

# **REDDITCH BOROUGH COUNCIL** **PRIVATE SECTOR HOUSING ENFORCEMENT POLICY**

## **1. Introduction**

The purpose of this policy is to outline the Council's approach to tackling poor housing conditions particularly within the private sector. This work is primarily undertaken by the Private Sector Housing Team within the Strategic Housing Section of Community Services. Work to improve housing conditions is mainly undertaken through our advisory and partnership role with landlords, the Landlord Forum, with owner occupiers, empty home owners and businesses.

The primary aim of this policy is to ensure compliance with relevant legislation by providing an effective, equitable, practical and consistent service. Redditch Borough Council considers that fair and proportionate enforcement is essential in protecting the health, safety and economic interests of all those concerned. The Enforcement Policy therefore provides advice and guidance to officers, businesses, owners, landlords and tenants on the range of options that are available to achieve this.

The Council recognises the important role that the private rented sector has to play in reducing the burden on social housing by providing good quality accommodation to meet the housing need of the Borough. The majority of landlords maintain their properties to a good standard but there are some who neglect their responsibilities and have properties that are in a substandard condition.

Similarly the majority of home owners act responsibly in maintaining their properties. However, there are small numbers of owners who give little consideration to the condition of their home, the safety of the occupiers or the quality of the surrounding environment.

The primary role of the Private Sector Housing Team is to provide advice and support to those seeking compliance, whilst tackling those who choose not to comply by using proportionate action. In some circumstances it is necessary to take appropriate formal action to resolve disrepair issues which may include utilising powers to improve, repair, close or demolish dwellings that are not fit for purpose. The detail on how and when action may be taken is outlined within the body of this policy.

## **2. Background**

The Building Research Establishment dataset for the Borough produced in 2006 indicated that approximately 6912 (27%) dwellings failed the Decent Homes

Standard, with 645 (3%) being unfit as a result of a Category 1 Hazard being present and a further 1396 (6%) being in substantial disrepair.

The Council's Private Sector Housing Renewal Strategy 2003 previously highlighted several priorities concerning the improvement of private housing standards including implementation of new Housing Assistance Policy providing assisted funding to address disrepair and Category 1 hazards, a registration scheme for Houses in Multiple Occupation to improve accommodation standards (since superceded by national HMO Licencing requirements) an Energy Efficiency Strategy supporting a variety of funded schemes to improve energy/thermal efficiency across all tenures and the expansion and promotion of the Care & Repair agency.

This enforcement policy will contribute to the Council addressing a broad range of issues such as substandard housing conditions, preventing homelessness, tackling fuel poverty, reducing empty homes and contributing to Community Plans. Tackling poor housing conditions also supports the work of many other organisations including social care, health organisations and the Police.

### **3. General Enforcement Policy and Principles**

The Local Authority must comply with any statutory requirement placed upon it and align its procedures with best practice. Enforcement in the context of this policy is not limited to formal enforcement action such as serving notices or prosecution, but includes the provision of advice.

All investigations into alleged breaches of legislation will follow best professional practice and the requirements of: -

- The Human Rights Act 1998
- Enforcement Concordat
- The Regulation of Investigatory Powers Act 2000
- The Police and Criminal Evidence Act 1984 – Codes of Practice
- The Criminal Procedures and Investigations Act 1996
- The Code for Crown Prosecution
- Enforcement Guidance issued under section 9 of the Housing Act 2004

Particular regard must be made to the following 7 principles specified in the Statutory Code of Practice for Regulators made under Section 23 of the Legislative and Regulatory Reform Act 2006: -

- **Economic Progress** - The Private Sector Housing service will only intervene when there is a risk to the health and safety of occupants, neighbours or visitors to a property. It is widely recognised that the supply of good quality, affordable privately rented accommodation is essential in meeting the local housing needs and promoting economic activity. Private landlords in the area range from those with large portfolios to those with one or two properties.

- **Risk Assessment** – The Service will use risk assessment to concentrate resources in the areas that need them most and on the properties in the worst condition. For example, the results of the most recent House Condition Surveys will be used to identify areas or types of accommodation in the Borough to pro-actively target action accordingly.

Following the receipt of a service request or complaint about poor housing conditions, an initial risk assessment will be carried out. Any follow up advice or action will be dependant upon the outcome of the initial assessment.

- **Advice and Guidance** – The Service will provide information that will distinguish between statutory requirements and advice or guidance. General advice will be made readily available on the Council’s website. This will ensure landlords, agents, home owners and others understand their regulatory obligations. The information provided will be in clear, concise and accessible language, using a range of appropriate formats and media.

The Service welcomes enquiries from home owners and landlords about complying with minimum standards and ensuring homes are safe and warm on the basis that this will not directly trigger any enforcement action.

- **Inspections and other visits** – No inspection will take place without a reason. Inspections and other visits will take place in response to a reasonable complaint, a request for service, where poor conditions have been brought to our attention or as part of a risk-based and targeted programme.

Unless the visit is intended solely for advice purposes, the landlord or his or her agent will be contacted and will be given the opportunity to accompany the investigating officer during the visit. Following an inspection, positive feedback will be provided wherever possible to encourage and reinforce good practices.

- **Compliance and Enforcement Actions** – The Service will seek to identify landlords, agents, property owners or businesses that persistently breach the regulations. Proportionate and meaningful action will be taken. The service will facilitate compliance through a positive and proactive approach therefore reducing the need for reactive enforcement action.
- **Accountability** - The Service will be accountable for the decisions that it makes. Officers will provide a courteous, prompt and efficient service and will identify themselves by name and position. A contact point, telephone number and email address will also be provided. Applications for licences e.g. HMO or Caravan Site will be dealt with efficiently, promptly, and services will be effectively coordinated to minimise unnecessary overlap and time delays.

Information relating to the appeal mechanisms e.g. Residential Property Tribunal and the Council's corporate complaints procedure will be provided. The complaints procedure will be followed for any complaints received about the Service or the application of this Enforcement Policy.

#### **4. Shared Enforcement**

The range of enforcement matters dealt with by the Council in this policy area is such that there may well be occasions when there is a need to work with other agencies, for example the Fire Authority, by carrying out joint inspections. Where a fire hazard is identified, the Council will consult with Hereford and Worcester Fire Authority on works required in accordance with the jointly agreed consultation policy.

In determining the most appropriate form of investigation and enforcement action, officers will have regard, so far as they are aware, to any potential or existing action of other Council services or outside agencies. Where matters are identified by, or reported to our officers that are the enforcement responsibility of another Council service or outside agency, persons involved will, so far as is reasonably practicable, be informed that the matter will be referred to the appropriate service or agency.

Where enforcement action is being taken by another Council service or outside agency, we will provide all reasonable assistance including the production of witness statements and collection and sharing of evidence etc. subject to any legal constraints and the meeting of any reasonable expenses.

#### **5. Authority to investigate or enforce**

The Housing Act 2004 and associated secondary legislation sets out the duties and powers that the Council has in relation to regulating property standards in its capacity as Local Housing Authority. Powers are also contained in the Housing Act 1985 as amended and other legislation, such as the Environmental Protection Act (this list is not exhaustive).

This policy deals with housing enforcement in all residential dwellings, Houses in Multiple occupation, empty dwellings, and mobile home sites (should these be developed within the Borough).

The Council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004. A notice is not required where entry is to ascertain whether an offence has been committed. If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry then a warrant may be granted by a Justice of the Peace upon written application. A warrant under this section includes power to enter by force, if necessary and may include accompaniment by contractors or others if necessary.

The Council also has power under Section 235 of the Housing Act 2004 to require documentation to be produced in connection with exercising its function and investigations as to whether any offence has been committed under Parts 1-4 of the Housing Act 2004.

The Council also has powers under Section 237 of the Housing Act 2004 to use the information obtained above and Housing Benefit and Council Tax information obtained by the authority to carry out its functions in relation to these parts of the Act.

## **Inspections**

The Housing Act 2004 introduced the **Housing Health & Safety Rating System (HHSRS)**. It is a calculation of the effect of 29 possible hazards on the health of occupiers and any visitors. The legislation provides a range of actions to address these hazards.

The process of a HHSRS is two stage, the inspection and the subsequent calculations. HHSRS calculation provides a combined score for each hazard identified, however it does not provide a single score for the dwelling as a whole.

The scoring of any hazard combines the likelihood of an occurrence taking place (within 12 months) and then the range of probable harm outcomes that may arise from that occurrence. A numerical value is then provided which is then converted into bands (from A to J).

Bands A to C (ratings of 1,000 points and over) are considered to be the most severe and are known as **Category 1 hazards**. for which the Council has a **duty** to take appropriate action. When a Category 1 hazard is identified, the Council must decide which of the available enforcement options is the most appropriate course of action. These are explained in more detail within Section 5.

Bands D to J, are less severe (rating less than 1,000 points) and known as **Category 2 hazards** for which the Council has a **power** to take action. This process is repeated for each of the hazards present within the dwelling. If the Council decides to take action for category 2 hazards, it will consider taking action in the following circumstances: -

- Where a Category 2 hazard falls within band D or E and there is one or more Category 1 hazards
- Where the cases involves a vulnerable person that would benefit from having Category 2 hazards addressed
- Cases in which a premises suffers from multiple Category 2 hazards, which when considered together, create a more serious situation,
- Where a House Condition Survey highlights specific local hazards relating to that type of dwelling.
- Any other exceptional case determined by the Head of Community Services

The assessment is based upon the group most vulnerable to that particular risk not the actual occupier. Once scored, any action that is then considered will take into account the affect of that risk upon the actual occupant.

## **6. Enforcement Options**

This policy is built around a process of escalation; therefore we will only prosecute in serious circumstances such as a deliberate, negligent or persistent breach of legal obligations. The following levels of enforcement actions are available: -

### **Stage 1 – Informal Action**

- **Prevention:** -We believe that the first step in enforcement is prevention, through raising awareness and promoting good practice. Methods of achieving this include the provision of advice and information at the earliest opportunity.

Redditch Borough Council holds a regular Landlord Forum and jointly produces a landlord newsletter with Bromsgrove and Wyre Forest District Councils. These are core means of advising landlords of their rights, responsibilities and legislative changes and also provides the Council with an insight into the housing market and landlords views so that services can be tailored to meet needs.

The offer of discretionary financial assistance (in certain circumstances) can also assist in avoiding enforcement action, details of which can be found within the Council's Housing Assistance Policy.

- **Advice and Guidance:** -Where appropriate we will seek to resolve situations without issuing formal notices or taking legal action. This will be used to reinforce advice and guidance where minor defects are identified but considered insufficient to warrant formal action. Examples of such may be where the consequences of non-compliance do not impose a significant risk to health and safety of the occupants or visitors, or where there is confidence that informal action will achieve compliance.

Information will be provided in a clear manner detailing any works that are required and over what timescale these should be completed. We will ensure that legal requirements are clearly distinguished from recommended works, where applicable. If a landlord or owner agrees to start work service of notice will be delayed unless the landlord or owner fails to carry out the works within a reasonable or agreed time.

- **Formal Letters:** -This course of action will be given prior to formal enforcement action taking place and will detail what works are required within the specified timescales. Follow-up visits will normally be made within an agreed time period to ensure the problems have been rectified.

This may follow an informal letter where there remains some confidence that compliance may be achieved prior to resorting to formal enforcement.

## Stage 2 – Formal Action

- **Formal notices:** -Where practicable, decisions to serve formal enforcement notices will be taken by the authorised officer in consultation with the Private Sector Housing Team Leader/Strategic Housing Manger. If it is necessary to serve a formal notice under the Housing Act 2004 a reasonable charge will be made to recover administrative and other expenses incurred in accordance with the Councils annual scale of fees and charges. The following formal notices are available to officers when dealing with substandard properties: -
  - (a) **Hazard Awareness Notice:** -This is an informal notice that ensures the relevant person(s) are aware of the hazards that are present within the property, these Notices are often used where the landlord/owner is currently or proposing to undertake works. The service of this notice does not prohibit the Local Authority from taking additional action if works are not carried out.
  - (b) **Improvement Notice:-** This notice is served where improvements to a property are considered essential and specifies the contraventions and details the works or actions required within a specified timescale. Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard (see section 5), it will require works to be undertaken to either remove the hazard entirely or reduce its effect.

If the Council determines that the hazard can only be reduced to a Category 2 hazard rather than it being removed, it will require works to be carried out as far as is reasonably practicable to reduce the likelihood of harm.

- (c) **Suspended Improvement Notice:** - The Local Authority has the power to consider serving a suspended Improvement Notice. The following is a list of situations in which it may be deemed appropriate to suspend such Notice: -
  - The need to obtain planning permission (or other appropriate consent) that is required prior to repairs and/or improvements being undertaken
  - Works which cannot properly be undertaken whilst the premises is occupied and which a notice can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided
  - Personal circumstances of occupants, for example, temporary ill-health, which suggests that works should be deferred.

When deciding whether it is appropriate to suspend an Improvement Notice the Council will have regard to:

- The level of risk presented by the hazard(s)
- The turnover of tenants at the property
- The response of the landlord or owner
- Other relevant circumstances (e.g. if a vulnerable age group is involved)

Suspended Improvement Notices will be reviewed after a maximum of 12 months and then at regular intervals, but the suspension of a notice will not normally exceed 6 months.

- (d) **Prohibition Order:** - This is required where there is a significant risk to the health and safety of the occupant. It can be used in respect of either Category 1 or Category 2 hazards for prohibiting occupation of all or part of a dwelling. This action is likely to be used if repairs and/or improvements are deemed inappropriate on grounds of practicality or excessive cost. A Prohibition Order might be used to prohibit occupation or use of the whole or a part of a dwelling as a result of inadequate means of escape in the event of a fire.

The Council has the power to suspend a Prohibition Order once it has been served and will consider this course of action where it is reasonable to do so. A Suspended Prohibition Order will be reviewed after a maximum of 12 months and then at regular intervals, but suspension will not normally exceed 6 months.

- (e) **Emergency Remedial and Prohibition Action:** -There may be situations in which Emergency Remedial Action and Emergency Prohibition Orders are appropriate. However the Council must be satisfied of the following: -

- A Category 1 hazard exists,
- The hazard poses an imminent risk of serious harm to health or safety of the occupant, and that;
- Immediate action is necessary

If these conditions are met the Council may take appropriate emergency action. Emergency action might be appropriate where there is a imminent risk of electrocution, fire, explosion or collapse. The costs incurred for carrying out emergency remedial action including administrative charges are recoverable from the recipient.

- (f) **Demolition Order:** -The Housing Act 2004 retained the power to make a Demolition Order but amended Section 265 of the Housing Act 1985 to align it with the HHSRS and enforcement provisions. Demolition Orders are considered as part of the enforcement process when dealing with a Category 1 hazard (where they are judged the appropriate course of action). In determining whether to issue a Demolition Order the Council will take account of Government guidance and will consider all the circumstances of the case.



- (g) **Clearance Area:** - The Council can declare an area to be a 'Clearance Area' if it is satisfied that each of the premises in that area is affected by one or more Category 1 hazards (or that they are dangerous or harmful to the health and safety of inhabitants.) In determining whether to declare a Clearance Area the Council will act only in accordance with Section 289 of the Housing Act 1985 (as amended), have regard to the relevant Government guidance on Clearance Areas and all the circumstances of the case.
- (h) **Statutory Nuisance Notices Served under the Environmental Protection Act 1990:** - It is anticipated that the vast majority of statutory nuisances will be eliminated using the enforcement provisions under the Housing Health and Safety Rating System. However, where this is not possible consideration will be given to the service and enforcement of Section 80 abatement notices

### **Stage 3 – Non-Compliance**

The Council will initially look to the relevant responsible person(s) to resolve matters of concern. However where a Formal Notice has been served and the specified works have not been carried out in compliance with the notice, the Council has a variety of actions it may take to deal with non-compliance these are as follows: -

- **Work in Default:** -This will be considered where it is in the interests of the health and safety of the occupants. The works in default will be carried out only after the service of a Notice e.g. Improvement Notice and the costs recharged or placed as a land charge on the property.
- **Formal (simple)caution:** -This may be considered for less serious breaches of formal notices and statutory requirements. Under certain circumstances, a formal caution may be used as an alternative to prosecution and will usually be considered before making a decision to prosecute. The procedure adopted and the content of the caution will be in accordance with current LGR (Local Government Regulation) guidance and relevant Home Office Circular.

A formal caution is a serious matter and may influence the decision whether or not to prosecute, should another offence be committed. A formal caution will remain on record for a period of 3 years. The decision to offer a formal caution will be made by the Head of Community Services in consultation with the Private Sector Housing Team Leader and Strategic Housing Manager.

Cautions are intended to:-

- Deal quickly and simply with certain, less serious offences;
- Avoid unnecessary appearance in criminal courts;
- Reduce the chance of offenders re-offending.

Before issuing a caution the following matters will be taken into account when deciding whether a caution is appropriate:-

- There must be evidence of sufficient guilt;
- The offender must understand the significance of the formal caution and admit the offence by signing a declaration.
- The seriousness of the offence. A caution is not suitable for serious offences.

Where an individual chooses not to accept a formal caution the Council will automatically consider a prosecution. In instances where a caution is accepted the assessment of the premises will be reviewed and the inspection frequency may be increased as a result. The decision to issue a caution will be notified to all known interested bodies, including tenants, managers, freeholders, leaseholders and mortgagees.

- **Prosecution:** -The Council will use discretion in deciding whether to bring a prosecution and generally will only commence proceedings when it is considered to be in the public interest. Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction, taking account of any defence that may be available. In certain circumstances prosecution without prior warning may take place. The officer will ensure that a decision to prosecute and the results of any legal proceedings will be notified to all known interested bodies, including tenants, managers, freeholders, leaseholders and mortgagees.

The decision to prosecute will be taken by the Head of Community Services in consultation with the Strategic Housing Manager with the support of the Council's Legal Officers.

## **7. Tenure**

The HHSRS applies equally to all tenures, therefore all enforcement options are available to the Council regardless of whether the premise in question is owner-occupied, privately rented or Registered Providers (RP) property. The Council considers that owner-occupiers are usually in a position to take informed decisions regarding the maintenance of their property, and are therefore able to prioritise finances accordingly. Where applicable they can then apply for Local Authority assistance towards the works. However, tenants, and particularly non-RP tenants, are not usually able to do so. For this reason the Council judges that it is appropriate for its powers to be applied accordingly to each tenure: -

- **Owner-Occupiers:** -The Council anticipates that Hazard Awareness Notices will be issued frequently and considers this to be an appropriate course of action. However, the use of Improvement Notices, Prohibition Orders and their emergency equivalents will be considered in the following circumstances: -
  - Vulnerable elderly people who are judged not-capable of making informed decisions about their own welfare

- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected
- Hazards that might reasonably affect persons other than the occupants
- Serious risk of life-threatening harm such as electrocution or fire
- Any other exceptional case determined by the Head of Community Services in consultation with the Strategic Housing Manager.

Unless the hazard is deemed to pose an imminent risk of serious harm, the Council will contact the owner to explain the nature of the hazard and confirm the action intending to be taken. The Council will take account of any proposals or representations made by, or on behalf of the owner. The Council will take into account the opinion of the relevant Welfare Authority when considering both the vulnerability and capability of such persons and therefore what action will be taken (where necessary).

- **Social Landlords**

Registered Providers of Social Housing (RPs) exist to provide suitable and properly maintained accommodation for their tenants. They are managed by Boards (which typically include tenant representatives) their performance is also scrutinised by the Homes and Communities Agency and Tenant Services Authority. RPs normally manage and maintain their properties, have written arrangements for reporting repairs or problems and have set response times.

The Council will not normally take formal action against an RP unless it is satisfied that the problem in question has been properly reported to the RP has then failed to take appropriate action. If the Council determines that it is appropriate to take action it will then normally notify the RP that a complaint has been received and will seek the RP's comments and proposed action.

Only in cases where it has been deemed that an unsatisfactory response has been received will the Council take further action and review what enforcement options are available in order to determine the most appropriate course of action.

- **Private Landlords**

The Council will have regard to the principles of the Enforcement Concordat and relevant guidance from the Residential Property Tribunal decisions. Action will be taken in accordance with Section 6, where the Council will primarily look at informal action. Formal action will be initiated immediately if a hazard in question is judged by the Council:

- To pose an imminent risk of serious harm to any person, or
- The landlord concerned has failed to comply with informal action on a previous occasion.

Where the informal approach is judged appropriate the Council will contact the landlord, in writing (or his/her relevant agent) to confirm their involvement and request a joint visit. Following the inspection the Council

will confirm its findings from the site visit and specify what is required of the landlord to remedy the problem.

A Requisition for Information Notice may also be served at this point in order to establish all relevant information e.g. ownership and vested interests.

Landlords are expected to provide their agent(s) with sufficient authority to act on their behalf. Failure of an agent to respond to communication from the Council or take appropriate action may be treated as a failure by the landlord.

The Council will proceed with **formal action** if: -

- No response from the landlord/agent or,
- The response is deemed inadequate or,
- Works that were agreed, have not been carried out

The Council will take whichever of the various available enforcement actions it judges to be the most appropriate in accordance with this Policy.

## **8. Houses in Multiple Occupation (HMO) Licensing**

A HMO is a building or part of a building occupied by more than one household as their only or main residence, and there is some sharing or lack of basic amenities. This includes houses containing bedsits, hostels, and shared properties. A full definition is given under Section 254 and Schedule 14 Housing Act 2004.

HMOs of three or more storeys, with five or more occupants require a licence. HMOs owned by Registered Providers of Social Housing (RPs), the Police, Health Authorities and certain other organisations are exempt, as are certain compliant buildings properly converted into flats.

Licences will be granted where the property is deemed suitable for occupation as an HMO provided the following criteria are fulfilled: -

- The property can be made suitable by the application of conditions,
- The management arrangements are satisfactory,
- The licensee and manager are fit and proper persons.

If the property is not assessed prior to the application, a member of the Private Sector Housing Team will normally visit within 12 months of the granting of an HMO licence. During this inspection a HHSRS assessment will be carried out and an assessment will be made to determine compliance with the licence conditions and management standards.

- **Offences relating to Licensable HMOs**

- **Revocation** - This action may be taken for the offence of operating an HMO without a licence or for failing to satisfy the conditions of the licence without reasonable excuse.

Where an HMO requiring a licence is operating without a licence, or the licence has been revoked but the revocation is not yet in force the local authority has a duty to make an Interim Management Order (IMO). This may be followed by a Final Management Order (FMO) for a further five years. The Council may opt to manage a HMO subject to management orders via in-house resources or appoint a preferred partner.

- **Rent Repayment Order** - Where a licence is required, and notice has not been received to notify the local authority the tenants or Council may make an application to the Residential Property Tribunal for a Rent Repayment Order. This requires the landlord to repay rent to the tenants for up to 12 months.

Whilst local authorities are responsible for implementing mandatory licensing of HMOs and assessing the fire safety risks in all dwellings under the HHSRS, the Fire Authority also have responsibilities under the Fire Safety Order 2005 for fire safety in common (shared) parts of HMOs. An agreement has therefore been drawn up between the Council and the Fire Authority for joint working to secure fire safety in HMOs.

The HMO Management Regulations apply to all HMOs, whether or not they require a licence. These require HMOs to be kept in a reasonable state of repair, all installations and appliances (including those for fire safety) to be in good working order and the common parts to be kept clean and in a reasonable state of decoration. The HHSRS applies to all dwellings, to which the previously mentioned enforcement action must be followed. Where there are issues relating to overcrowding within a HMO, an Overcrowding Notice may be served where no Interim Management Order or Final Management Order is in force on an un-licensable HMO.

## **9. Empty Homes**

In many cases the issues arising from homes that remain empty for an extended term are subject to specific legislative powers enforced by other sections within the Council and are subject to their respective enforcement policies. For example:

- **Planning** :- Unsightly land or property affecting the visual amenity of an area.
- **Building Control**:- Dangerous or dilapidated buildings.
- **Regulatory Services**:- Blocked or defective drainage, Vermin or accumulations of waste likely to attract or sustain vermin.

Private Sector Housing enforcement may take one or both of the following forms dependent on the circumstances of the case. Any action taken under

powers available to this service will be taken in accordance with the staged approach to enforcement detailed previously.

#### **a) Nuisance arising from the property**

An Abatement Notice may be served under the Environmental Protection Act 1990 section 80 to require the property owner to take steps to abate a nuisance arising from the property which is affecting a third party, such as causing dampness to an adjoining property. Where the need for remedial action is urgent and the abatement process will not remedy the defective state of the premises in a timely manner an expedited procedure by way of a Notice under the Building Act 1984 Section 76 will be considered.

Where the property is subject to or at risk from vandalism, arson or unauthorised access likely to have an effect on the neighbourhood the Council will consider service of Notice on the owner to secure the property against unauthorised access under Local Government (Miscellaneous Provisions) Act 1982 sections 29 or Building Act 1984 section 78. The council will seek to recover the costs associated with carrying out work in default work but may waive recovery if there are proven and valid extenuating circumstances to be considered.

#### **b) Reduction of Empty Homes**

In accordance with the Council's Empty Homes strategy the Private Sector Housing Team will seek to reduce the number of long-term empty residential dwellings ( empty for over 6 months) and bring these back into use. The council will seek to identify relevant parties and secure a voluntary resolution by the owner(s) to return the property to occupation by repair, improvement, sale or rent including the provision of advice and, where available, funding assistance. The use of formal action will only be considered where a voluntary solution cannot be secured.

There are three enforcement routes that may be used to help bring empty homes back into use which are as follows: -

- Empty Dwelling Management Order
- Enforced sale, and
- Compulsory purchase

When considering enforcement options for empty homes, each case will be assessed on its merits and will only be recommended for enforcement action where there are clear benefits to the neighbourhood or it could address a housing need.

- **Empty Dwelling Management Order (EDMO)**

Where a dwelling has been wholly unoccupied for a period of at least 6 months, the Council may apply to the Residential Property Tribunal for an interim EDMO where the following is satisfied: -

- There is no reasonable prospect that the dwelling will become occupied unless an interim EDMO is made, and
- The Council has made reasonable efforts to notify the proprietor of the dwelling and to ascertain what steps are being taken to occupy that dwelling.

The second stage of the process would be for the Council to seek a final EDMO provided that the relevant conditions have been met.

There are a number of situations where EDMO powers do not apply including for second homes, properties being sold or let, and properties going through probate.

It is important to note that the Council would only consider pursuing an EDMO in circumstances where every effort to work with the owner of the property to bring it back into occupation had proved to be unsuccessful. There would be significant financial implications for the Council and it is envisaged that circumstances where use of these powers would be suitable would arise only in very exceptional circumstances.

- **Enforced Sale**

The Law of Property Act 1925 gives Local Authorities the power to sell properties in order to recover a debt secured against that property. This power can be used where a debt has been incurred for example following works undertaken to an empty home in the owners default.

### **New Compulsory Purchase Order Policy**

Redditch Borough Council will take every step to assist owners of empty residential properties to bring the accommodation back into use. But there are some instances when it may be necessary to make a Compulsory Purchase Order, particularly where all reasonable attempts have been made with the owner to bring the empty home back into use.

This would be when properties are in a poor state repair, attract anti-social behaviour such as vandalism, squatting and graffiti, have a detrimental effect on the environment and cause complaints from other residents.

- 1 The Council will use compulsory purchase powers under Section 17 of the Housing Act 1985, subject to Secretary of State approval, to acquire the property and to either retain it within the Council's housing stock or sell at auction with a condition of the sale being the property will be restored and returned to use as a dwelling
- 2 The use of compulsory purchase powers will only be used when other approaches have not been successful. However, the threat of a compulsory purchase acts as an effective tool to encourage owners of empty homes to take action.
- 3 The use of the Compulsory Purchase process enables the Council to acquire the property and then auction it on the open market. The Council will attach

conditions to the sale to ensure that the property is brought to a decent homes standard within specified timescales.

4 Properties selected for compulsory purchase action must meet at least **three** of the conditions listed below:

- Be empty for more than five years;
- Cause a detrimental environment effect;
- Be subject to enforcement action by other Council Teams or Departments;
- Affect the stability of adjoining properties;
- Result in legal proceedings being taken against the Council.

5 Having met these conditions, the following additional criteria may also prioritise those that are pursued with most urgency:

- Squatted properties;
- Properties causing a nuisance to neighbours;
- Properties identified by the police as causing particular problems in terms of crime;

## **10. Power to charge for Enforcement Action**

The Local Authority has the power under Section 49 of the Housing Act 2004 to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in serving an Improvement Notice, Hazard Awareness Notice, Prohibition Order, Emergency Prohibition, Demolition Order or taking Emergency Remedial Action. The charge is based on reasonable costs associated with time spent gaining entry, visiting and inspecting the premises along with the administration costs for producing such Notices and Orders and is set annually in the Council's Scale of fees and charges. The Council may however waive or adjust the sum if there are proven and valid extenuating circumstances to consider and is at the discretion of the Head of Community Services.

Contractor and other service costs such as testing of electrical or gas installations incurred in carrying out Work in Default or Remedial Action will be charged separately the sum of which will be recoverable through a local land charge.



## **11. Risks**

There are risks associated with undertaking enforcement action particularly in relation to the potential costs of enforcement and undertaking works in default. Equally there are risks associated with not taking enforcement action where the Council has identified a Category 1 Hazard but without justifying it's decision has decided not to pursue any enforcement action.

## **12. Review**

This policy will be reviewed on a regular basis and, in any event, at least every two years.

## **13. Contact**

Private Sector Housing Team  
Leisure, Environment & Community Services Directorate  
Redditch Borough Council  
Walter Stranz Square  
Redditch  
Worcestershire B98 8AH  
01527 64252  
E.Mail:- [PSHT@bromsgroveandredditch.gov.uk](mailto:PSHT@bromsgroveandredditch.gov.uk)