

Rushcliffe Borough Council

Enforced Sale Protocol and Procedure for Long Term Problematic Empty Homes

September 2019



Enforced Sale Protocol and Procedure for Long Term Problematic Empty Homes

Introduction

In 2019 Rushcliffe Borough Council adopted an Empty Homes Strategy that runs from 2019 – 2024. The Strategy outlines a number of measures that will assist with bringing empty homes back into use.

Across the borough of Rushcliffe, there are in excess of 1000 private sector homes left empty for a number of reasons. As of 2019 over 500 of these are classed as being long-term empty, having been unoccupied for a period of 6 months or more. Whilst market forces, a transient population and certain circumstances which lead to properties becoming empty often can't be helped, there are those which remain empty, with no likelihood of returning to occupation.

There will always be a certain portion of these properties that are in the middle of a transactional process, going through Probate or about to be re-let, and whilst these will be monitored, generally are not a cause for concern.

The majority of long-term empty properties in Rushcliffe are hidden amongst occupied residential dwellings, and are often not generally considered empty or vacant until the condition and external appearance are considered to be below the standards expected by the surrounding community. Many, if not given the appropriate attention by the owner, can become longer-term empty, eyesores, and negatively impact their neighbourhoods significantly.

Whatever the reason or circumstance surrounding an empty house, it represents a wasted resource that brings no benefit to the owner or local community. As of 1st July 2019, 537 private sector homes across Rushcliffe are recorded as having been empty in excess of 6 months, both restricting housing supply, and often detracting inward investment and impacting on the quality of local life.

A number of these can become particularly problematic for local neighbourhoods.

An Enforced Sale, along with a Compulsory Purchase and Empty Dwelling Management Orders (EDMO) are powers available to Local Authorities to deal with problematic empty homes.

The Council will consider the appropriateness of an enforced sale as part of the wider consideration of all available options when it comes to bringing a property back into use, and each case is treated on its own individual merits.

Section 1

1.0 Purpose

The purpose of this document is to set out the Council's protocol when considering an Enforced Sale, alongside other options for dealing with Empty Homes, and outline its procedure in order to process cases successfully.

1.1 Aims

In producing this document, the Authority aims to:

- Provide a service which is consistent, transparent and successful;
- Bring empty residential properties back into useful housing stock;
- Reduce debt owed to the Council (such as from works carried out by the Council on the property following the service of statutory notices);
- Improve property standards, which in turn will reduce the negative impacts on neighbouring properties and their occupants.

1.2 Statement

This document will ensure that Rushcliffe Borough Council has at its disposal, the benefit of an additional tool to address the issue of problematic, long-term empty homes, where conditions are satisfied and where other opportunities for informal and formal action by the local authority have been considered and discounted or have failed.

Utilising the powers given to the Local Authority under Part III Law of Property Act 1925 and Local Land Charges Act 1975, this policy aims to:

- Strengthen and support enforcement activity to improve problematic properties and land;
- Provide a mechanism for bringing long-term empty homes and land back into use;
- Assist in the recovery of debts owed to the Local Authority (except Council Tax arrears).

Rushcliffe Borough Council's main focus of attention presently is on empty residential properties, where powers are available through various Environmental Health, Planning and Building Control legislation as outlined in its Empty Homes Strategy 2019 – 2024.

Section 2

2.0 Explanation of an Enforced Sale

An Enforced Sale is a process by which the Local Authority can force the sale of a privately owned property or piece of land where a 'relevant debt' is owed to the Local Authority. It is a means of transferring ownership to a new owner, in circumstances where the present owner is either unwilling or unable to deal with the site or property, and it associated problems and either refuses or is unable to repay the debt owed. Relevant debts will mainly be accrued where the Council carries out work to the property following the service of a statutory notice, where the recipient failed to carry out the work themselves. The debt is then registered as a local land charge.

The enforced sale of a property has the effect of changing the ownership of the land/property, and with encouragement generating interest, investment and re-occupation. It is however, important to state that the forced sale of a property does not guarantee its future improvement or reoccupation, and a careful assessment of local market conditions will appropriately influence the Council's decision on whether to pursue an enforced sale in each individual case.

2.1 Legislative Considerations

The powers to use the enforced sale power are statute based. A number of statutes used by the Council to carry out works in default allow the Authority to place a charge on the property until such expenses, incurred by the Council for which the owner is liable, have been recovered. When these statutes apply, either on their own or in conjunction with Local Land Charges legislation, they also grant the Council a power of sale and, in certain circumstances, give the Council a right of priority over other charges place on the property.

A detailed explanation of the legislative basis for an enforced sale is set out in Appendix A of this policy.

2.2 Human Rights Act – 1998

Rushcliffe Borough Council is committed to carrying out its duties in a fair and consistent manner. Consideration of the provisions of the Human Rights Act 1998 will be taken by the Local Authority when making a decision to undertake an enforced sale of an empty home.

2.3 The Limitations Act

The power to utilise the enforced sales policy is time limited by Section 20 of the Limitations Act 1980. This states that no action can be brought to recover a sum of money secured by a charge on a property after a period of 12 years from the date in which the right to receive the money accrued, so any time 12 years after the date when the expense has occurred prohibits enforced sale action being taken.

2.4 Contribution to wider objections of the Local Authority

This protocol directly supports Rushcliffe Borough Council's vision of 'Great Place; Great Lifestyle; Great Sport'. This policy will assist the Council in meeting the wider Housing Strategy, the Authority's Development and Local Plans through the regeneration of neighbourhoods. This protocol will assist the Council in maximising the number of empty private sector dwellings brought back into use, and improve the quality and offer of private sector accommodation in the Borough.

Section 3

3.1 Prior action to an Enforced Sale

When dealing with the owners of empty homes, the priority is always to trace, contact and attempt to engage with them, in order to understand the barriers they may be facing, and to offer support guidance and assistance in attempts to bring their property back into use. Every effort is made to engage with owner, however, it is often the case that they are unwilling or unable to and therefore enforcement action may be considered.

All, and sometimes more appropriate types of enforcement action must always be considered prior to pursuing an Enforced Sale. The use of an Enforced Sale is considered appropriate when all reasonable measures have been explored and all formal processes have been followed, in order to recover a debt and resolve the associated problems surrounding the property in question.

3.2 Criteria for an Enforced Sale of a Long-Term Empty Home

As with most enforcement options available, an Enforced Sale will typically only be used as a last resort. Also, it is not used as a substitute for other types of informal action, but rather as a consequence of such other action failing to resolve the fundamental problems of a specific empty property. The Council will only pursue an Enforced Sale if, after having exhausted all informal and formal courses of action to resolve the issues, this presents the only viable solution.

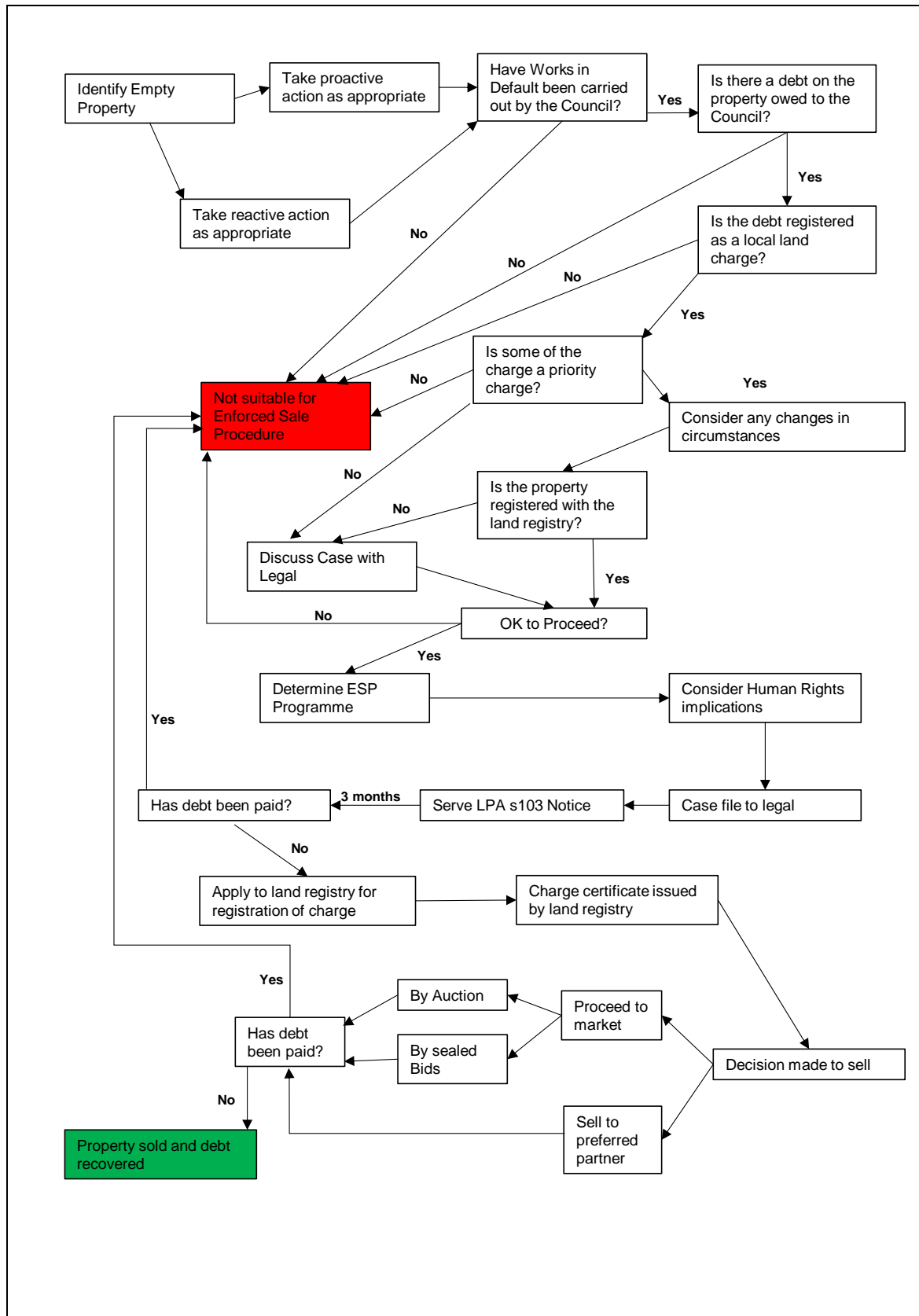
If all appropriate steps have been taken and the property continues to remain empty, with no reasonable signs of becoming occupied, an Enforced Sale may be pursued, provided it meets all of the following criteria:

- It is an empty home that has been empty for over 6 months;
- The property or land has outstanding financial local land charges registered in Part 2 of the Local Land charges register, of over £1,000. However, if an empty property is causing a problem where the debt is below £1,000 and the owner cannot be traced or is refusing to co-operate, the use of the enforced sale could still be considered (The smaller the debt the greater the justification for initiating an Enforced Sale will need to be);
- The debt has been owed to the Council for more than three months;
- The owner is either unknown to the Council (having made all reasonable effort to ascertain ownership details) or cannot be found, or is known but cannot be located. Or having been located, has been afforded every opportunity to improve the property or land or dispose of it, but has shown no inclination to do either;
- The location of the property or land and the prevailing tenure or economic conditions of the area indicates that sale and occupation would be readily achieved;

- The action is in the interests of the community and local environment, and is the best means of ensuring that the property or land is not allowed to deteriorate again or further.

Section 4

4.1 Procedure Summary – Flow Chart



Section 5

5.1 Enforced Sale - Detailed Procedure

To be considered for the Enforced Sale Procedure (ESP) the conditions within Section 3.2 of this document must be met.

5.2 Compiling a property file

A property file must be prepared when referring the case to Legal Services when a decision has been made to invoke the ESP. This should include:-

- A chronology of the case with significant milestones, including dates of decisions, inspections carried out, letters sent etc.;
- Copies of all the statutory notices served prior to the Council carrying out the necessary works in default together with details as to how the notices were served;
- Copies of the work instructions to the contractor for the work to be carried out;
- Dates work carried out;
- Copies of all the invoices from the contractors;
- Cost of any fees, charges and cost charged by the council;
- Name of current owner and address (including source of information);
- Copies of any relevant correspondence sent to, or received from, the owner and/or interested parties in respect of the notice(s) or the debt.
- Details of any inspections and interviews with the property owner;
- An up to date copy of the local land charges register for the property
- Sign off by the Executive Manager for Neighbourhoods authorising the commencement of the ESP.

Once Legal Services has considered all of the evidence and the file, they will provide their advice and recommendations as to whether the case can proceed or not, or whether they require any further information. Once Legal Services is satisfied that the matter can proceed the following steps will be carried out:

5.3 Section 103 Notice

Once a check has been made that the charge has not been paid off a formal letter will be sent to the current owner telling him or her of the existence of the charge and that if it is not paid off the council will be taking steps to sell the property.

Where Section 81A of the Environmental Protection Act 1990 applies where the debt has arisen from works following the service of an abatement notice – (see Appendix B) the relevant notice will also be served at this time.

This letter should include a copy of the original notice and give 21 days for the owner to pay the money owing. If there are other mortgages on the property the relevant bank or building society should be notified too of the proposal to sell the property if the debt is not paid.

If the debt is not paid (and no appeal has been received where Section 81A applies) then a notice pursuant to Section 103 of the Law of Property Act 1925 is then served in accordance with normal rules of service ((i.e posted to property, posted to last known address, affixed onto the property). This gives the owner three months to repay the debt.

The property cannot be sold until the Section 103 notice has expired, but during this time the procedure can be progressed through the various stages as far as possible.

5.4 Registration of Charge – Registered Land

If there is no response to the letter, s.103 Notice and no debts have been repaid then a charge must now be registered with the Land Registry.

1. If the property is registered at the Land Registry then prepare a resolution, and have it sealed, setting out: the service of the original notice; the carrying out of works in default; the registration of the costs as a local land charge; and the service of the section 103 notice.
2. Then apply to the Land Registry on form AP1 to have the charge noted on the registered title.
3. If the charge is to have priority over existing charges complete and submit form SC.

Once the charge is registered at the Land Registry it is good practice to write to the owner and any bank or building society with an existing charge to tell them that you will now be selling the property.

The property can then be sold. The council owes a duty to the owner of the property (as does any bank or building society selling a property where there has been mortgage default) not to sell at under value.

5.4 Unregistered Land

The procedure for unregistered land is set out at appendix C. A statutory declaration containing the information set out within the resolution (and a copy of this resolution) will be sworn prior to any action to sell unregistered land.

5.5 Selling the Empty Home

Other than where there is particular justification, sale at public auction will be the preferred option to ensure best value can be demonstrated.

If choosing sale by private treaty to a preferred purchaser, then two independent valuations of the property to determine the sale price shall be carried out. Sales to a preferred purchaser must be approved by the Executive Manager for Neighbourhoods. Immediately prior to the auction/exchange of contracts Legal Services will make a further check to confirm whether the Charges have been repaid. If at any stage prior to the actual sale of the property the outstanding debt is repaid, the ESP is no longer an option and will be halted at whatever stage it has reached.

5.6 Post-Sale

The following deductions will be made from the proceeds of the sale:

- the original works in default costs including interest if applicable;
- the legal costs in undertaking the enforced sale procedure;
- conveyancing costs in connection with the sale;
- auctioneer's or other marketing costs;
- other officer time in relation to the enforced sale process;
- any other debts owed to the council.

If the debts are greater than the proceeds of sale, consider whether the fees are to have first call on the proceeds or not. The auctioneer's fees will have to be paid in any event and the other fees should also have first call on the proceeds. Any remaining debt is taken off the property and placed against the former owner as a personal debt, to be pursued in the normal manner if economically viable.

If any balance remains from the proceeds of the sale and the whereabouts of the owner/the person first entitled is known, then the balance is paid in the normal way.

If, as is most likely, the owner's whereabouts are not known, then the balance must be paid into an interest bearing account. If no claim is then made within a period of 12 years, the money reverts to the council.

** A Simplified practitioner's guide detailing the procedure through an Enforced Sale, is provided in Appendix D. for reference.*

Appendix A

Legislative basis for an Enforced Sale

The Council's primary consideration when determining whether an Enforced Sale can be pursued, is whether the statutes, pursuant to which the default works are carried out, confer the necessary rights and powers.

If the statute confers a charge on all estates and interests in the property and also grants all the powers and remedies under the Law of Property act 1925 or otherwise for the purpose of enforcing the charge, then an Enforced Sale may be used and the charge will bind any prior charges affecting the property.

If the statute does not confer such rights it will be necessary to consider whether section 7 of the Local Land Charges Act 1975 applies. Under this provision, a local land charge falling within section 1 (1) (a) of the Act when registered in Part 2 of the Local Land Charges register, takes effect as if it had been created by a deed of charge by way of legal mortgage within the meaning of the Law and Property Act 1925, but without prejudice to the priority of the charge. Where the mortgage is made by deed, section 101 of the Law and Property Act gives the Council all the powers and remedies available to a mortgagee including a power of sale. An Order of the Court is not necessary because the legislation itself provides that power.

If section 7 of the Local Land Charges Act 1975 does not apply, an Enforced Sale may still be used, but only the estate of the offending party will be bound, not all the estates and interests in the property. In such circumstances the existence of any prior charges and the quality of the offending party's title will be major considerations when deciding whether to pursue an Enforced Sale.

If none of the above apply then an Enforced Sale cannot be used and consideration should be given to alternative courses of action.

Appendix B – Section 81A – Environmental Protection Act 1990

Expenses recoverable from owner to be a charge on premises

(1) Where any expenses are recoverable under section 81(4) above from a person who is the owner of the premises there mentioned and the local authority serves a notice on him under this section—

(a) the expenses shall carry interest, at such reasonable rate as the local authority may determine, from the date of service of the notice until the whole amount is paid, and

(b) subject to the following provisions of this section, the expenses and accrued interest shall be a charge on the premises.

(2) A notice served under this section shall—

(a) specify the amount of the expenses that the local authority claims is recoverable,

(b) state the effect of subsection (1) above and the rate of interest determined by the local authority under that subsection, and

(c) state the effect of subsections (4) to (6) below.

(3) On the date on which a local authority serves a notice on a person under this section the authority shall also serve a copy of the notice on every other person who, to the knowledge of the authority, has an interest in the premises capable of being affected by the charge.

(4) Subject to any order under subsection (7)(b) or (c) below, the amount of any expenses specified in a notice under this section and the accrued interest shall be a charge on the premises—

(a) as from the end of the period of twenty-one days beginning with the date of service of the notice, or

(b) where an appeal is brought under subsection (6) below, as from the final determination of the appeal, until the expenses and interest are recovered.

(5) For the purposes of subsection (4) above, the withdrawal of an appeal has the same effect as a final determination of the appeal.

(6) A person served with a notice or copy of a notice under this section may appeal against the notice to the county court within the period of twenty-one days beginning with the date of service.

(7) On such an appeal the court may—

(a) confirm the notice without modification,

(b) order that the notice is to have effect with the substitution of a different amount for the amount originally specified in it, or

(c) order that the notice is to be of no effect.

(8) A local authority shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the M1 Law of Property Act 1925, and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

(9) In this section—

“owner”, in relation to any premises, means a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let, and

“premises” does not include a vessel.

Appendix C – Dealing with Properties not registered with Land Registry

Check that the property is not registered

A search of the index map must be undertaken at the Land Registry to ensure that the property is not registered. The search must also include the adjoining properties. This might reveal what encumbrances affect the property and also the extent/limits of the title of the property in question.

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

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

Ascertain what encumbrances affect the property

Using any information found during this investigation and any other information available as to the name(s) of the owner, the purported owner or any other interested party, a Land Charges Act 1972 search must then be carried out against the name of any such person(s) and the property concerned. This may produce clues as to encumbrances affecting the property e.g. easements, covenants and charges.

Where the statutory charge binds all the estates and interests in the property, any registered charges will be of little significance, other than for the purpose of giving notice to any charge as to the Council's intentions. **However**, where this is not the case, then it would probably be inadvisable to proceed unless it is certain that there are no prior charges and that the statutory charge binds the freehold or a long lease

As stated above, if any of the adjoining properties are registered, it may be possible to ascertain what encumbrances affect the same. This may give a purchaser some clues as to the matters affecting the property and make the property more marketable. The alternative is that no such steps are taken and the purchaser is made aware, via the contract terms, that such is the case. In both cases though, the contract for sale will need to contain special conditions covering the position.

Write to all interested parties

If the searches provide any information as to the identity or whereabouts of the owner(s) or other interested parties, or such information is already available, a letter is now sent to all persons having an interest in the property in order to advise them of the position (See Appendices 6 and 12). This will include others who have a charge registered against the property. The owners copy must be:

- Delivered to the Owner or Owners by post, or by hand or should be affixed to the property and,
- Must be posted to any other addresses shown on the Land Registry.

Enquiries are completed

If either:

- No information is found as to the identity or whereabouts of the owner(s) or other interested parties **or**
- There is no reply within 21 days to the letter above

The property is put forward for sale. The contract will need to contain special conditions

Appendix D

Enforced Sale Procedure

A Practitioner's Guide

Reference Chris Skinner, NPLaw, 2015

Introduction

Many statutes allow a council to serve a notice on an owner of property calling on the owner to carry out works. It may be, for example, that works are needed to deal with the dangerous or untidy condition of the property. Sometimes failure to comply with a notice amounts to an offence; often the council has the right to carry out the works in default and to recover the cost. Some statutes provide that the cost of carrying out the works in default is a charge on the property.

It is the latter scenario that provides the basis for the enforced sale procedure. In essence the local authority exercises the power of sale conferred by the charge to recover the money it is owed for carrying out the work in default. It is the same power that a bank or building society uses to sell a house when the owner has defaulted on the mortgage payments.

(This guide does not cover the right to sell a property because of council tax arrears. That process, unlike the enforced sale procedure covered in this guide, requires an application to court and an order for sale).

What are the relevant statutes?

Set out below are some of the most common statutory provisions that enable the enforced sale procedure to be used. (There are many others too). Also identified are some differences between the various statutes.

Statute	What notice is used for	Type of charge	Comments
Section 4 Prevention of Damage by Pests Act 1949	Requiring land to be kept free of rats and mice	On the premises and on all estates and interests therein	Charge arises from date of completion of work. Reasonable interest can be claimed from date of service of demand for costs.
Section 79 Building Act 1984	Requiring works to remedy ruinous and dilapidated buildings and neglected sites	On the premises and on all estates and interests therein	Charge arises from date of completion of work. Reasonable interest can be claimed from date of service of demand for costs.
Section 80 Environmental Protection Act 1990	Requiring abatement of statutory nuisance	On the premises	Charge arises 21 days after service of demand under s81A (unless an appeal is made against the notice, when the period is extended). Reasonable interest can be claimed.
Section 215 Town and Country Planning Act 1990	Requiring steps to be taken for the purpose of remedying the adverse effect on amenity caused by detrimental condition of land and buildings	Binding on successive owners of the land	Charge arises from date of completion of the works.
Sections 11 and 12 Housing Act 2006	Requiring the taking of action to deal with category 1 or 2 hazards in residential premises	On the premises	Charge arises 21 days after service of demand (unless an appeal is made against the notice, when the period is extended). Reasonable interest can be claimed.

When the charge has arisen (either immediately the works in default have been carried out or following service of a demand - as set out in the table) it should be registered as a local land charge by the council's Local Land Charges Team. This is an administrative step familiar to Local Land Charges staff.

The charge takes effect as if created by a deed of charge by way of legal mortgage within the meaning of the Law of Property Act 1925. This is what provides the power of sale.

Exercising the power of sale

The first thing to do is to check that the original notice was properly drawn up and served. This is unlikely to be a problem as nearly all officers serving statutory notices will be aware of the requirements for service.

You will also want to check who the present owner of the property is, just in case it has changed hands recently. A Land Registry search will, if the land is registered, provide this information.

You will, of course, want to check that the charge has not been paid off. Assuming it has not, you will then want to write to the current owner telling him or her of the existence of the charge and that if it is not paid off the council will be taking steps to sell the property. This letter, which is really sent as a matter of courtesy, should include a copy of the original notice and give, say, 21 days for the owner to pay the money owing. If there are other mortgages on the property (and this will be revealed by a Land Registry search) it is sensible if the relevant bank or building society is notified too of the proposal to sell the property if the debt is not paid.

If the letter is ignored you can then go on to serve a notice under section 103 of the Law of Property Act 1925. This is a legal requirement before you exercise a power of sale under a mortgage/charge. This notice explains that money is owed under a mortgage/charge and that if it is not paid off within 3 months, the council may then sell the property to recover the money. It is probably a good idea to send a copy to any relevant bank or building society that has an existing mortgage over the property.

Assuming the section 103 notice is ignored you can then get ready to sell the property:

4. If the property is registered at the Land Registry you will need to prepare a declaration, and have it sealed, setting out: the service of the original notice; the carrying out of works in default; the registration of the costs as a local land charge; and the service of the section 103 notice.
5. You will then apply to the Land Registry on form AP1 to have the charge noted on the registered title.
6. If the charge is to have priority over existing charges you will also need to complete and submit form SC.
7. If the property is unregistered you will need to include the same information in a statutory declaration, probably sworn by the officer who originated the enforced sale action.

Once you have registered the charge at the Land Registry or sworn your statutory declaration it is good practice to write to the owner and any bank or building society with an existing charge to tell them that you will now be selling the property.

The property can then be sold. It is common to place enforced sale properties in an auction, but it is important that you seek to obtain the best price. The council owes a duty to the owner of the property (as does any bank or building society selling a property where there has been mortgage default) not to sell at under value.

Settling the account

When the property has been sold you can deduct from the sale proceeds

- the original works in default costs
- the legal costs in undertaking the enforced sale procedure
- conveyancing costs in connection with the sale
- auctioneer's or other marketing costs
- other officer time in relation to the enforced sale process.
- any other debts owed to the council these can be deducted too.

The balance is then paid over the ex-owner of the property or, if there is another mortgage on the property, you will pay them off first before handing the balance over. If you do not know the identity of the owner, the money will be retained by the council. After 12 years the right of the owner to claim it will be lost.

Practical Issues

Can you use the enforced sale procedure if the property is occupied?

Whilst the answer is “yes”, nearly all enforced sale cases relate to empty properties or vacant land. If you use the procedure in respect of occupied land or property you will need to make an application to court for a possession order and if the property in question is residential there will be further restrictions on when a possession order can be granted. No court application is required in connection with unoccupied property.

What size of debt is necessary to do an enforced sale?

The enforced sale process will be halted if the owner of the property pays the council the amount owed. The smaller the debt, the more likely it is that this will happen. Furthermore, it may be considered unduly harsh for a council to seek to sell someone’s property for a small debt. For this reason, some councils have a policy of not using the enforced sale process unless the debt is above a certain amount. I have seen figures of £300, £500 and £1,500 quoted so there is a fair bit of flexibility. On the other hand, if the owner of the property cannot be identified it may be considered appropriate to use the enforced sale procedure for a much smaller debt, perhaps even as low as £100. Remember that in calculating the sum owed, any VAT you have paid a contractor to do the works in default can be deducted. This is because the council will already have reclaimed the VAT and it is the net cost that you are reclaiming.

What about other mortgages registered against the land?

- a. Where the charge against the land is binding on the “premises and on all estates and interests therein” (see table) it is a priority charge. This means that the council’s charge takes precedence against all other existing charges.
- b. In the case of a section 215 Town and Country Planning Act 1990 charge it should be noted that the charge is only binding on successive owners of the land. This means that if there is already a charge registered against the title it will probably not be worth doing an enforced sale. This is because the council charge will rank behind the existing charge. (You would only want to do an enforced sale in this situation if there was sufficient equity in the property to cover both charges and the bank or building society with the prior charge was happy for you to sell the property).
- c. In the case of those charges stated to be a “charge on the premises” (see table) the position is more complicated. Some commentators suggest that these are not priority charges. However, there are two cases that suggest the wording is sufficient to create a priority charge. These are *Paddington Council v Finucane* (1928) and *Bristol Corporation v Virgin* (1928). Further support for this view is provided in the latter case of *Westminster City Council v Haymarket Publishing Ltd* (1981). Certainly, at NPLaw we work on the basis that these charges are priority charges.

Selling the property

When we sell a property, the contract makes clear that the council is selling in exercise of its power of sale under a mortgage. No covenants for title are given and it is made clear that the council does not warrant the class of title that the buyer will be able to obtain at the Land Registry. This has not posed a problem to date and buyers have still been willing to proceed.