the *Law of Property Act 1925* in relation to any charge.

8 Letter prior to final EDMO

[*Department*]
[*Local authority*]
[*Address*]

[*Name of empty property owner*]
[*Address*]

[*Date*]
Your reference
Our reference

Dear [*relevant proprietor's name*],

Re: [*address of property*]

Further to our recent visits to your property in order to try and reach a solution to the problem of this long-term empty property.

I confirm that the Housing Health and Safety Rating inspection carried out on the property found (number) Category one Hazards and (*number*) Category two hazards in the property. The authority has a duty to take action to ensure that all category one hazards are removed or reduced to an acceptable level and can take action on category two hazards.

There are several voluntary options that can be taken by you to remedy these defects and ensure the property is brought back into use, those being as follows:

To sell the property, either on the open market or to a developer. This would be a satisfactory course of action provided you market the property at a realistic price and that any sale was allowed to go through within a reasonable amount of time. The average time from offer to completion is about 16 weeks, and this would be deemed reasonable.

To participate in the Authorities Private Sector Leasing Scheme, whereby the authority would give you a grant for 50% of the cost of the remedial work, identified under the HHSRS inspection as rated F or higher. The remaining 50% of the cost could either be borne by yourself, in which case you would sign up to the leasing scheme for a period of three years, or, it could be collected from the rental income and the property signed up to the scheme for five years. The Authority would have exclusive use of the property for social housing during this period with a guaranteed rent being paid to you each month (less instalments of your 50% contribution).

To fund the works yourself. If you wish to take this option you must, within the next 14 days, provide me with confirmation of the works you intend to undertake, full details of all contractors you will be using including dates they will be carrying out their work and confirmation that you have the necessary funds to complete the work, i.e. copy bank statement, loan agreement etc. Please note that lengthy timescales are unacceptable and a reasonable completion time for this particular property is (no months).

If we do not receive confirmation of the above within 14 days we will be left with no alternative but to take enforcement action to ensure this long term empty property does not continue to remain unused.

The options available to us are:

To serve an improvement notice to remove/reduce all category one and two hazards from the property. Notices issued will incur a charge of [£ *amount*], along with charges for officer input. The notices will detail the date when work has to start and when it needs to be finished by. All works will be required to meet our standards. Notices have an appeal procedure which will be detailed on the notice. If the notice is not complied with, or appealed within the given timescales then the authority will arrange for the work to be carried out in default. We could then apply to the court to enforce the sale of the property to recovery the authority's costs.

Alternatively, the authority may apply to the Residential Property Tribunal for authority to make an Empty Dwelling Management Order. This would allow the authority to take over the management of your property, carry out any necessary repairs and then use the property as social housing for a period of up to seven years. The rental income from the property being used to repay the repair costs, authority charges and management costs, with any surplus being returned to you.

The *Housing Act 2004* Section 134(2) details prescribed exemptions which apply to some properties, those being:

- (a) dwellings which have been occupied solely or principally by the relevant proprietor who is at the material time temporarily resident elsewhere;
- (b) dwellings that are holiday homes or that are otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
- (c) dwellings undergoing repairs or renovation;
- (d) dwellings in respect of which an application for planning permission or building control approval is outstanding;
- (e) dwellings which are genuinely on the market for sale or letting;
- (f) dwellings where the relevant proprietor has died not more than the prescribed number of months before the material time (6 months).

If you consider that any of the prescribed exemptions apply to your property then you must advise me in writing which ones and why you feel they apply within the next 14 days.

I trust the above information is self explanatory but should require further clarification please do not hesitate to contact me.

Yours sincerely,

[*Officer's name*]
Empty Homes Officer

9 Notice of intention to serve final EDMO

**NOTICE OF INTENTION TO MAKE A
FINAL EMPTY DWELLING MANAGEMENT ORDER**

Housing Act 2004 Section 136 and Schedules 6 and 7

[**Council name**] as Local Housing Authority intends to make a Final Empty Dwelling Management Order in respect of the property known as [*property address*] ("the property"). Such an order, if made, would replace the Interim Empty Dwelling Management Order dated [*date of Interim EDMO*] that is currently in force in respect of the property.

The [**COUNCIL NAME**] considers that all appropriate steps under the Interim Empty Dwelling Management Order to secure the future occupation of the property have been taken but that the actions of the owner will result in the property remaining unoccupied unless the Final Order is made.

In coming to its decision to make a Final Empty Dwelling Management Order the [**COUNCIL NAME**] has considered that the interests of the community will be served by having the property brought up to standard and available for letting. It also considers that the interference with the rights of the owner are proportionate to the benefits he will obtain by having the improvement works done thus creating a more valuable property. [*It is considered that there are no third party rights affected by making the proposed Order and therefore there cannot be any compensation payable to a third party.*]

The Order if made will cease to have effect seven years after it is made. Other main terms of the proposed Final Empty Dwelling Management Order are set out in the Draft Order attached. The Draft Order also sets out the proposed Management Scheme that will be applied to the property.

The [**COUNCIL NAME**] invites representations to be made in response to its proposal to make a Final Empty Dwelling Management Order. Any such representations should be made in writing and delivered to [*officer's name and job title*] of [**COUNCIL NAME**] at [*council address*]. **THESE REPRESENTATIONS MUST BE RECEIVED NO LATER THAN THE [DATE] DAY OF [MONTH] OR SUCH LATER DATE BEING AT LEAST 14 DAYS AFTER THE SERVICE OF THIS NOTICE.** The [**COUNCIL NAME**] will consider all such representations that are duly made before deciding whether to proceed to make the Order.

A relevant person (which is defined as a person known to the Council as having an estate or interest in the property but not that of tenant) has the **right to appeal to the Residential Property Tribunal** on either or both of the following grounds:

- 1) under paragraph 26 of Schedule 7 against the decision to make the Final Order or the terms proposed for the Final Order;
- 2) under paragraph 34 of Schedule 7 against the decision regarding any compensation to be paid to third parties.

In either case an appeal must be lodged no later than 28 days after the date the Final Order is made. However if there is good cause to do so the Tribunal can accept an appeal made after that period has elapsed.

This Notice is dated the [*date*] day of [*month, year*].

Signed by

.....
[Signatory's name and job title]

**FINAL EMPTY DWELLING MANAGEMENT ORDER
Housing Act 2004 Section 136**

To: [*relevant proprietor's name*]

Of: [*address*]

Take notice that [*council name*] (the "Local Authority"), in accordance with the provisions of the *Housing Act 2004* section 136, hereby makes a Final Empty Dwelling Management Order in respect of the property known as:

[*empty property address*] ("the property").

This Order follows the making of an Interim Empty Dwelling Management Order made on [*date*] as authorised by the Residential Property Tribunal on [*date*] which is hereby revoked in accordance with Section 112 (1) (c).

The Local Authority makes the Order in the following terms:

- I. The Local Authority has assumed full management control of the property in relation to granting and terminating all forms of occupancy contract, the provision of furniture and fittings as may be necessary.
- II. The Local Authority may carry out alterations and repairs to the property as a whole as detailed in schedule 1 attached.
- III. The payment of rent or such other sums due as rent and the accounting of all such sums shall be dealt with in accordance with the Management Scheme attached
- IV. The Management Scheme also specifies how costs incurred in managing the property shall be met which shall include such items as insurance, repair, maintenance and annual CORGI tests.
- V. No compensation is considered payable to any third party
- VI. This Order will be registered in the Local Land Charges Register in favour of the Local Authority.
- VII. The Local Authority has appointed [*managing agent's name*] to manage the property during the term of this Order under the terms of the Local authority's current Private Sector Leasing Scheme.

This Final Empty Dwelling Management Order is valid until **(date)**

The Local Authority may vary or revoke this Order if it considers it appropriate to do so. The relevant proprietor may apply to the Local Authority to vary or revoke this Order. The relevant proprietor may also apply to the Residential Property Tribunal for an order (a) declaring that an amount shown in the accounts as expenditure of the Local Authority does not constitute relevant expenditure (schedule 7(7a)) or requiring the Local Authority to make such financial adjustments, in the accounts and otherwise, as necessary to reflect the Residential Property Tribunals declaration (7b).

In respect of any existing tenancies the Local Authority must apply to the Residential Property Tribunal for permission to terminate any such lease or licence.

At the end of the period of the Final Empty Dwelling Management Order any tenancies revert to the landlord with no other change to the terms and conditions of these agreements. Any other rights, liabilities or court proceedings that arose under the Management Order also pass to the landlord at the end of the Order.

Note: The Local Authority's Private Sector Leasing scheme can be examined at all reasonable hours at the offices of the Local Authority at [*council address*].

Dated

Signed

(*The Person Authorised for this purpose*)

11 Lost and uncollected property

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SECTION 41
LOST AND UNCOLLECTED PROPERTY**

TO: [NAME & ADDRESS]

being the person who is [the owner of] property and personal goods found within the premises known as [PROPERTY ADDRESS]

TAKE NOTICE that the Council of [NAME] (hereinafter referred to as "The Local Authority") hereby requires you:-

- (i) Within a period of 31 days, ending on [DATE] to collect all property and personal items from [PROPERTY ADDRESS].
- (ii) If you fail to do so the property will vest in the ownership of the Council by [DATE].

The Local Authority also gives you notice, under subsection 7, that where:-

- (i) any property is of a perishable nature; or
- (ii) to look after it adequately would require the Authority in unreasonable expense or inconvenience.

The Authority may on expiry of this notice sell or otherwise dispose of it at such time and in such manner as it thinks fit.

DATED: [DATE]

.....
[OFFICER'S NAME]
[OFFICER'S JOB TITLE]
[SECTION/DEPARTMENT]

Our Ref: LG(MSC PROV)ACT 1982, S41 - EDMO/

**Director of [DIVISION/DEPARTMENT]
[COUNCIL ADDRESS], Tel: [COUNCIL TELEPHONE NUMBER].**

Cont....

NOTES

(Unless otherwise stated statutory references are to the Local Government (Miscellaneous Provisions) Act 1982).

1. If any person, on whom a Notice is served under Section 41 of the Local Government (Miscellaneous Provisions) Act 1982, fails to take any steps required by the Notice at the time or within the period specified, the Local Authority may sell or otherwise dispose of the property at such time and in such a manner as they think fit.
2. Where property is sold or otherwise disposed of (under subsection 7) above –
 - i. Any person to whom the property is transferred shall have a good title to it; and
 - ii. Any proceeds of sale shall become the possession of the local Authority.
3. Where property is claimed by its owner or depositor prior to the date specified in the Notice the Local Authority may (under section 11) release the property on payment to them by the owner or depositor of any sum which they require him to pay in respect of costs incurred by the Local Authority –
 - i. In making inquiries for the purpose of serving any notice; and
 - ii. In looking after the property adequately.
4. This section shall not apply to any property which is found on an aerodrome, in an aircraft on an aerodrome; in a public service vehicle; or on any premises belonging to or under the control of London Regional Transport or any subsidiary of London Regional Transport.
5. In this Notice “property” means - chattels personal other than things in action and money to include furniture, food and other perishable goods, correspondence, literature, fixtures, fittings, machinery and any other personal item found within the grounds of the dwelling referred to in the notice.

ADVICE

If you do not understand this order or wish to know more about it, you should contact the Council. If you want independent advice about your rights and obligations, you should go to a Citizens Advice Bureau, Law Centre, Housing Aid Centre or a solicitor. You may be able to obtain help with all or part of the cost of legal advice from a solicitor under the Legal Aid Scheme.

CASEBOOK

Brewster Avenue, Peterborough

Peterborough City Council has operated an empty homes strategy, backed by dedicated staff, for more than 10 years. Its current Strategy – now being reviewed – was adopted in 2006 and included the new power to make Empty Dwelling Management Orders. It also offers grants (50 per cent. of work up to £20,000) and a private sector leasing (PSL) scheme, Homes from Houses, using a private letting agency. The PSL scheme offers a five-year arrangement where grant is made, three years where it isn't. It has brought 15 properties into occupation in one year, only one of which involved a grant.

On 16 January 2008 it became the first local authority in England and Wales to make a Final EDMO. Here's how they did it.

Officers selected an appropriate property on which to try out and learn the EDMO process. The house, a three-bed semi-detached house, was highly problematic and taking up 20% of the Empty Property Officer's time. Keeping the owner informed of progress was easy since the house stood opposite where he lived.

Officers approached the owner and explained the Housing Health and Safety Rating System (HHSRS) (to comply with the requirement in Part 1 Section 8 of the Housing Act 2004 to give reasons for the decision to take enforcement action).

They offered the owner an empty homes grant for half the cost of the work needed to bring the property back into use (estimated at £15,000), with the balance to be recouped through rental income under the PSL scheme.

Getting no response, the officers then gave the owner a two-week deadline to respond or they would move to serve an EDMO. No satisfactory reply was forthcoming, so they applied to serve an interim EDMO.

The Residential Property Tribunal (RPT) preferred to consider the application on paper, but the owner requested a hearing; but two days before the planned date he changed his mind, so there was no hearing after all. The RPT criticised the council for not dealing with Category 1 hazards using other enforcement powers first – a criticism the council accepted. The RPT nonetheless authorised the council to make an Interim EDMO.

The council immediately registered the IEDMO as a caution at the land Registry, changed the council tax record to the council's name (not a requirement and later reversed), gained access to the building to change the locks, prepared a detailed schedule of works, invited quotations, selected contractors using the Works in Default procedure, got them all ready, and held a meeting with the owner at the property to explain what would be done.

This whole process took five months, during which time the council wrote the owner a final letter offering a grant for the last time.

Having received no satisfactory response, the council engaged a letting agent and served notice of its intention to make a Final EDMO. The builders entered the property around ten days before the Final EDMO was made*. This was a very calculated decision: officers knew the owner well, were in close contact with him and with detailed enough knowledge of the circumstances to conclude that he had no grounds for appeal.

With the Final EDMO in place, a charge was entered against the property at the Land Registry. This did not include the cost of the -as yet incomplete - repairs.

With the planned works complete the property still appeared sub-standard and the letting agent

argued that redecoration was necessary. The council had to decide how it could justify redecoration, given that works had been to correct hazards identified using the HHSRS. Inquiries of local housing associations yielded an estimated cost of £2,500 for basic redecoration and this work was carried out. Although the council initially intended to add redecoration to the Management Scheme, it eventually concluded that it was in fact a capital cost necessary to bring the property up to lettable standard.

Next, the council instructed the letting agent to advertise the house via its choice-based lettings service. Before any of the arranged viewings could happen, however, the owner's new solicitor telephoned to advise that they had a buyer and were due to exchange and complete contracts within days.

The council, given 24 hours' notice as required (by virtue of the existing charge on the property), served a demand for the money spent on the house and registered the amount as a charge the same day.

The owner asked the council to revoke the order because of the sale. The council moved very quickly to sign a revocation agreement with him, by which he agreed to pay the expenses incurred (which came to around £19,000). The council received a cheque on the day the sale was completed. The buyer (the new owner) was a local estate agent who had pushed hard for a quick sale. He assured the council that the house would be owner-occupied. He appeared to disregard the EDMO completely.

The new owner set up the house as an office and then emptied it again; the property remained vacant. A 'for sale' board appeared outside, but there was no further progress, so the council decided to attempt to enforce the Final EDMO on the new owner. Inability to do this would imply a serious loophole in the legislation.

After the house had stood on the market unsold for some months the new owner let it to his own tenants, finally bring it back into occupation. With no further need for it to remain in force, the Final EDMO was revoked In December 2008.

*In normal circumstances the council would not carry out any work until the appeal period for the Final EDMO was over.