

**GROWTH SCRUTINY COMMITTEE  
AGENDA**

**Wednesday 4<sup>th</sup> April 2018 at 1000 hours in the Council Chamber, The Arc, Clowne**

<b>Item No.</b>		<b>Page No.(s)</b>
	<b>PART 1 – OPEN ITEMS</b>	
1.	To receive apologies for absence, if any.	
2.	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4 (b) of the Local Government Act 1972.	
3.	Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:  a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items  and, if appropriate, withdraw from the meeting at the relevant time.	
4.	To approve the minutes of a meeting held on 28 <sup>th</sup> February 2018.	3 to 6
5.	List of Key Decisions & Items to be Considered in Private.  <i>(Members should contact the officer whose name appears on the List of Key Decisions for any further information).</i>	7 to 13
6.	Enforced Sale Procedure – Private Empty Properties.	14 to 62
7.	Work Plan 2017/18.	63 to 65
	<b><u>PART B – INFORMAL</u></b>	
	The formal meeting of the Growth Scrutiny Committee ends at this point. Members will meet informally as a working party to carry out their review work. This meeting is closed to the public, so members of the public should leave at this point.	
8.	Review of Income Generation.	

## **GROWTH SCRUTINY COMMITTEE**

Minutes of a meeting of the Growth Scrutiny Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Wednesday 28<sup>th</sup> February 2018 at 1000 hours.

### **PRESENT:-**

Members:-

Councillor J. Wilson in the Chair

Councillors A. Anderson, T. Connerton and S. Statter

Officers:-

K. Drury (Information, Engagement and Performance Manager) (until Minute No. 0656), J. Wilson (Scrutiny and Elections Officer) and A. Brownsword (Senior Governance Officer)

### **0650. APOLOGIES**

Apologies for absence were received from Councillors T. Alexander, P. Barnes, G. Buxton, J.A. Clifton, M. Dixey and P. Smith.

### **0651. URGENT ITEMS OF BUSINESS**

There were no urgent items of business.

### **0652. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **0653. MINUTES – 31<sup>ST</sup> JANUARY 2018**

Moved by Councillor A. Anderson and seconded by Councillor T. Connerton  
**RESOLVED** that the minutes of a meeting of the Growth Scrutiny Committee held on 31<sup>st</sup> January 2018 be approved as a true and correct record.

### **0654. LIST OF KEY DECISIONS AND ITEMS TO BE HEARD IN PRIVATE**

The Senior Governance Officer circulated an up to date list which had been published since publication of the agenda and noted that in future, specific Executive dates would be indicated. It was noted that there would be an Extraordinary Executive held on 26<sup>th</sup> March 2018.

Moved by Councillor J. Wilson and seconded by Councillor A. Anderson  
**RESOLVED** that the List of Key Decisions and Items to be Heard in Private, be noted.

## GROWTH SCRUTINY COMMITTEE

### **0655. CORPORATE PLAN TARGETS PERFORMANCE UPDATE OCTOBER TO DECEMBER 2017 (QUARTER 3 – 2017/18)**

The Information, Engagement and Performance Manager presented the report which gave Members information on the quarter 3 outturns for the Corporate Plan 2015-2019 targets which sat under the 'unlocking our growth potential' aim as of 30<sup>th</sup> December 2017.

#### **G 01 – Through the use of Key Account Management, develop a relationship with a minimum of 50 local businesses by March 2019**

This target was reported as being on track.

#### **G 03 – Optimise business growth (as measured by gross NNDR) by £2.5m by March 2019**

This target was reported as being on track. However, under the revaluation some businesses were worse off so the Government introduced reliefs and this had reduced the tax base. The Council would receive a grant to compensate (Section 35).

Baseline: £23,476,638 Gross NNDR as at 31/03/15. Using the estimate above the business growth was £1,912,611 against a target of £2.5m by 31<sup>st</sup> March 2018.

Prior to Committee, a question had been asked regarding clarity on what % of the £2.5m can be achieved given the reduction from 2016/17 'actual' of £26,270,072. The estimated actual for 31/3/18 had continually reduced. Was the target at risk due to unforeseen appeals?

The following response was received:

Since the original target was set in 2014/15, the situation has changed and, therefore, the assessment of the target is hard to quantify. The 2014/15 target was based on the valuation as at 01/04/10. A revaluation occurs, usually every 5 years, when values are re-assessed. However, the revaluation was delayed from 01/04/15 and actually took place 01/04/17. Although the overall total of rateable values may have increased overall, the principle of business rates is that a revaluation is not just to collect more. Therefore, to compensate for this the multipliers used in assessing rates income are reduced/ reset. In addition, the Government has continually made more reliefs available as per the Autumn/ Spring Budgets. It is, therefore, difficult to assess growth using the 2014/15 figures; it should be realigned/ reset with the 2017 values.

#### **G 05 – Through the Bolsover North East Derbyshire LEADER Approach, collectively support the creation of 65 sustainable jobs in the combined programme area by December 2020**

This target was reported as being on track.

The following response was received: 1 application had been approved from the Bolsover area, receiving £37,726.56 and creating a total of 3 jobs during the corporate plan period. (The collective scheme total was 5 projects totalling £173,171.87, creating a total of 7 jobs).

## **GROWTH SCRUTINY COMMITTEE**

### **G 06 – Undertake statutory public consultation on the Local Plan (Strategic Policies and Site Allocations) in line with the adopted Local Development Scheme timetable by July 2017**

This target was reported as being overdue. A visit from the Planning Inspectorate had taken place and a revised Local Development Scheme was to be agreed by the Planning Committee. It was hoped to undertake the consultation in May 2018.

### **G 07 – Submit Local Plan (Strategic Policies and Site Allocations) for examination by the Planning Inspectorate by November 2017**

This target was reported as being overdue. A visit from the Planning Inspectorate had taken place and a revised Local Development Scheme was to be agreed by the Planning Committee. It was hoped to submit the Local Plan to the Planning Inspectorate in July 2018.

### **G 09 – Deliver a minimum of 100 new Council properties by March 2019**

This target was reported as being on track. 21 properties had been completed in the reporting period, with a total of 92 to date.

### **G 10 – Enable the development of at least 1,000 new residential properties within the District by March 2019**

This target was reported as being on track. The totals so far were: 2015/16 – 326, 2016/17 – 302, 2017/18 would be reported at Q1 2018/19. This included all properties that were completed inclusive of B@Home and other Social housing built in the district as well as market sale units.

Committee asked whether the figure counted all types of property including B@Home and it was confirmed that the figure included all properties that were completed inclusive of B@Home and other social housing built in the District, as well as market sale units.

### **G 11 – Through a programme of targeted refurbishment, bring 15 empty private sector properties back into use per annum**

This target was reported as being on track.

Committee noted that the commentary for Q3 referred to two sites that had involved the creation of apartments. Do the properties converted count as two or 25 properties against the target of 15? What programme had been agreed for 2018/19 – can it be confirmed which sites had been identified for action?

It was noted that the New Homes Bonus for these properties would be 25 and that was how the Council would count them. The properties were commercial units becoming residential and would provide accommodation for potentially 25 people. One of the developments (11 flats) would be completed in 2018/19 as it would not be started until April 2018 at the earliest. The Council did not have a development programme as the empty properties were brought forward with partners and were reliant on landlords engaging with both the Council, Action Housing or the private landlords who were

## **GROWTH SCRUTINY COMMITTEE**

purchasing/leasing the empty properties. This meant that the Council were facilitators and therefore had limited control, but based on the good working relationship, the Council had been able to secure empty properties coming forward for rent (affordable and market).

### **G 12 – Achieve an increase of £850,000 in additional New Homes Bonus from the Government by March 2019**

This target was reported as being on track

### **G 13 – Work with partners to deliver an average of 20 units of affordable homes each year.**

This target was reported as being on track. The Information, Engagement and Performance Manager noted that 14 units had been delivered in the year to date and that the interim policy had been removed. No affordable units had yet been completed on private sites.

A question was asked whether the interim policy had been removed due to the 5 year supply of housing being achieved. The Information, Engagement and Performance Manager would feedback to Members.

Moved by Councillor A. Anderson and seconded by Councillor T. Connerton  
**RESOLVED** that progress against the Corporate Plan 2015-2019 targets be noted.

### **0656. WORK PLAN 2017/18**

The Scrutiny and Elections Officer presented the Work Plan and noted that the Chief Executive Officer would not attend the meeting on 4<sup>th</sup> April 2018 as he would be in attendance at the meeting on 2<sup>nd</sup> May 2018 to give the Quarterly Growth Update.

A proposed policy on the enforced sale of residential properties would be presented to the Committee on 4<sup>th</sup> April 2018.

It was also hoped to schedule another informal meeting by the end of the Municipal year.

Moved by Councillor A. Anderson and seconded by Councillor S. Statter  
**RESOLVED** that the Work Plan 2017/18 be noted.

The formal part of the meeting concluded at 1026 hours and Members then met as a working party to continue their review work. The working party concluded at 1101 hours.



The Arc  
High Street  
Clowne  
Derbyshire  
S43 4JY

## **Key Decisions & Items to be Considered in Private**

**To be made under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

**Published on: 23<sup>rd</sup> March 2018**

## INTRODUCTION

The list attached sets out decisions that are termed as “Key Decisions” at least 28 calendar days before they are due to be taken by the Executive or an officer under delegated powers.

Preparation of the list helps Executive to programme its work. The purpose of the list is to give notice and provide an opportunity for consultation on the issues to be discussed. The list is updated each month with the period of the list being rolled forward by one month and republished. The list is available for public inspection at the The Arc, High Street, Clowne, S43 4JY. Copies of the list can be obtained from Sarah Sternberg, Assistant Director – Governance, Solicitor to the Council & Monitoring Officer at this address or by email to [sarah.sternberg@bolsover.gov.uk](mailto:sarah.sternberg@bolsover.gov.uk). The list can also be accessed from the Council’s website at [www.bolsover.gov.uk](http://www.bolsover.gov.uk).

The Executive is allowed to make urgent decisions which do not appear in the list, however, a notice will be published at The Arc and on the Council’s website explaining the reasons for the urgent decisions. Please note that the decision dates are indicative and are subject to change.

The names of Executive members are as follows:

Councillor A.M. Syrett - Leader  
Councillor M. Dooley – Deputy Leader  
Councillor S.W. Fritchley  
Councillor B.R. Murray-Carr  
Councillor M.J. Ritchie  
Councillor B. Watson

The Executive agenda and reports are available for inspection by the public five clear days prior to the meeting of the Executive. The papers can be seen at The Arc at the above address. The papers are also available on the Council’s website referred to above. Background papers are listed on each report submitted to the Executive and members of the public are entitled to see these documents unless they contain exempt or confidential information. The report also contains the name and telephone number of a contact officer.

Meetings of the Executive are open to the public and usually take place in the Council Chamber at The Arc. Occasionally there are items included on the agenda which are exempt and for those items the public will be asked to leave the meeting. This list shows where this is intended in Part 2 and the reason why the reports are exempt or confidential. Members of the public may make representations to the Assistant Director – Governance, Solicitor to the Council & Monitoring Officer about any particular item being considered in exempt.

The list does not detail all decisions which have to be taken by the Executive, only “Key Decisions. In these Rules a “Key Decision” means an Executive decision, which is likely:

(1) **REVENUE**

- (a) Results in the Council making Revenue Savings of £75,000 or more; or
- (b) Results in the Council incurring Revenue Expenditure of £75,000 or more

(2) **CAPITAL**

- (a) Results in the Council making Capital Income of £150,000 or more; or
- (b) Results in the Council incurring Capital Expenditure of £150,000 or more

(3) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

In determining the meaning of “significant” the Council must have regard to any guidance for the time being issued by the Secretary of State. The Council has decided that revenue income or expenditure of £75,000 or more and capital income or expenditure of £150,000 or more is significant.

**The remaining dates for meetings of Executive in 2017/18 are as follows:**

2018 -           Extraordinary – 26<sup>th</sup> March 2018  
                      23<sup>rd</sup> April  
                      21<sup>st</sup> May

The Council hereby gives notice of its intention to make the following Key Decisions and/or decisions to be considered in private:



<b>Matter in respect of which a decision will be taken</b>	<b>Decision Maker</b>	<b>Date of Decision</b>	<b>Documents to be considered</b>	<b>Contact Officer</b>	<b>Is this decision a Key Decision?</b>	<b>Is this key decision to be heard in public or private session</b>
<b>Medium Term Financial Plan</b>	Executive	April 2018	Report of Councillor A Syrett - Leader of the Council, Portfolio Holder for Strategic Planning and Regeneration	Joint Head of Finance and Resources	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Exempt – Paragraph 3
<b>Medium Term Financial Plan</b>	Executive	April 2018	Report of Councillor A Syrett - Leader of the Council, Portfolio Holder for Strategic Planning and Regeneration	Joint Head of Finance and Resources	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Open
<b>Land Sale and Development Proposal for Park Lane, Pinxton</b>	Executive	26 <sup>th</sup> March 2018	Report of Councillor A Syrett - Leader of the Council, Portfolio Holder for Strategic Planning and Regeneration	Joint Head of Property and Commercial Services	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Exempt – Paragraph 3

<b>Matter in respect of which a decision will be taken</b>	<b>Decision Maker</b>	<b>Date of Decision</b>	<b>Documents to be considered</b>	<b>Contact Officer</b>	<b>Is this decision a Key Decision?</b>	<b>Is this key decision to be heard in public or private session</b>
<b>Strategic Alliance – Senior Management Team – Recruitment Proposals</b>	Executive	26 <sup>th</sup> March 2018	Report of Councillor A Syrett - Leader of the Council, Portfolio Holder for Strategic Planning and Regeneration	Chief Executive Officer	No	Exempt – Paragraphs 1 & 3
<b>In House Procurement Unit Option</b>	Executive	26 <sup>th</sup> March 2018	Report of Councillor A Syrett - Leader of the Council, Portfolio Holder for Strategic Planning and Regeneration	Joint Strategic Director of People	No	Exempt – Paragraph 3
<b>Invest to Save – LED Lighting</b>	Executive	23 <sup>rd</sup> April 2018	Report of Councillor M. Dooley – Deputy Leader and Portfolio Holder for People and Places	Joint Head of Property and Commercial Services	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Open
<b>Contract for Framework Agreement for Minor Building Repairs and</b>	Executive	23 <sup>rd</sup> April 2018	Report of Councillor M. Dooley – Deputy Leader and Portfolio	Joint Head of Housing and Community Safety	Yes – involves revenue income or expenditure of £75,000 or more	Open

<b>Matter in respect of which a decision will be taken</b>	<b>Decision Maker</b>	<b>Date of Decision</b>	<b>Documents to be considered</b>	<b>Contact Officer</b>	<b>Is this decision a Key Decision?</b>	<b>Is this key decision to be heard in public or private session</b>
<b>Maintenance works for all Council owned properties within Bolsover District Council</b>			Holder for People and Places		and/or capital income or expenditure of £150,000 or more.	
<b>Adaptations to Council Properties</b>	Executive	23 <sup>rd</sup> April 2018	Report of Councillor M. Dooley – Deputy Leader and Portfolio Holder for People and Places	Joint Head of Housing and Community Safety	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Open
<b>Appointment of Scaffolding Contractor for Council Properties</b>	Executive	23 <sup>rd</sup> April 2018	Report of Councillor M. Dooley – Deputy Leader and Portfolio Holder for People and Places	Joint Head of Housing and Community Safety	Yes – involves revenue income or expenditure of £75,000 or more and/or capital income or expenditure of £150,000 or more.	Open

## **SCHEDULE**

### **SCHEDULE 12A**

#### **ACCESS TO INFORMATION: EXEMPT INFORMATION**

##### **PART 1**

##### **DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND**

1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
  5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  6. Information which reveals that the authority proposes –
    - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (b) To make an order or direction under any enactment.
  7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
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**Bolsover District Council**  
**Growth Scrutiny Committee**  
**4th April 2018**

<b>Enforced Sale Procedure – Private Empty Properties</b>
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**Report of the Portfolio Holder for Strategic Planning and Regeneration**

This report is public

**Purpose of the Report**

- To implement a procedure for the current legislation of Enforced Sale, for the Council to use when carrying out this function on long term empty properties.

**1 Report Details**

- 1.1 There are approximately 600 long term empty properties across the District and the Council has set out its plan to deal with this problem in its Empty Property Strategy 2015 – 2020.
- 1.2 The Empty Property Officer is working with empty property owners and encouraging them to work with the Council and partners to bring the properties back into use.
- 1.3 Engagement with empty property owners has been through a number of routes including writing out to them and holding engagement events jointly with North East Derbyshire District Council and expanding it to include Chesterfield Borough Council at the next event in May.
- 1.4 There are however a number of Empty property owners who have not responded or have responded but not taken the action they had promised.
- 1.5 Where owners refuse to bring properties back into use and the property is causing a nuisance, the Council can take enforcement action. This can only be done where there are outstanding charges due to the Council, for example, where the Council has carried out necessary improvement works to the property and the owner has failed to pay.
- 1.6 Enforced Sale will be used as a last resort and only when all other avenues to encourage the owner to voluntarily bring the property back into use have been exhausted.

**2 Conclusions and Reasons for Recommendation**

- 2.1 In conclusion, having an approved Enforced Sale Procedure will be a valuable tool for the Empty Property Officer and other Council officers to use when identifying suitable cases to take action against.

- 2.2 The procedure will ensure that officers adhere to the guidance and that cases are dealt with appropriately and successfully resulting in a reduction of empty properties and protecting the Council's reputation.
- 2.3 Having a clear procedure will help empty property owners know the procedure we will be undertaking and may encourage them to engage with the Council to take appropriate action with their property.
- 2.4 The wider general public will understand that the Council is taking seriously nuisance empty properties and have an agreed procedure that we will follow.

### **3 Consultation and Equality Impact**

- 3.1 Consultation has been carried out with the following people:
- Allison Westray-Chapman - Joint Head of Economic Development
  - Kevin Shillitto - Principal Solicitor
  - Gill Halliwell - Senior Environmental Health Officer
  - Karl Apps - Housing Strategy and Growth Manager

### **4 Alternative Options and Reasons for Rejection**

- 4.1 To follow Enforced Sale guidance from other councils and government legislation. This has been rejected in favour of having our own procedure that is clear to officers, Members, empty property owners and the public.
- 4.2 To use external legal firms to manage cases for Enforced Sale. This would involve the Council paying them a fee which would be recoverable from the proceeds of the sale of the empty property. The skills however are available in-house and the Council can keep control of the process.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 The procedure will help the Council to successfully carry out enforced sales, which will help to increase its revenue in terms of New Homes Bonus and recovering charges against properties.
- 5.1.2 Using the procedure will minimise the risk of errors when carrying out enforced sales as it will instruct officers within each stage of the process.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The legal implications are contained within this report.
- 5.2.2 If procedures are not put in place, this would leave the Council open to challenge if the process is carried out incorrectly.

### 5.3 Human Resources Implications

- 5.3.1 The procedure will help officers when dealing with enforced sale which should reduce time spent on cases, therefore, at this stage it is expected that no extra resource should be required in terms of staff.

### 6 Recommendations

- 6.1 That Growth Scrutiny Committee review and provide any feedback on the attached Enforced Sale Procedure for Private Empty Properties for consideration by the Executive.

### 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	Unlocking Our Growth Potential

### 8 Document Information

Appendix No	Title
1	Enforced Sale Procedure – Private Empty Properties
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<p><b>Report Author</b></p>	
<p><b>Contact Number</b></p>	
Thomas Evans (Joint Empty Properties Officer)	01246 217834



# **ENFORCED SALE PROCEDURE**

Private Empty Properties

**STANDARD OPERATING PROCEDURES**



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## **Introduction**

Enforced Sale is a procedure that is primarily designed to enable councils to recover outstanding debts, created by actions that result in a land charge against a property. However, it also provides a method for getting long term problematical properties back into use and has been adopted by a number of councils across the country as an effective way of dealing with empty properties.

There are social and financial benefits from adopting the enforced sale procedure. By selling a property that is in a derelict or semi derelict condition to a new owner, there is a likelihood the new owner will refurbish the property and this increases the chances that it will become inhabited again. Financial charges, which could otherwise prove impossible to recover, can be discharged out of the proceeds of sale. It is also hoped that when empty property owners become aware of this initiative they may maintain their properties in a reasonable state and condition to avoid the prospect of formal enforcement.

An Empty Property Enforcement Group has been established to identify and examine appropriate cases to put forward for enforced sale. This consists of representatives from Environmental Health, Legal Services, Revenues and the Empty Property Officer.

## **Limitations of the Procedure**

The issues surrounding the empty condition of a property vary so widely that no single measure offers a tailor made solution. Even where the criteria for invoking the Enforced Sale Procedure (ESP) are met, it is necessary to consider how likely the procedure is to achieve the desired outcome and to ask whether alternative courses of action might be more suitable.

The Enforced Sale Procedure can be followed even where the owner cannot be traced and even where the property has changed hands – so long as the relevant debt remains.

The procedure may be used to recover debt arising from the exercise of any statutory powers that:-

- Confer a charge on all the estates and interests in the property
- Confer Law of Property rights (i.e. grant the powers and remedies available as if the charge had been created by deed).

Any such charge will bind any prior charges affecting the property, i.e. the council's charge will have priority over other charges. However, covenants and easements over the property will not be so bound.

If the statutory powers under which the debt has arisen do not confer the above mentioned rights, then it will be necessary to consider whether Section 7 of the Local Land Charges Act 1975 applies. If it does, then the procedure may still be used, but only the estate of the offending party will be bound, not all the interests in the property. Other charges may therefore take priority over the council's charge.

Principally, the statutory powers that will enable the procedure to be used are:-

- Public Health Act 1936
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Building Act 1984
- Housing Act 2004
- Town & Country Planning Act 1990

- Environmental Protection Act 1990
- Prevention of Damage by Pests Act 1949

Actions in relation to the service of statutory notices under these provisions are most likely to have given rise to the relevant debt(s).

Additionally, the following criteria will be applied when considering whether to instigate the procedure: -

- The principle sum of the original work carried out in default must be at least £500.00 (This can be the total of a number of combined principle sums).
- **The statutory notices must have been served correctly.** Refer to the relevant statute for the requirements relating to service. *All copy notices must have been stamped and signed by the serving officer.* The procedure cannot be employed if the notices have not been served in this manner. (If the serving officer is still employed by the council, then it may be possible to ask them to rectify the notice).
- The serving officer must complete a 'Record of Service of Notice' form on service of the statutory notice. (See example in Appendix 5).
- There should be no proposed CPO action within a 2-year period.
- The property must not be the subject of any bankruptcy action. (This would usually be noted on the title).

It should be noted that the right to enforce a sale in order to recover land charges is limited by section 20 of the Limitation Act to 12 years from *when the right to receive the money accrued*, **not** from when the demand was sent out. *However*, where the owner has attempted to repay and any amount has been received, the 12 year period starts afresh from that date.

#### Properties shown as Unregistered using the online link to the Land Registry

The following key considerations arise in such cases:

- Where the statutory charge does not bind all the estates and interests in the property, 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.
- It will be necessary for the eventual purchaser of the property to apply for first registration of the title. Difficulties might arise in determining the extent of the land to be registered and in identifying the encumbrances affecting the property.

#### Human Rights Act 1998

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

Letters to Owners and Chargees should include a statement that the intended action of the Council in exercising its power of sale is considered to be proportionate and in accordance with the Act.

### **Pre-Action to Enforced Sale Procedure**

Other, more appropriate, types of action must always be considered prior to pursuing ESP. The use of ESP should be seen as a means of last resort and it is expected that all informal and formal actions will have been taken and exhausted by the Council in order to recover debt and to resolve the existence of the empty property and its associated problems.

The first priority is always to try and trace owners of empty properties and to make contact with them. Every effort is made to try and engage with the owners and to offer them advice and assistance in getting their property back into use prior to embarking on enforcement based solution.

DRAFT

DRAFT

**FOR FLOWCHART  
SEE SEPARATE DOCUMENT IN DIRECTORY**

## Enforced Sale Procedure (ESP)

### 1. Priority and Criteria

1.1 The Council's Empty Property Strategy sets out how the Council prioritises properties for formal enforcement following a lack of success utilising more informal measures. The assessment framework for prioritising empty homes for enforcement can be found in Appendix C of the Empty Property Strategy. To be further considered specifically for the ESP, 5 conditions must be met:-

- The total outstanding debt on the property should exceed £500.00, this does not include Council Tax arrears
- The property is vacant and has been for a minimum of 6 months
- Is the property registered at the Land Registry?
- The outstanding debt must be registered on Part 2 of the Local Land Charges Registry
- The owner shows no commitment to bringing the property back into use and/or to settle their debt with the Council

However, *in exceptional circumstances*, if there is a derelict property causing a great problem where the debt is below £500.00 and the owner cannot be traced, or is refusing to co-operate, the use of the ESP could be considered.

1.2 If the title to the property has not been registered at the Land Registry and the Council is not aware of the identity of the owner(s) the following investigations can be carried out:-

- A search of The Council's electoral register and council tax records
- Enquiry of the adjoining house owners
- A search of the Housing departments records to see if anyone has been rehoused from the property

### 2. Compiling a property file

2.1 A property file must be prepared in order to refer the case to legal services. The property file must contain:-

- a) 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.
- b) The record of service of notice form (see Appendix 5)
- c) Copies of the work instructions to the contractor for the work to be carried out
- d) Dates work carried out
- e) Copies of all the invoices from the contractors along with their breakdown of labour and material charges
- f) Cost of any fees charged by the Council
- g) Property address

- h) Name of current owner and address (including source of information)
- i) 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.

An account summary sheet is also included which shows what is in the file, the notice number/s and the amount of financial charge in each case.

**2.2** The Empty Property Enforcement group will meet to decide in each case whether the property should be prioritised for Enforced Sale.

### **3. Re-service of Notices**

**3.1** All of the notices originally served and notices of demand for payment are re-served on the property with covering letter (Appendix 1). This will ensure that an owner or interested party is made aware of the debt and also ensures that there is adequate evidence available. Notices will be served by the following methods:-

- a. One must be served on the listed owner or owners by first class post or by hand, or by affixing it to the property.
- b. One must be posted to any other address(es) shown on the Land Registry and to any other interested party of which the Council is aware.
- c. Copies must be stamped and signed by the serving officer.
- d. A "record of service of notice" form must be completed for each by the serving officer.
- e. A photograph must be taken as evidence of any notices affixed to the property and weekly visits should be made in order to replace any notices that have been torn down.

**3.2** Also at this point any notices needed to be served under section 81A of the Environment Act 1990 are served (See Appendix 2 for sample 81A).

**3.3** From the date of service the owner has 21 days to appeal the notice, they must do this by contacting the County Court who will assess the case and determine whether the Local Authority can proceed with enforcing the sale.

### **4. Section 103 Notice**

**4.1** After a period of 28 days if no appeal (as to the Section 81A notice) or payment is made, a notice pursuant to Section 103 of the Law of Property Act 1925 is then served. This gives the owner three months to repay the debt.

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

**4.3** The Section 103 Notices are divided into 2 categories:

- a. Where notices pursuant to the Environmental Protection Act 1990 have been served (Appendix 3).

- b. Where no notices pursuant to the Environmental Protection Act 1990 have been served (Appendix 4).

4.4 When serving the notices, a photograph is taken of the property and copies of all the notices served and confirmation of the method of service are attached to the property file.

## 5. Authorisation

5.1 Following the expiry of the 3 month period a check needs to be made to ascertain whether or not the debt has been paid.

5.2 If the debt has not been paid the Empty Property Officer must review the case with the Housing Strategy Manager. The review should include consideration of whether the property should be sold to a preferred owner or whether it should be sold at auction.

5.3 If following this review, it is decided that the Enforced Sale Procedure should be followed to its conclusion; the Empty Property Officer must prepare an authorisation form which, together with the property file, is passed to an Assistant Director (or such other officer as the council may nominate) for authorisation under delegated powers. Following authorisation the file is returned to the Empty Property Officer.

## 6. Legal Services

6.1 A copy of the authorisation and the file are then forwarded to the Legal team.

6.2 The legal team are responsible at this stage to send an instruction to the Debt Recovery Team to:

- a. Suspend all legal action regarding the debt.
- b. Check the account numbers of the outstanding debts to make sure no payments have been received to date.

### **Procedure when the property is registered at Land Registry**

6.3 Upon receipt of the file from the Empty Property Officer, the first step is to go through the works in default file and make a list of all the charges.

- a. A check then needs to be carried out to find out which charges are still outstanding.
- b. This work is done as there are many ways debts can be paid and there is little point in undertaking work where a charge has been repaid.
- c. Checks should also be made that the statutory notices have been correctly served.

6.4 Write to all interested parties:

- a. If charges are still outstanding a letter (Appendix 6) is sent to all persons on the register who have an interest in the property advising them of the position. This will include others who have a charge registered against the property.
- b. The letter must be copied to the Case Officer for information. The letter gives the owner and any other interested parties fair notice of the steps the Local Authority proposes to take. It is accepted that in most cases the whereabouts of the owner



will be unknown. Even so a letter addressed to the property and any other address (es) is sent in an attempt to notify the owner. Every attempt is made to give such persons notice of the local authorities' proposals and ample opportunity to repay the debt.

- c. A period of 21/28 days is allowed for the persons served to respond.

## **6.5 Registration of Charge**

- a. If there is no response to the letter and no debts have been repaid then a charge must now be registered with the Land Registry.
- b. A resolution for the relevant charges must be prepared and be sealed by the Council (Appendix 7). This must record:
  - i. The statutory provisions.
  - ii. The service of the necessary notices.
  - iii. What work was done and when.
  - iv. The registration of the charge in the register of local land charges and claims priority over all estates and interests.
  - v. A certificate made by the Council that it has all the necessary rights and powers to make the application for registration of the charges and that it has taken all the appropriate steps in accordance with the relevant statute.
- c. An application (form AP1), (Appendix 8) must be prepared for registration of the charge. The current registration fee is £40 per charge provided that each charge does not exceed £100,000.
- d. Form SC (Appendix 9) must also be completed in order to claim priority in favour of the Councils charge over any existing charge registered against the title.
- e. The completed application must be sent to the Land Registry. This will comprise:
  - i. A covering letter (Appendix 10).
  - ii. The sealed and dated resolutions together with a certified copy of each resolution.
  - iii. The land/charge certificate or copies of the correspondence requesting the same.
  - iv. Completed for SC (Appendix 9).
- f. Confirmation of the application form must be provided to the Empty Property Officer.

## 6.6 Charges are registered

- a. Notification of completion of the registration is received from Land Registry on completion of the registration. Arrangements are then made for the sale of the property.
- b. At this point:
  - i. A check is made that the charges have not been paid.
  - ii. The Empty Property Officer/Housing Strategy Officer must be informed of the registration and must be asked whether the property is to be sold at auction or to a preferred purchaser.
- c. Letters are then sent to the owners and interested parties advising them that the Council's charges are registered and it is the Council's intention to pursue a sale of the property (Appendix 11). This gives the owner and interested parties notice of the Council's intentions so that they cannot claim steps were not taken to notify them.
- d. The letter must be copied to the Empty Property Officer for information.

### **Procedure when the property is NOT registered at Land Registry**

- 6.7** Upon receipt of the file from the Empty Property Officer, the first step is to go through the works in default file and make a list of all the charges.
- a. A check then needs to be carried out to find out which charges are still outstanding.
  - b. This work is done as there are many ways debts can be paid and there is little point in undertaking work where a charge has been repaid.
  - c. Checks should also be made that the statutory notices have been correctly served.
- 6.8** Check that the property is not registered.
- a. 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.
  - b. 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:
    - i. Public Health Act 1936, Section 291
    - ii. Prevention of Damage by Pests Act 1949
    - iii. Building Act 1984, Section 107

## 6.9 Try to ascertain what encumbrances affect the property

- a. 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.
  - i. 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.
  - ii. 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.

## 6.10 Write to all interested parties.

- a. 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:
  - i. Delivered to the Owner or Owners by post, or by hand or should be affixed to the property and
  - ii. Must be posted to any other address(es) shown on the Land Registry.
- b. The letter must be copied to the Empty Property Officer for information.

## 6.11 Enquiries are completed

- a. If either:
  - i. No information is found as to the identity or whereabouts of the owner(s) or other interested parties or
  - ii. 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.

## 7. Selling the empty property

### 7.1 Methods of selling the empty property:-

- a. Once the Housing Strategy and Growth Manager (or such other officer as the council may nominate) has been advised that the charges have been registered against the title and/or that the property can be put forward for sale, the Housing Strategy and Growth Manager considers how the sale is to be affected and instructs the Empty Property Officer accordingly. Other than where there is particular justification, sale at auction will be the preferred option.
- b. If choosing sale by private treaty to a preferred purchaser then commission two independent valuations of the property and have the Council's surveyor to vet the valuations to determine the sale price. Sales to a preferred purchaser should require approval to be obtained from the appropriate cabinet member.
- c. Whatever the method of sale a valuation is undertaken by the local authority's surveyor.

### 7.2 Contract

For a registered property the contract for sale will be the same as any contract for sale by a mortgagee.

- a. In the case of an unregistered property there will probably be no deeds or details of any encumbrances affecting the property and the contract for sale needs to reflect this.
  - i. In such cases the form of the resolution prepared in respect of registered land is incorporated into the contract as a recital (see e.g. in Appendix 13 for form of suggested special conditions of sale).
  - ii. On completion of the sale the Land Registry require the Council to provide a letter containing a certification by the Council that it has all the necessary rights and powers to dispose of the property and that it has taken all appropriate steps in accordance with the relevant statute (Appendix 14).
  - iii. It will be necessary to make the purchaser's solicitor aware that the letter must be submitted with their client's application for first registration.
  - iv. As far as the encumbrances are concerned, the Land Registry will probably make a "protective entry" on the register to the effect that the property is subject to such encumbrances as affect the same at the date of the registration, no details having been provided on first registration.

### 7.3 Title

- a. Where the title deeds have not been recovered the following should be borne in mind:
  - i. *Registered titles:* Copies can be obtained of the documents referred to on the title from the Land Registry. Where they are not available, include an appropriate clause in the contract to cover the position.

- ii. *Unregistered titles:* There will probably be no needs or details of the encumbrances affecting the property.

**7.4** Immediately prior to auction/exchange of contracts a further check is made to ascertain whether the charges have been repaid.

**7.5** Post Sale

- a. The post sale procedure is to be generally the same as that for a normal sale
- b. The following deductions will be made from the proceeds of the sale:
  - i. Any auctioneer's fee
  - ii. The legal fee
  - iii. The surveyor's fee
  - iv. Any administration fee
  - v. The outstanding charges

These sums will be processed in the same manner as for a normal sale.

- c. 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.
- d. 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.
- e. 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.

**8. Appendices;**

Dear

**Property Address:**

**Subject:**

I am writing to you as our records show/suggest that you have an interest in the above vacant property.

On the dates shown below notices were served upon you requiring you to undertake work in order to remedy unsatisfactory circumstances. Because you did not comply with the notice/s, the Council arranged for the work to be carried out in default once it/they had expired. The cost of the work totals £500.00 excluding interest. This is now a debt which you owe the Council and one which comprises a local land charge attached to the property.

Date of Notice	Legislation	Date of Work	Amount

Please note that, should you fail to settle these outstanding debts, or contact the Council within 28 days to discuss this matter, the Council may serve on you a notice under Section 103(1) of the Law of Property Act 1925 which would advise you of its intention to sell the above property or some part of such property.

Please also note that the Council will exercise its right to charge interest at a rate of not more than 2% above the current Bank of England base rate, on any sums that are owed to it. For any works where a Section 81a notice applies, interest will run from the date of service of such notice; in all other cases, interest will run from the date of service of the aforementioned Section 103(1) notice should it be necessary to serve such notice.

Please be advised that you should contact the officer named at the top of this letter, as the Councils Finance Department will not take payment without authorisation from that named officer.

This letter has been sent to all those that have, or appear to have, an interest in the above property

Yours faithfully,

**Notice under Section 81A of the Environmental Protection Act 1990 relating to:**  
**Property Address**

To: XXXX

On (date) the council served on you a Notice under Section 80 of the Environmental Protection Act 1990 ("the Act") requiring the execution of certain works and the taking of such other steps in relation to the above property to abate the nuisance or prohibit or restrict its occurrence or recurrence arising from the defective state of such property.

You failed to comply with such Notice and the Council, in default, carried out such works and took such steps as aforesaid at a total cost to the Council of (£ XXX). This is the sum recoverable by the Council pursuant to Section 81(4) of the Act in respect of the above Notice and this Notice is given pursuant to Section 81A of the Act.

I am required by Subsection 81A(2) of the Act to advise you that, pursuant to Subsection 81A(1) thereof, where any expenses are recoverable under Section 81(4) of the Act from a person who is the owner of the premises there mentioned and the local authority serves a Notice on him under Section 81A of the Act (pursuant to which this Notice is given):

- 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 provision of Section 81A of the Act, the expenses and accrued interest shall be a charge on the premises.

The rate of interest payable is determined by the Council as referred to in a) above and varies from time to time.

I am further required to advise you of the provisions of Subsections 81A(4) to (6) of the Act which are as follows:

- (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 21 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 a period of 21 days beginning with the date of service.

If you are in any doubt as to the effect of this Notice, you should take legal advice.

Dated:

Signed:

**Notice under Section 103(1) of the Law of Property Act 1925/ Letter before action**  
**(where the Environmental Protection Act applies) relating to: *Property Address***

On the (date), the Council served on you Notice under Section 80 of the Environmental Protection Act 1990 ("the Act") requiring you to carry out certain works to the above property. You failed to comply with such Notice and the Council, in default, carried out such works at a total cost to the Council of £ XXX

This is now a debt that is due to the Council as well as a Local Land Charge attaching to the above property. Also, interest is now accruing on such amount at the current statutory rate.

On the date the Council gave you Notice under Section 81A of the Act and the period of 21 days referred to in Subsections 81A (4) (a) and (6) having elapsed and no appeal against that Notice having been made pursuant to the said Subsection 81A (6) then by virtue of the provisions of Subsection 81A (4) of the Act:

1. The expenses incurred by the Council as referred to above and the accrued interest have become a charge on the above property and
2. The Council has for the purpose of enforcing the said charge by virtue of Subsection 81A (8) of the Act all the same powers and remedies under the 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.

The Council now requires you to pay to it immediately the above amount with the interest owing in respect of it on the date of payment. If you do not pay the amounts due, the Council, without further Notice, can:

- 1) If the debt is not paid within 28 days from the service of this Notice commence proceedings in the County Court for the recovery of the debt or
- 2) If the debt is not paid within three months from the date of service of this Notice sell the above property or some part of such property.

Please note that the Council is legally obliged to give you Notice pursuant to Section 103 (1) of the Law of Property Act 1925 if it chooses the option in point (2) above and this letter constitutes such a Notice.

I would remind you that once again you are required to settle the amounts due to the Local Authority and it is important that you contact me within 28 days to advise me how you intend to proceed.

Please note that you must only attempt to settle this matter after contacting me, as the Finance Department will not take payment without my authorisation and you may incur extra charges through the delay.

If you are in doubt as to the effect of this Notice you should take legal advice.

Dated:

Signed:



**Notice under Section 103(1) of the Law of Property Act 1925/ Letter before action  
(where the Environmental Protection Act does not apply) relating to: *Property Address***

To:

On the (date), the Council served on you Notice under the provision of [Statute and Section] requiring you to carry out certain works to the above property. You failed to comply with such Notice and the Council, in default, carried out such works at a total cost to the Council of £ XXX

On the (date), the Council served on you Notice under the provision of [Statute and Section] as above requiring you to carry out certain works to the above property. You failed to comply with such Notice and the Council, in default, carried out such works at a total cost to the Council of £ XXX

On the (date), the Council served on you Notice under the provision of [Statute and Section] as above requiring you to carry out certain works to the above property. You failed to comply with such Notice and the Council, in default, carried out such works at a total cost to the Council of £ XXX

On the (date), the Council served on you Notice under the provision of [Statute and Section] as above requiring you to carry out certain works to the above property. You failed to comply with such Notice and the Council, in default, carried out such works at a total cost to the Council of £ XXX

These are now debts that are due to the Council as well as Local Land Charges attaching to the above property. Also, interest is now accruing on such amount at the current statutory rate.

By virtue of the provisions of the above statute(s), the debts due to the Council have, from the date of completion of the said works, taken effect, until recovered, as charges on the above property and the Council has all the same powers and remedies under the Law of Property Act 1925 and otherwise, as if it was a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

The council now requires you to pay to it immediately the above amount with the interest owing in respect of it on the date of payment. If you do not pay the amounts due, the Council, without further Notice, can:

- 1) If the debt is not paid within 28 days from the service of this Notice commence proceedings in the County Court for the recovery of the debt or
- 2) If the debt is not paid within three months from the date of service of this Notice sell the above property or some part of such property.

Please note that the Council is legally obliged to give you Notice pursuant to Section 103 (1) of the Law of Property Act 1925 if it chooses the option in point (2) above and this letter constitutes such a Notice.

I would remind you that once again you are required to settle the amounts due to the Local Authority and it is important that you contact me within 28 days to advise me how you intend to proceed.

Please note that you must only attempt to settle this matter after contacting me, as the Finance Department will not take payment without my authorisation and you may incur extra charges through the delay.

If you are in doubt as to the effect of this Notice you should take legal advice.

Dated:

Signed:

DRAFT

Example of Record of Service of Notice form

**RECORD OF SERVICE OF NOTICE**

**THE PREVENTION OF DAMAGE BY PESTS ACT 1949 AND THE BUILDING ACT 1984**

Property: **XXXX** (“the Property”)

I, (**name**) confirm that I have given/served a notice in respect of the Property under the Prevention of Damage by Pests Act 1949, Building Act 1984 and certify that:

1. **a) Property unoccupied – registered/unregistered title**

The property was at the date of giving/service of the said notice, unoccupied and the notice was served by addressing it to the owner or occupier of the Property and affixing it, or a copy of it, to some conspicuous part of the Property and a notice was also given/served by (*detail also any other method of service*)

**b) Property occupied – registered title**

The property was at the date of giving/service of the said notice, occupied and I made reasonable enquiry to ascertain the name and address of the person to or on whom the notice should be given or served (including a search at the Land Registry which revealed that the property is registered) and the notice was given/served by (*detail also any other method of service*)

**c) Property occupied – unregistered title**

The property was at the date of giving/service of the said notice, occupied and I made reasonable enquiry to ascertain the name and address of the person to or on whom the notice should be given or served (including a search at the Land Registry which revealed that the property was unregistered) and the notice was given/served by (*detail also any other method of service*)

Type of Notice:

Notice Ref Number:

Date of Notice:

Signed:

Designation:

Date:

**Letter to interested parties**

Dear,

**Property:**

**Your Charge Dated:**

I am aware from the contents of the registers of title number [ ], which relates to the above property, that you have a charge registered against the same. That charge is dated [ ] and the owner of the property is shown to be [ ].

The Council has, pursuant to its statutory powers, carried out certain works to the above property, the costs of which have been registered in Part 2 of the Register of Local Land Charges as financial charges

The statutes pursuant to which the Council has carried out such works confer, in favour of the Council, a charge on the premises and all estates and interests therein and the Council has, for the purposes of enforcing the charge all the same powers and remedies under the Law of Property Act 1925, and otherwise as if it were a mortgagee by deed having powers of sale, of lease, of accepting surrenders of leases and of appointing a receiver. The said statutes confer a priority on the Council's charge over your own charge and therefore, when registered, the Council will be first chargee.

The Council proposes, pursuant to its statutory powers, to register the financial charges against the title to the above premises. Thereafter the Council may exercise its power of sale over the property and apply the proceeds of sale towards the discharge of the debt due to the Council.

If you wish to pay the outstanding debt due to the Council, I will provide details of the outstanding amounts. Otherwise, I should be grateful if you would forward to me all the title deeds and documents in your possession relating to the property.

If you do not have the deeds and documents in your possession, please let me know. I should be grateful if you were then able to let me know their whereabouts.

If you wish to discuss this matter, please do not hesitate to contact me on the above details

Yours Faithfully

**Example of resolution – Section 76, Building Act 1984**

**PROPERTY:**

**BUILDING ACT 1984**

**XXXX COUNCIL**

1. Whereas **XXXX** Council (“the Council”) is a “local authority” within the meaning of Section 126 of the Building Act 1984 (“the Act”).
2. And whereas a local authority, if it considers that any premises are in such a state as to be prejudicial to health or a nuisance, and unreasonable delay in remedying that defective state would be occasioned by following the procedure prescribed by Section 80 of the Environmental Protection Act 1990 may, under Section 76 of the Act, serve Notice on the owner or occupier of those premises stating that the local authority intend to remedy the defective state and may do so, subject to there being no counter-notice served by the owner or occupier.
3. And whereas a notice under Section 76 of the Act is to be served in accordance with Section 94 of the Act.
4. And whereas the expense of such works may, by virtue of Subsection (2) of Section 76 of the Act, be recovered from the owner or occupier of the premises and such expense plus interest thereon, by virtue of Section 107 of the Act, from the date of completion of the works shall, until recovered, be a charge upon the premises and all estates and interests in them and gives a local authority for the purposes of enforcing such a charge, all the powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed.
5. And whereas such charge is by virtue of Section 1(1)(a) of the Local Land Charges Act 1975, registrable as a Local Land Charge.
6. And whereas, under Section 7 of the Local Land Charges Act 1975, a local land charge falling within the aforementioned Section 1(1)(a) takes effect as if it had been created by deed of charge, by way of legal mortgage within the meaning of the Law of Property Act 1925, but without prejudice to the priority of the charge.
7. And whereas Section 101 of the Law of Property Act 1925 provides that a mortgagee by deed shall have inter alia the power of sale of the property so mortgaged.
8. And whereas pursuant to a notice dated [ ] the Council gave Notice to the owner or owners of the property known as [ ] (“the premises”) under Section 76 of the Act by serving the Notice in accordance with Section 94 of the Act by –

ALTERNATIVE 1 addressing the Notice to [ ] and delivering it to that person **and/or**

ALTERNATIVE 2 addressing the Notice to [ ] and leaving it or sending it in a pre-paid letter addressed to that person at [ ] being the usual or last known residence of that person **and/or**

ALTERNATIVE 3 addressing the Notice to the Secretary or Clerk of [**XXXX** Limited] at [ ], being the registered or principal office of [**XXXX** Limited] and delivering it or sending it in a pre-paid letter to that address **and/or**

ALTERNATIVE 4 (it not being practicable, after reasonable inquiry having been made, to ascertain the name and address of the person to or on whom the Notice should be given or served) addressing the Notice to the owner or owners of the premises (naming the premises) and either delivering it to some person on the premises or (there being no person on the premises to whom it can be delivered) affixing the Notice or a copy of it to some conspicuous part of the premises.

ALTERNATIVE 5 (the premises at the date such Notice is given or served being unoccupied) addressing the Notice to the owner or owners of the premises (naming the premises) and affixing the Notice or a copy of it to some conspicuous part of the premises stating that the Council intended to remedy the defective state of the premises after the expiration of [ ] days from the date of service of the Notice by carrying out the following works: [XXXX]

9. And whereas there being no counter-notice served upon the Council within the period prescribed by Section 76(3) of the Act, the Council executed the said works between the [date] and the [date] at a cost to the Council of £ [ ].
10. And whereas on the [date] the Council registered the cost of the works in Part II of the Council's Local Land Charges Register as a specific financial charge against the premises, such charge attracting interest at such a rate from time to time applying.
11. And whereas pursuant to a Notice dated [ ] the Council gave Notice to the owner or owners of the property known as [ ] ("the premises") under Section 76 of the Act by serving the Notice in accordance with Section 94 of the Act by

ALTERNATIVE 1 addressing the Notice to [ ] and delivering it to that person **and/or**

ALTERNATIVE 2 addressing the Notice to [ ] and leaving it or sending it in a pre-paid letter addressed to that person at [ ] being the usual or last known residence of that person **and/or**

ALTERNATIVE 3 addressing the Notice to the Secretary or Clerk of [XXXX Limited] at [ ], being the registered or principal office of [XXXX Limited] and delivering it or sending it in a pre-paid letter to that address **and/or**

ALTERNATIVE 4 (it not being practicable, after reasonable inquiry having been made, to ascertain the name and address of the person to or on whom the Notice should be given or served) addressing the Notice to the owner or owners of the premises (naming the premises) and either delivering it to some person on the premises or (there being no person on the premises to whom it can be delivered) affixing the Notice or a copy of it to some conspicuous part of the premises.

ALTERNATIVE 5 (the premises at the date such Notice is given or served being unoccupied) addressing the Notice to the owner or owners of the premises (naming the premises) and affixing the Notice or a copy of it to some conspicuous part of the premises stating that the Council intended to remedy the defective state of the premises after the expiration of [ ] days from the date of service of the Notice by carrying out the following works: [XXXX]

12. And whereas there being no counter-notice served upon the Council within the period prescribed by Section 76(3) of the Act, the Council executed the said works between the [date] and the [date] at a cost to the Council of £ XXX.

13. And whereas on the [date] the Council registered the cost of the works in Part II of the Council's Local Land Charges Register as a specific financial charge against the premises, such charge attracting interest at such a rate from time to time applying.
14. And whereas the said monies continue to remain outstanding

**XXXX COUNCIL** being now desirous of exercising their aforementioned power of sale over the premises to recover the costs they have incurred in relation thereto,

### **HEREBY RESOLVES**

1. (i) To make application to the District Land Registry for Lancashire and Greater Manchester under the Land Registration Act 1925 to register their charge against all titles subsisting in the premises.  
  
(ii) To claim, affirm and avow in said application the binding nature of the Council's charge on all estates and interests in the premises and the priority of the Council's charge over all existing and future charges affecting each and every title in the premises (whether or not they be registered), such claims, affirmations and avowals being supported by the decisions in Bristol Corporation-v-Virgin [1928] 2.K.B.622 and Paddington Borough Council-v-Finucane [1928] Ch567.  
  
(iii) To affix the Council seal hereto.

### **HEREBY CERTIFIES TO HM LAND REGISTRY**

2. (i) As recited in paragraph 4 of this resolution, the Act contains provisions conferring a charge on the premises and interests therein.  
  
(ii) As further recited in paragraph 4 of this resolution, the Act confers on the Council all the powers and remedies under the Law of Property Act 1925 and otherwise as if it were a mortgage by deed.  
  
(iii) The Council has followed the procedure in the Act as to services of Notices and the carrying out of the works  
  
(iv) The charge (s) for which an application for registration is made pursuant to 1(i) above affects the whole of the property known as [ ] and registered under title number (s) [ ].  
  
(v) As recited in paragraphs 10 and 13 of this resolution, the charge (s) for which an application for registration is made pursuant to 1(i) hereof was/were registered in Part II of the Council's Register of Local Land Charges on the [ ] and the [ ]

Dated:

The COMMON SEAL of the XXXXX Council was hereunto affixed in pursuance of an Order of the Council

**Authorised Signatory:**

## Land Registry Application to change the register

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Land Registry is unable to give legal advice, but you can find guidance on Land Registry applications (including our practice guides for conveyancers) at [www.gov.uk/land-registry](http://www.gov.uk/land-registry).

Conveyancer is a term used in this form. It is defined in rule 217A, Land Registration Rules 2003 and includes persons authorised under the Legal Services Act 2007 to provide reserved legal services relating to land registration and includes solicitors and licensed conveyancers.

Where there is more than one local authority serving an area, enter the one to which council tax or business rates are normally paid.

Enter the title number of each title that requires an entry to be made in that register.

Place 'X' in the appropriate box.

Give a brief description of the part affected, for example 'edged red on the plan to the transfer dated .....'.  
  
Place 'X' in the appropriate box.

To find out more about our fees visit [www.gov.uk/government/collections/fees-land-registry-guides](http://www.gov.uk/government/collections/fees-land-registry-guides)

The fee will be charged to the account specified in panel 7.

**LAND REGISTRY USE ONLY**

Record of fees paid

Particulars of under/over payments

Reference number

Fees debited £

1 Local authority serving the property:

Full postcode of property (if any):

2 Title number(s) of the property:

3 The application affects

the whole of the title(s)

part of the title(s) as shown:

4 Application, priority and fees

Applications in priority order	Price paid/Value (£)	Fees paid (£)
Total fees (£)		

Fee payment method

cheque made payable to 'Land Registry'

direct debit, under an agreement with Land Registry



<p>List the documents lodged with this form. We only need certified copies of deeds or documents you send to us with Land Registry application forms. Once we have made a copy of the documents you send to us, they will be destroyed, this applies to both originals and certified copies</p>	<p>5 Documents lodged with this form:</p>		
<p>Provide the full name(s) of the person(s) applying to change the register. Where a conveyancer lodges the application, this must be the name(s) of the client(s), not the conveyancer.</p> <p>Complete as appropriate where the applicant is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.</p>	<p>6 The applicant:</p> <p><u>For UK incorporated companies/LLPs</u></p> <p>Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u></p> <p>(a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>		
<p>This panel must always be completed.</p> <p>If you are paying by direct debit, this will be the account charged.</p> <p>This is the address to which we will normally send requisitions. However if you insert an email address, we will use this whenever possible.</p>	<p>7 This application is sent to Land Registry by</p> <div style="border: 1px solid black; padding: 2px; width: fit-content;"> <p>Key number (if applicable):</p> </div> <p>Name:</p> <p>Address or UK DX box number:</p> <p>Email address:</p> <p>Reference:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Phone no:</td> <td style="width: 50%; padding: 2px;">Fax no:</td> </tr> </table>	Phone no:	Fax no:
Phone no:	Fax no:		
<p>Complete this panel if you want us to notify someone else that we have completed this application.</p>	<p>8 Third party notification</p> <p>Name:</p> <p>Address or UK DX box number:</p> <p>Email address:</p> <p>Reference:</p>		
<p>Place 'X' in the appropriate box.</p> <p>In this and panel 10, each proprietor may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.</p>	<p>9 The address(es) for service for each proprietor of the registered estate(s) to be entered in the register is</p> <p><input type="checkbox"/> the address of the property (where this is a single postal address)</p> <p><input type="checkbox"/> the address(es) for service from the transfer/assent</p> <p><input type="checkbox"/> (for existing proprietors who are remaining in the register) the current address(es) for service in the register</p> <p><input type="checkbox"/> the following address(es):</p>		

<p>Where a charge has an MD reference we will ignore an address given in this panel unless the charge is in favour of a United Kingdom bank and neither the charge form nor any agreement we have with the lender specifies an address for service.</p> <p>For permitted addresses see note to panel 9.</p> <p>Complete as appropriate where the lender is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.</p>	<p>10 Name and address(es) for service of the proprietor of any new charge to be entered in the register:</p> <p>For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u></p> <p>(a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
<p>If this statement applies (i) place 'X' in the box and (ii) enclose Form D1.</p> <p>Section 27 of the Land Registration Act 2002 lists the registrable dispositions.</p> <p>Rule 57 of the Land Registration Rules 2003 sets out the disclosable overriding interests that you must tell us about.</p>	<p>11 Disclosable overriding interests</p> <p><input type="checkbox"/> This application relates to a registrable disposition and disclosable overriding interests affect the registered estate.</p>
<p>Full details of the evidence of identity that is required can be found in <a href="#">Practice Guide 67</a> and in <a href="#">'Completing the evidence of identity panels on forms AP1, FR1, and DS2'</a> both of which can be found on the <a href="#">GOV.UK website</a>.</p> <p>Place 'X' in the appropriate box.</p> <p>Conveyancer is defined in rule 217A, Land Registration Rules 2003 and includes persons authorised under the Legal Services Act 2007 to provide reserved legal services relating to land registration and includes solicitors and licensed conveyancers.</p>	<p>12 Confirmation of identity</p> <p>When registering transfers, charges, leases and other dispositions of land, or giving effect to a discharge or release of a registered charge, Land Registry relies on the steps that conveyancers take, where appropriate, to verify the identity of their clients. These checks reduce the risk of property fraud.</p> <p>Where a person was not represented by a conveyancer, Land Registry requires 'evidence of identity' in respect of that person, except where the first alternative in panel 13(2) applies.</p> <p>'Evidence of identity' is evidence provided in accordance with any current direction made by the Chief Land Registrar under section 100(4) of the Land Registration Act 2002 for the purpose of confirming a person's identity.</p> <p>If this application is to register a transfer, lease or charge, or to give effect to a discharge in Form DS1 or a release in Form DS3 complete one of the following</p> <p><input type="checkbox"/> I am a conveyancer, and I have completed panel 13</p> <p><input type="checkbox"/> I am not a conveyancer, and I have completed panel 14</p>

13 Where the application is sent to Land Registry by a conveyancer

(1) Details of conveyancer acting

If you are sending an application to register a transfer, lease or charge, for each party to each disposition that is to be registered state in the table below the details of the conveyancer (if any) who represented them.

Where a party is not represented by a conveyancer you must also complete (2) below.

Place 'X' in the box in the second column if the person or firm who is sending the application to Land Registry represented that party in the transaction. Otherwise complete the details in the third column. If the party is not represented insert 'none' in the third column.

Name of transferor, landlord, transferee, tenant, borrower or lender		Conveyancer's name, address and reference
	<input type="checkbox"/>	Reference:
	<input type="checkbox"/>	Reference:
	<input type="checkbox"/>	Reference:

If you are sending an application to give effect to a discharge in Form DS1 or release in Form DS3 for each lender, state in the table below the details of the conveyancer (if any) who represented them.

Where a lender is not represented by a conveyancer you must also complete (2) below.

Place 'X' in the box in the second column if the person or firm who is sending the application to Land Registry represented that party in the transaction. Otherwise complete the details in the third column. If the party is not represented insert 'none' in the third column.

Name of lender		Conveyancer's name, address and reference
	<input type="checkbox"/>	Reference:
	<input type="checkbox"/>	Reference:

<p>Place 'X' in the appropriate box(es).</p> <p>Insert the name of each unrepresented transferor, landlord, transferee, tenant, borrower or lender for whom you give this confirmation.</p> <p><b>Evidence of identity is defined in panel 12. Full details of the evidence of identity that is required can be found in <a href="#">Practice Guide 67</a> available on the <a href="#">GOV.UK</a> website.</b></p>	<p>(2) Evidence of identity</p> <p>Where any transferor, landlord, transferee, tenant, borrower or lender listed in (1) was not represented by a conveyancer</p> <p><input type="checkbox"/> I confirm that I am satisfied that sufficient steps have been taken to verify the identity of</p> <p>-----</p> <p>-----</p> <p>and that they are the registered proprietor or have the right to be registered as the registered proprietor</p> <p><input type="checkbox"/> I enclose evidence of identity in respect of each unrepresented transferor, landlord, transferee, tenant, borrower or lender for whom I have not provided the confirmation above</p>									
	14	<p>Where the application is sent to Land Registry by someone who is not a conveyancer</p> <p>(1) Details of conveyancer acting</p> <p>If you are sending an application to register a transfer, lease or charge (i.e. a mortgage), for each party to each disposition that is to be registered, state in the table below the details of the conveyancer (if any) who represented them.</p> <p>You must also complete (2) below.</p>								
<p>If the party is not represented insert 'none' in the second column.</p>		<table border="1"> <thead> <tr> <th data-bbox="667 1263 1050 1402">Name of transferor, landlord, transferee, tenant, borrower or lender</th> <th data-bbox="1050 1263 1538 1402">Conveyancer's name, address and reference</th> </tr> </thead> <tbody> <tr> <td data-bbox="667 1402 1050 1599"></td> <td data-bbox="1050 1402 1538 1599">Reference:</td> </tr> <tr> <td data-bbox="667 1599 1050 1796"></td> <td data-bbox="1050 1599 1538 1796">Reference:</td> </tr> <tr> <td data-bbox="667 1796 1050 1980"></td> <td data-bbox="1050 1796 1538 1980">Reference:</td> </tr> </tbody> </table>	Name of transferor, landlord, transferee, tenant, borrower or lender	Conveyancer's name, address and reference		Reference:		Reference:		Reference:
Name of transferor, landlord, transferee, tenant, borrower or lender	Conveyancer's name, address and reference									
	Reference:									
	Reference:									
	Reference:									
		<p>If you are sending an application to give effect to a discharge in Form DS1 or release in Form DS3, for each lender state in the table below the details of the conveyancer (if any) who represented them.</p>								

		You must also complete (2) below.	
If the party is not represented insert 'none' in the second column.		Name of lender	Conveyancer's name, address and reference
			Reference:
			Reference:
Place 'X' in the appropriate box(es). <b>Evidence of identity is defined in panel 12. Full details of the evidence of identity that is required can be found in <a href="#">'Completing the evidence of identity panels on forms AP1, FR1, and DS2'</a> available on the <a href="#">GOV.UK website</a>.</b>		<b>(2) Evidence of identity</b> <input type="checkbox"/> for each applicant named in panel 6 is enclosed <input type="checkbox"/> for each unrepresented transferor, landlord, transferee, tenant, borrower or lender listed in (1) is enclosed	
If a conveyancer is acting for the applicant, that conveyancer must sign.  If no conveyancer is acting, the applicant (and if the applicant is more than one person then each of them) must sign.	15	Signature of conveyancer:  Date: -----  OR Signature of applicant: -----  Date: -----	

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

# Land Registry

## Application for noting the overriding priority of a statutory charge



<p>If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.</p> <p>Land Registry is unable to give legal advice, but you can find guidance on Land Registry applications (including our practice guides for conveyancers) at <a href="http://www.gov.uk/land-registry">www.gov.uk/land-registry</a>.</p> <p>Conveyancer is a term used in this form. It is defined in rule 217A, Land Registration Rules 2003 and includes persons authorised under the Legal Services Act 2007 to provide reserved legal services relating to land registration and includes solicitors and licensed conveyancers.</p>	<b>LAND REGISTRY USE ONLY</b>	
	Record of fees paid	
	Particulars of under/over payments	
	Reference number Fees debited £	

Where there is more than one local authority serving an area, enter the one to which council tax or business rates are normally paid.	1	Local authority serving the property:		
	2	Title number(s) of the property:		
<p>Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.</p> <p>Place 'X' in the appropriate box.</p> <p>State reference, for example 'edged red'.</p>	3	<p>Property:</p> <p>The statutory charge affects</p> <p><input type="checkbox"/> the whole of each registered estate</p> <p><input type="checkbox"/> the part(s) of the registered estate(s) shown on the attached plan:</p>		
<p>To find out more about our fees visit <a href="http://www.gov.uk/government/collections/fees-land-registry-guides">www.gov.uk/government/collections/fees-land-registry-guides</a></p> <p>Place 'X' in the appropriate box.</p> <p>The fee will be charged to the account specified in panel 6.</p> <p>Provide the full name(s) of the person(s) applying for the noting of the overriding priority. Where a conveyancer lodges the application, this must be the name(s) of the client(s), not the conveyancer.</p>	4	Application and fee		
		Application	Fee paid (£)	
		Noting of priority of statutory charge		
		Fee payment method		
		<input type="checkbox"/> cheque made payable to 'Land Registry'		
	<input type="checkbox"/> direct debit, under an agreement with Land Registry			
	5	The applicant:		

<p>This panel must always be completed. If you are paying by direct debit, this will be the account charged. This is the address to which we will normally send requisitions. However if you insert an email address, we will use this whenever possible.</p>	6	This application is sent to Land Registry by	
		Key number (if applicable):	
		Name: Address or UK DX box number:  Email address: Reference:	
		Phone no:	Fax no:
<p>List the documents lodged with this form. If this application is accompanied by either Form AP1 or FR1 please only complete the corresponding panel on Form AP1 or DL (if used). Original documents are only required if your application is a first registration, when we will return the originals if a certified copy is supplied. If your application is not a first registration then we only need certified copies of deeds or documents you send to us with Land Registry application forms. Once we have made a copy of the documents you send to us, they will be destroyed, this applies to both originals and certified copies.</p>	7	Documents lodged with this form:	
<p>Place 'X' in the appropriate box and complete as necessary.</p>	8	<input type="checkbox"/> I certify that the statutory charge is already registered as entry number in the charges register  <input type="checkbox"/> I certify that the statutory charge has arisen and this is evidenced by:	
<p>State the provision or other reason.</p>	9	<p>The applicant applies for an entry to be made in the register to show that a statutory charge referred to in panel 8 has priority over the charge(s) shown in panel 10. The statutory charge has priority by virtue of:</p>	
<p>If there are two or more charges of the same date to the same lender, you must clearly identify which charge(s) priority is claimed over by including a number or other identifier for the charge in the first column.</p>	10	Identify the charge(s) over which priority is claimed	
		Date of charge	Lender
<p>If a conveyancer is acting for the applicant, that conveyancer must sign. If no conveyancer is acting, the applicant (and if more than one person then each of them) must sign.</p>	11	Signature of applicant or their conveyancer: .....	
		Date:	

## WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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DRAFT



**Letter to Land Registry in respect of unregistered property**

Your ref:

Our ref:

Date:

The Chief Land Registrar

XXXXXX

Dear Sir,

**Property:**

I refer to the above property, which has today been transferred by the Council under the Enforced Sale Procedure.

In accordance with the procedure agreed with you I, on behalf of the Council and being duly authorised to DO so, hereby certify that:

1. As recited in clause [ ] of the Contract for Sale dated [ ] the Act (as referred to therein) contains provision conferring a charge on the Premises and on all estates and interests therein.
2. As further recited in clause [ ] of the said Contract for Sale the Act confers on the Council all the powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagee by deed.
3. The Council has followed the procedure in the Act as to service of notices and the carrying out of the works.
4. The charge(s) pursuant to which the Council has disposed of the property affect(s) the whole of the property known as [ ] today disposed of by the Council.
5. As recited in clause [ ] of the Contract for Sale the charge(s) pursuant to which the Council has disposed of the property was/were registered in Part 2 of the Register of Local Land Charges on the [ ].

Yours Faithfully

Council Solicitor

Dear,

**Re:**

**Address:**

I refer to the above and my letter dated, requesting the Title Deeds and advising you of the Council's statutory powers in relation to the charges outstanding in respect of the above property.

In that letter, I advised you that the Council has the power to sell the above property, for the purpose of enforcing the charge and to deduct from the proceeds of sale the debts due to the Council.

The Council's charge has now been registered at HM Land Registry and it is now the Council's intention to market the property with a view to a sale thereof.

Yours Faithfully,

DRAFT

Dear,

**Re:**

**Address:**

The Council has, pursuant to its statutory powers. Carried out certain works to the above premises, the cost of which have been registered in Part 2 of the Register of Local Land Charges as financial charges. Notice(s) detailing the works and the costs have been served, together with Notice(s) of demand for payment of the amount(s) due to the Council in order to satisfy the requirements of Section 103(1) of the Law of Property Act 1925.

The statutes pursuant to which the Council has carried out such works confer, in favour of the Council, a charge on the premises and all estates and interests therein and the Council has, for the purposes of enforcing the charge all the same powers and remedies under the Law of Property Act 1925, and otherwise as if it were a mortgagee by deed having powers of sale, of lease, of accepting surrenders of leases and of appointing a receiver.

The Council proposes, pursuant to its statutory powers, to register the said financial charges against the title to the above premises. Once the charge(s) have been registered, the Council may then sell the premises and apply the proceeds of sale towards the discharge of the debt. If, however, the debt is greater than the proceeds received on any sale, the Council has the right to pursue you for any balance owing, if necessary by legal action.

I should therefore be grateful if you would make arrangements through me for the discharge of the outstanding debt or, if you are not prepared to do this, then please forward to me all the title deeds in your possession relating to the above property. If they are not in your possession, please let me know and advise me of the whereabouts of the deeds.

Please note, if I hear nothing from you within 21 days from the date hereof, I will proceed to register the Council's charges against your title to the above premises.

If you wish to discuss this matter, please do not hesitate to contact me on the above details.

Yours faithfully,

**Suggested Special Conditions**

**Building Act 1984 (Section 76) Charge – Unregistered Property**

**1. The Property**

All that Property situate at and known as [ ] on the borough of **XXXXXX** shown for identification purposes only edged red on the attached plan.

**2. Recitals**

**2.1 WHEREAS** the Vendor is a “local authority” within the meaning of S126 of the Building Act 1984 (“the Act”) and the steps taken by the Vendor as referred to in these recitals were taken in their capacity as a local authority within the meaning of the Act

**2.2 AND WHEREAS** a local authority, if it considers that any premises are in such a state as to be prejudicial to health or a nuisance, and unreasonable delay in remedying that defective state would be occasioned by following the procedure prescribed by Section 80 of the Environmental Protection Act 1990 may, under Section 76 of the Act , serve Notice on the owner or occupier of those premises stating that the local authority intend to remedy the defective state and may do so, subject to there being no counter-notice served by the owner or occupier.

**2.3 AND WHEREAS** a notice under Section 76 of the Act is to be served in accordance with Section 94 of the Act.

**2.4 AND WHEREAS** the expense of such works may, by virtue of Subsection (2) of Section 76 of the Act, be recovered from the owner or occupier of the premises and such expense plus interest thereon, by virtue of Section 107 of the Act, from the date of completion of the works shall, until recovered, be a charge upon the premises and all estates and interests in them and gives a local authority for the purposes of enforcing such a charge, all the powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed.

**2.5 AND WHEREAS** such charge is by virtue of Section 1(1)(a) of the Local Land Charges Act 1975, registerable as a Local Land Charge.

**2.6 AND WHEREAS** under Section 7 of the Local Land Charges Act 1975, a local land charge falling within the aforementioned Section 1(1)(a) takes effect as if it had been created by deed of charge, by way of legal mortgage within the meaning of the Law of Property Act 1925, but without prejudice to the priority of the charge.

**2.7 AND WHEREAS** Section 101 of the Law of Property Act 1925 provides that a mortgagee by deed shall have inter alia the power of sale of the property so mortgaged.

**2.8 AND WHEREAS** pursuant to a notice dated [ ] the Vendor gave Notice to the owner or owners of the property known as [ ] (“the premises”) under Section 76 of the Act by serving the Notice in accordance with Section 94 of the Act by –

ALTERNATIVE 1 addressing the Notice to [ ] and delivering it to that person **and/or**

ALTERNATIVE 2 addressing the Notice to [ ] and leaving it or sending it in a pre-paid letter addressed to that person at [ ] being the usual or last known residence of that person **and/or**

ALTERNATIVE 3 addressing the Notice to the Secretary or Clerk of [XXXX Limited] at [ ], being the registered or principal office of [XXXX Limited] and delivering it or sending it in a pre-paid letter to that address **and/or**

ALTERNATIVE 4 (it not being practicable, after reasonable inquiry having been made, to ascertain the name and address of the person to or on whom the Notice should be given or served) addressing the Notice to the owner or owners of the premises (naming the premises) and either delivering it to some person on the premises or (there being no person on the premises to whom it can be delivered) affixing the Notice or a copy of it to some conspicuous part of the premises.

ALTERNATIVE 5 (the premises at the date such Notice is given or served being unoccupied) addressing the Notice to the owner or owners of the premises (naming the premises) and affixing the Notice or a copy of it to some conspicuous part of the premises stating that the Vendor intended to remedy the defective state of the premises after the expiration of [ ] days from the date of service of the Notice by carrying out the following works: [XXXX]

**2.9 AND WHEREAS** there being no counter-notice served upon the Vendor within the period prescribed by Section 76(3) of the Act, the Vendor executed the said works between the [date] and the [date] at a cost to the Vendor of £ [ ].

**2.10 AND WHEREAS** on the [date] the Vendor registered the cost of the works in Part II of the Council's Local Land Charges Register as a specific financial charge against the premises, such charge attracting interest at such a rate from time to time applying.

**2.11 AND WHEREAS** the expenses incurred by the Vendor as referred to in Recital 2.9 have become a charge on the premises by virtue of Section 107 of the Act as more particularly referred to in Recital 2.4 and the said expenses continue to remain outstanding.

### **3. Title**

**3.1** The title to the property is unregistered and the Vendor does not have in its possession any of the title deeds or documents relating to the Property and the Purchaser shall raise no requisition thereon or objections thereto and shall not be entitled to postpone or delay completion as a result thereof.

**3.2** The Vendor cannot produce an up-to-date receipt in respect of any yearly rent (if any) payable on the Property nor any other evidence that any such rent has been paid to date (and in which respect the Vendor shall not be liable for any arrears of such rent up to the date of Actual Completion and which liability the Purchaser will assume on Actual Completion) and the Purchaser shall raise no requisition nor be entitled to delay or postpone completion as a result thereof.

**3.3** The Purchaser purchases with full knowledge of the fact that on first registration of the title to the Property at HM Land Registry the Chief Land Registrar will make an entry against such title on the following (or similar terms) and the Purchaser shall make no claim or demand against the Vendor in regard thereto:

“The Property is subject to such restrictive covenants and to such rent charges as may have been imposed thereon before [*this will be the date of application for first registration*] and are still subsisting and capable of taking effect”.

#### **4. Possession**

Vacant possession of the Property will be given to the Purchaser on Actual Completion

#### **5. Covenants for Title**

**5.1** The Vendor is selling all of the estates and interests in the Property as are bound by the Charge(s) arising under Section 107 of the Building Act 1984 as referred to in Recital 2.11 of these Special Conditions but freed and discharged from the said Charge(s).

**5.2** Sections 1 to 9 of the Law of Property (miscellaneous Provisions) Act 1994 shall not apply to this Agreement and the Transfer of the Property to the Purchaser (“the Transfer”) and the Transfer shall contain the following provisions:

**5.2.1** In consideration of £ [**naming the amount of the consideration**] (receipt of which is acknowledged) the Vendor transfers the Property to the Purchaser

**5.2.2** The parties agree and declare that the covenants by the Vendor implied by Sections 1 to 9 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not apply to this transfer

#### **6. Matters affecting the Property**

The property is sold subject to and (as the case may be) with the benefit of:

**6.1** all rents rights exceptions and reservations and covenants and conditions provisions and agreements and declarations or otherwise as subsist and relate to the Property without any obligation or liability on the part of the Vendor (whether as a result of its inability to produce the title deeds or documents to the property or otherwise) to define or provide details of the same.

**6.2** all Local Land Charges whether registered or not before or after the date hereof and all matters capable of being registered as such

**6.3** all notices served and orders demands proposals or requirements made by any local or public authority whether before or after the date hereof

**6.4** all actual or proposed orders directions notices charges restrictions conditions agreements or other matters arising under the town and country planning legislation and environmental law.

**6.5** all covenants exceptions and reservations of whatever nature all rights of way water light air and other rights easements quasi easements liabilities and public or private rights whatever and to any liability to repair or contribute to the repair of sewers drains fences or other like matters as the Purchaser shall have notice of or shall be apparent on inspection of the Property.

#### **7. Indemnity covenant by the Purchaser**

The transfer will contain a covenant by the Purchaser with the Vendor that the Purchaser and its successors in title will henceforth observe and perform all such matters subject to which the property is expressed to be sold in Clause 6.1 of these Special Conditions the breach of which would or could expose the Vendor to liability (either direct or indirect) and will contain an indemnity by the Purchaser in favour of the Vendor against all actions proceedings costs claims and demands which may be made against the Vendor in connection with the breach non-performance or non-observance of the same.

## **8. Subsales**

The Vendor will not be required to execute a Transfer of the property to any person other than the Purchaser and in one parcel and by one transfer.

## **9. General Conditions**

**9.1** "The General Conditions" means the Standard Conditions of Sale (Fourth Edition)

**9.2** The General Conditions are deemed to be incorporated herein so far as the same are applicable to a sale by private treaty and are not varied by or inconsistent with these Special Conditions and the "contract rate" will be four per cent (4%) per annum above the Base Rate for the time being of the Co-operative Bank plc.

**9.3** The General Conditions are amended as follows:

**9.3.1** Standard Conditions 2.2.5 and 2.2.6 shall not apply and the Deposit shall be paid to the Vendor's Solicitor as agent for the Vendor

**9.3.2** In Standard Condition 3.1.2 sub clause (c) the words "and could not reasonably" shall be deleted

**9.3.3** Standard Condition 3.4 shall not apply

**9.3.4** Standard Condition 4.6.2 shall not apply

**9.3.5** Standard Condition 5.1.1 shall not apply and the buyer assumes the risk when the contract is made

**9.3.6** Standard Condition 5.1.2 shall not apply and the buyer must buy the Property in whatever physical state it is in at completion.

**9.3.7** Standard Conditions 5.2.2 (b), 5.2.2 (e) and 5.2.2 (g) shall not apply

**9.3.8** Standard Condition 5.2.3 shall not apply

**9.3.9** Standard Condition 5.2.7 shall not apply

**9.3.10** In Standard Condition 5.2.2 (f) the words "nor change its use and is to comply with all statutory obligations relating to the property and indemnify the seller against all liability arising as a result of any breach of such obligation" shall be added at the end

**9.3.11** In Standard Condition 7.1.1 the words “or in negotiation leading to it” and “or was” shall be deleted

**9.3.12** Standard Condition 7.3.2 shall be deleted and the following substituted:  
Compensation is calculated at the contract rate on all sums payable under the contract (other than pursuant to Standard Condition 6.3) for the period between the completion date and actual completion.

## **10. Non-Merger**

The contract will not merge in the Transfer on completion but will continue in full force and effect in relation to any matters outstanding at completion.

## **11. Condition of the Property**

The Purchaser is deemed to have made a full and complete inspection of the Property and to have full knowledge and notice of the state of repair and condition thereof in all respects and the Purchaser shall make no claim or demand whatsoever against the Vendor in respect of any matter or thing arising out of or in connection with the state of repair and condition of the Property or any part thereof.

## **12. Transfer to take effect subject to General and Special Conditions**

The transfer is to take effect as if the disposition is expressly made subject to all matters to which the Property is sold subject under the General Conditions and Special Conditions of sale.

## **13. Completion date**

The sale will be completed at the office of the Vendor's Solicitor before 2.30pm on [ ]

## **14. Restriction on Assignment**

This Agreement is personal to the Purchaser and shall not be capable of assignment.



Dear,

**Re:**

**Address:**

I refer to the above property, which has today been transferred by the Council under the Enforced Sale Procedure.

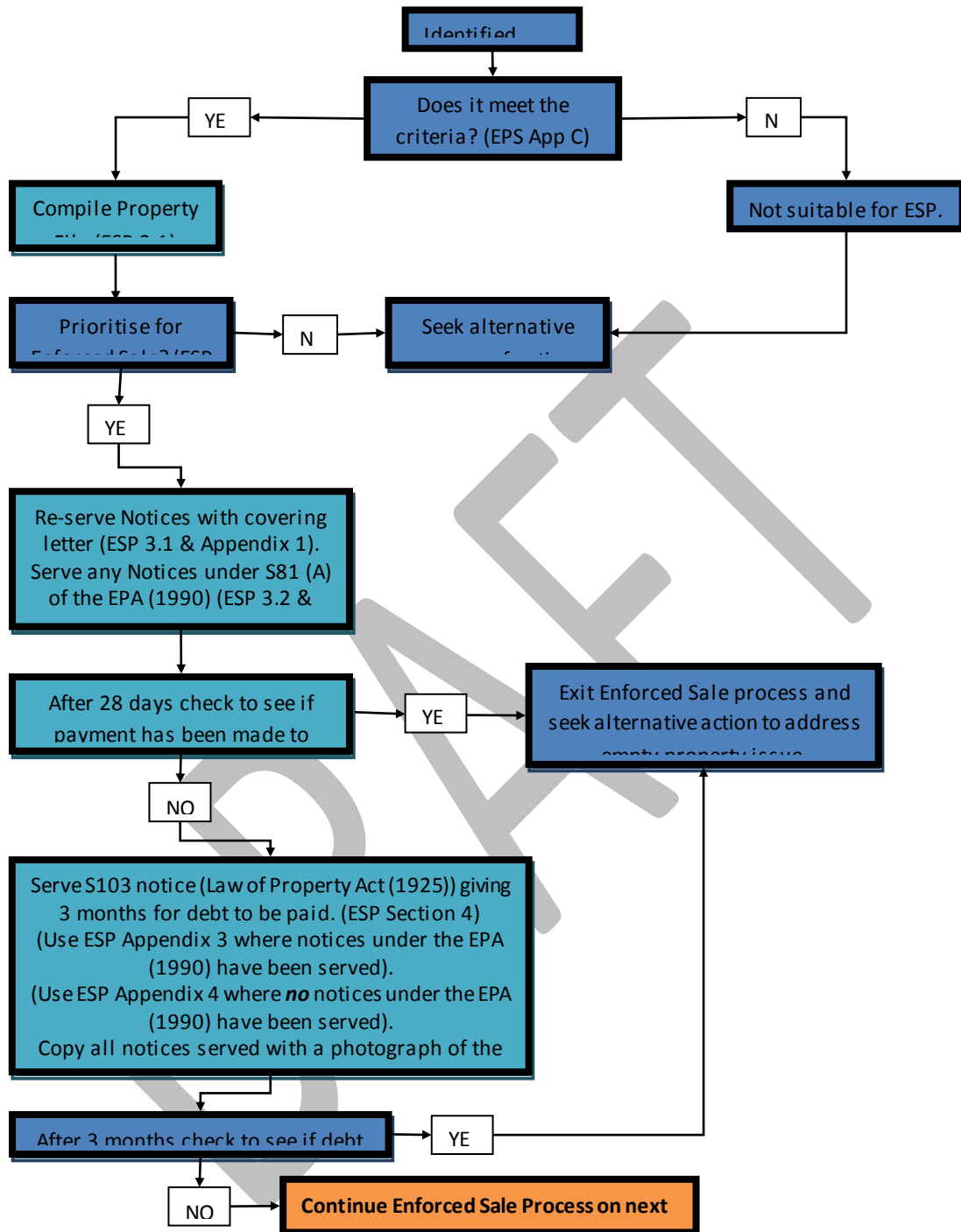
In accordance with the procedure agreed with you, I on behalf of the Council and being duly authorised to do so, hereby certify that:

1. As recited in clause [ ] of the Contract for Sale dated [ ] the Act (as referred to therein) contains provision conferring a charge on the Premises and on all estates and interests therein.
2. As further recited in clause [ ] of the said Contract for Sale the Act confers on the Council all the powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagee by deed.
3. The Council has followed the procedure in the Act as to service of notices and the carrying out of the works.
4. The charge(s) pursuant to which the Council has disposed of the property affect(s) the whole of the property known as [ ] today disposed of by the Council.
5. As recited in clause [ ] of the Contract for Sale the charge(s) pursuant to which the Council has disposed of the property was/were registered in part 2 of the Register of Local Land Charges on the [ ].

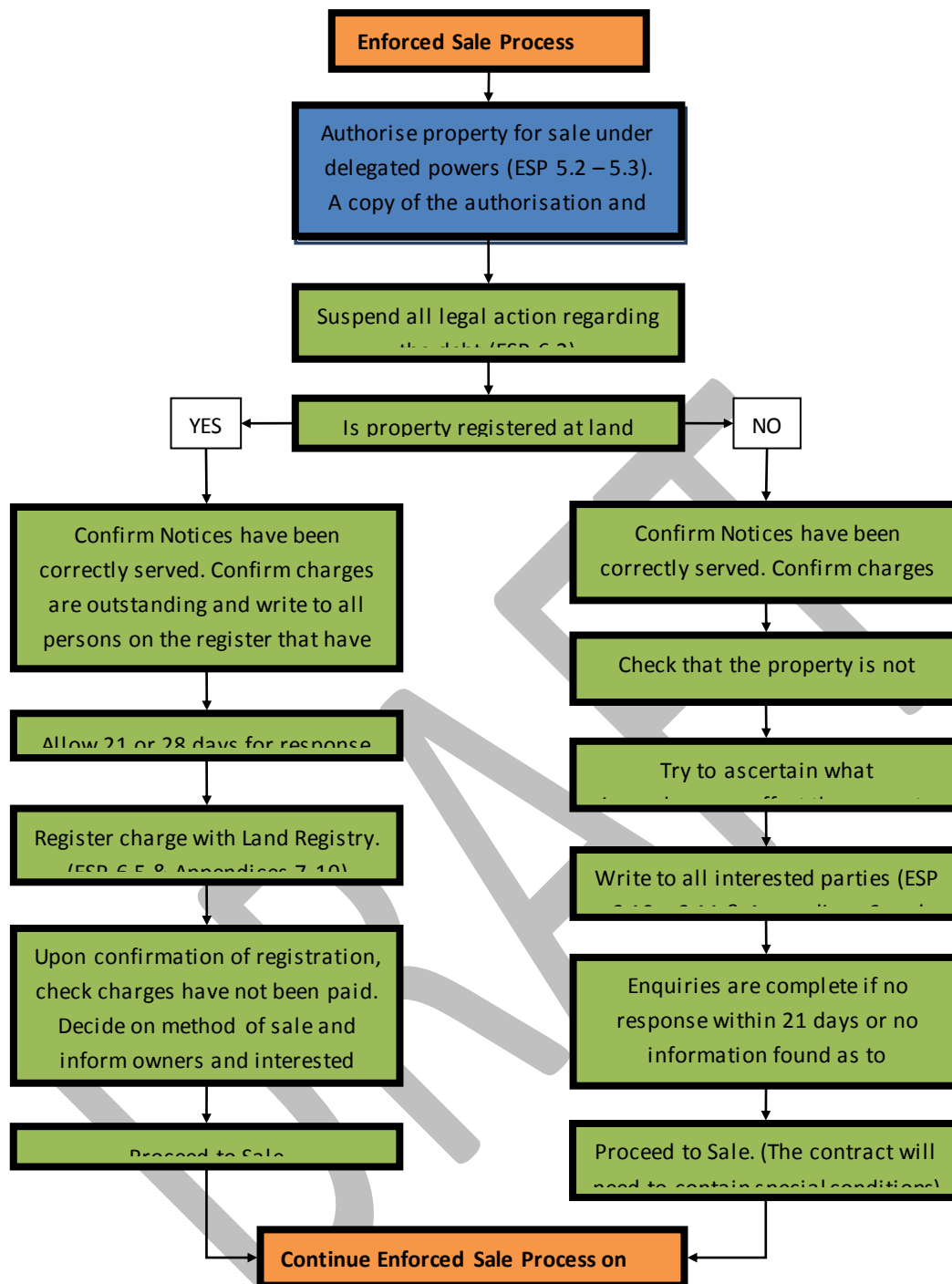
Yours Faithfully,

Solicitor

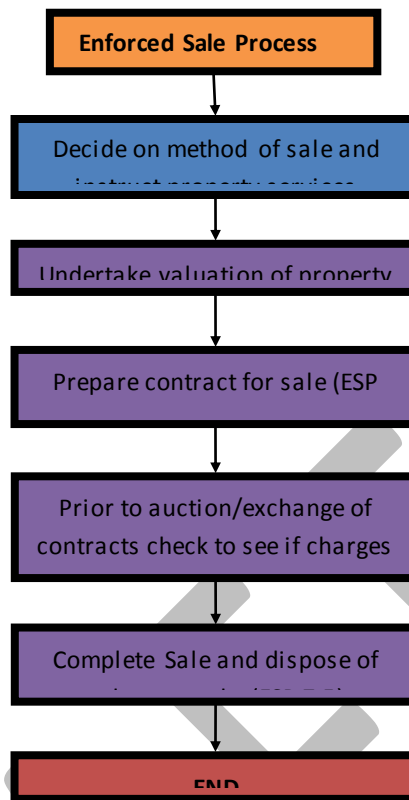
ESP process responsibility flow chart (Page 1)



## ESP process responsibility flow chart (Page 2)



### ESP process responsibility flow chart (Page 3)



**Key to**

PROPERTY SERVICES

LEGAL SERVICES

EMPTY PROPERTY

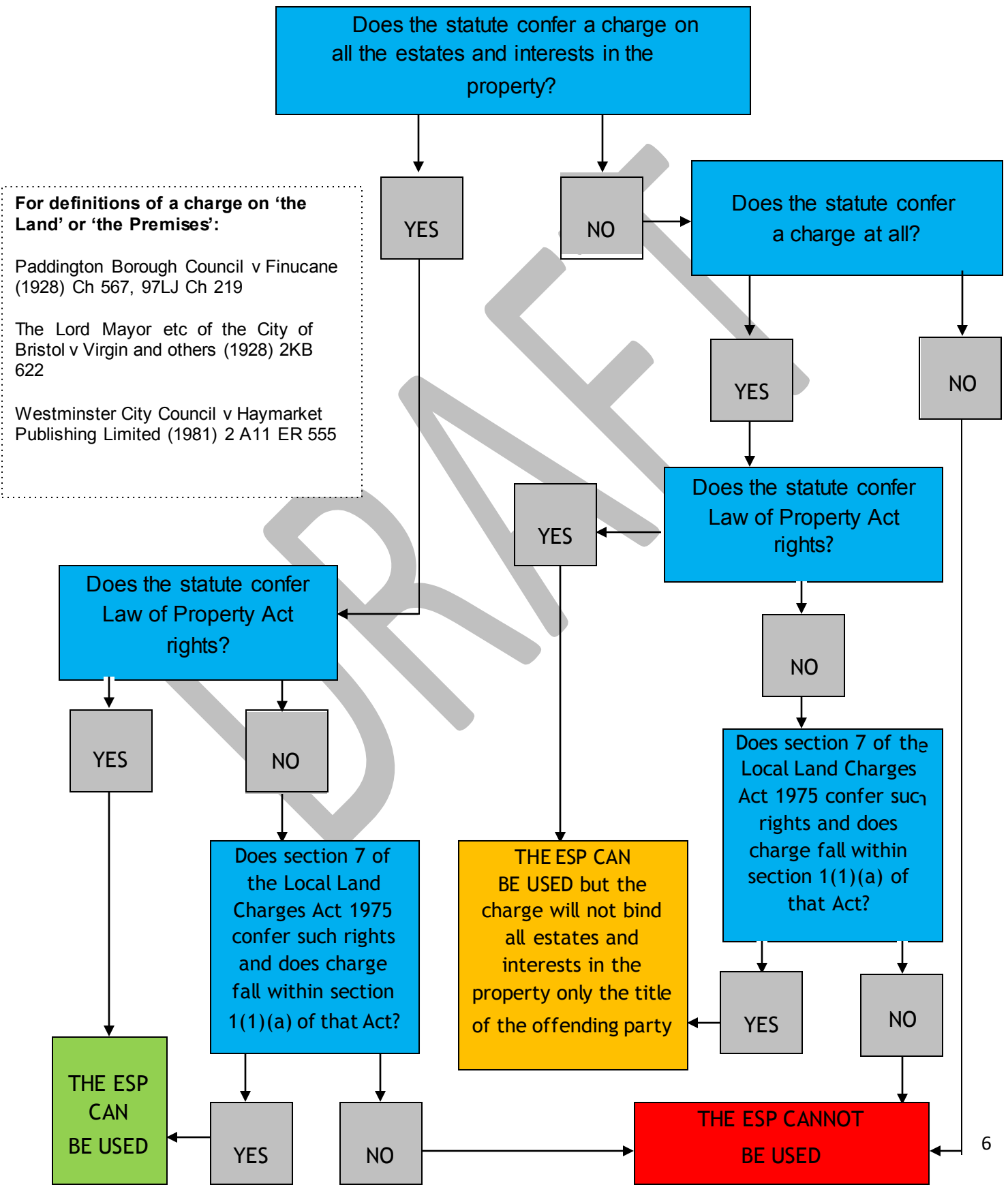
ENVIRONMENTAL

**Notices and charges used in the Enforced Sale Procedure**

<b>STATUTE</b>	<b>PRIORITY CHARGE</b>	<b>DOES INTEREST ACCRUE?</b>
<b>Public Health Act 1936</b> S45 (works to closets) & S83 (filthy or verminous)	YES	YES
<b>Local Government (Miscellaneous Provisions) Act 1976</b> S33 (restore services) & S35 (private sewer)	YES	NO
<b>Local Government (Miscellaneous Provisions) Act 1982</b> S27 (drains) & S29 (boarding up)	NO	NO
<b>Highways Act 1980</b> S154 (hedges, trees) & S165 (unfenced land)	YES	NO
<b>Building Act 1984</b> S59 (drainage), S60 (soil pipes), S76 (defective premises), Ss 77/78 (defective buildings), S79 (dilapidated building) & S84 (yards)	YES	NO
<b>Housing Act 2004</b> Ss 11 & 12 (improvement), S40(2) (emergency remedial action), Ss 49/50 (recovery of charges for enforcement action)	YES	YES
<b>Town &amp; Country Planning Act 1990</b> S215 (land condition)	NO	NO
<b>Environmental Protection Act 1990</b> S80 (statutory nuisance)	YES	YES
<b>Prevention of Damage by Pests Act 1949</b> S4 (rats and mice)	YES	YES

# Enforced Sale decision flow chart

(See Appendix 16 for relevant statutes)



**For definitions of a charge on 'the Land' or 'the Premises':**

Paddington Borough Council v Finucane (1928) Ch 567, 97LJ Ch 219

The Lord Mayor etc of the City of Bristol v Virgin and others (1928) 2KB 622

Westminster City Council v Haymarket Publishing Limited (1981) 2 A11 ER 555

Growth Scrutiny Committee

Work Programme – 2017 – 2018

**Vision: To enhance and improve the wealth profile, well-being and quality of life for the communities of Bolsover District**  
**Corporate Aim: Unlocking our Growth Potential**

Date of Meeting	Items		Lead Officer	Notes
14 <sup>th</sup> June 2017	Part A - Formal	<ul style="list-style-type: none"> <li>Setting the work plan</li> </ul>	Scrutiny Officer	
26 <sup>th</sup> July 2017	Part A - Formal	<ul style="list-style-type: none"> <li>Quarter 1 – Performance Update</li> </ul>	Kath Drury, Information, Engagement and Performance Manager	
		<ul style="list-style-type: none"> <li>Planning for the future – growth in Bolsover District</li> </ul>	Portfolio Holder – Efficiency & Business Development	
		<ul style="list-style-type: none"> <li>Website Demonstration</li> </ul>	Scott Chambers, Communications and Marketing Manager	
	Part B – Informal	<ul style="list-style-type: none"> <li>Review Work</li> </ul>	Scrutiny Officer	
20 <sup>th</sup> September 2017	Part A - Formal	<ul style="list-style-type: none"> <li>BDC Website – to receive an explanation for the delay in data being available for the new website, resulting in delays to the launch.</li> </ul>	James Arnold – Assistant Director, Planning and Environmental Health	
		<ul style="list-style-type: none"> <li>Concerns regarding an extension to the target date for the Local Plan submission and the consequences to the authority of an extension</li> </ul>	James Arnold – Assistant Director, Planning and Environmental Health	
		<ul style="list-style-type: none"> <li>Agreement of Review Scope</li> </ul>	Scrutiny Officer (Acting)	
	Part B – Informal	<ul style="list-style-type: none"> <li>Review Work</li> </ul>	Scrutiny Officer (Acting)	

Date of Meeting	Items		Lead Officer	Notes
<b>18<sup>th</sup> October 2017</b>	Part A - Formal	<ul style="list-style-type: none"> <li>• Planning for the future – Growth in Bolsover District. Discussion with the Leader</li> </ul>	Leader – Strategic Planning and Regeneration	
		<ul style="list-style-type: none"> <li>• Business Growth update</li> </ul>		
	Part B - Informal	<ul style="list-style-type: none"> <li>• Review work</li> </ul>	Scrutiny Officer (Acting)	Tourism – what BDC is doing
<b>15<sup>th</sup> November 2017</b>	Part A - Formal	<ul style="list-style-type: none"> <li>• Quarter 2 – Performance Update</li> </ul>	Kath Drury, Information, Engagement and Performance Manager	
		<ul style="list-style-type: none"> <li>• Growth Performance Indicators</li> </ul>	Kath Drury, Information, Engagement and Performance Manager	
		<ul style="list-style-type: none"> <li>• Quarterly Growth Update</li> </ul>	Dan Swaine, CEO	
	Part B – Informal	<ul style="list-style-type: none"> <li>• Review Work</li> </ul>	Cllr Fritchley	
<b>13<sup>th</sup> December 2017</b>	Part B – Informal	<ul style="list-style-type: none"> <li>• Review Work</li> </ul>	Scrutiny Officer (Acting)	
<b>3<sup>rd</sup> January 2018</b>	Part A - Formal	<ul style="list-style-type: none"> <li>• Update on BDC Business Website</li> </ul>	Scott Chambers, Communications Manager	
	Part B - Informal	<ul style="list-style-type: none"> <li>• Review work</li> </ul>	Scrutiny Officer (Acting)	
<b>31<sup>st</sup> January 2018</b>	Part A - Formal	<ul style="list-style-type: none"> <li>• Update on mapping of garage and industrial sites</li> </ul>	Grant Galloway, JAD Property & Estates	
	Part B - Informal	<ul style="list-style-type: none"> <li>• Review work</li> </ul>	Scrutiny & Elections Officer	
<b>28<sup>th</sup> February 2018</b>	Part A - Formal	<ul style="list-style-type: none"> <li>• Quarter 3 – Performance Update</li> </ul>	Kath Drury, Information, Engagement and Performance Manager	
		<ul style="list-style-type: none"> <li>• Committee Work Programme</li> </ul>	Scrutiny & Elections Officer	
	Part B – Informal	<ul style="list-style-type: none"> <li>• Review Work</li> </ul>	Scrutiny & Elections Officer	



Date of Meeting	Items		Lead Officer	Notes
4 <sup>th</sup> April 2018	Part A - Formal	• Draft Enforced Sale Procedure	Karl Apps, Joint Housing Strategy and Growth Manager	
		• Committee Work Programme	Scrutiny & Elections Officer	
	Part B - Informal	• Review Work – Analysis of evidence to date; EM Network Information Request; Draft Report	Scrutiny & Elections Officer	
2 <sup>nd</sup> May 2018	Part A - Formal	• Quarter 4 – Performance Update	Kath Drury, Information, Engagement and Performance Manager	
		• Committee Work Programme	Scrutiny & Elections Officer	
	Part B – Informal	• Review of Income Generation (Draft report)	Scrutiny & Elections Officer	

Growth Scrutiny Committee Membership (10 Members)	Document Status
Councillors: T. Alexander, A. Anderson, P. Barnes, G. Buxton, J. Clifton, T Connerton, M. Dixey, P Smith, S. Statter, & J Wilson	v2. 11.10.17 LC v.3 15.12.17 LC v.4 12.01.18 LC v190218 v230318

Future items for 2018/19:

- Review of Income Generation – Final Report
- Quarterly Performance Reports
- Growth Strategy Update (Q3 and Q4 2017/18)
- Growth Strategy Update (Q1 and Q2 2018/19)
- Growth Strategy Update (Q3 and Q4 2018/19)
- Growth Performance Indicators (Q3 and Q4 2017/18)
- Growth Performance Indicators (Q1 and Q2 2018/19)
- Growth Performance Indicators (Q3 and Q4 2018/19)