

# EMPTY HOMES STRATEGY

2022-2027



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# 1. Background & Introduction

In the last decade the number of empty homes nationally did begin to fall. However, the most recent major pre pandemic report – Empty Homes in England 2019 - published by the national campaigning charity 'Action on empty homes' detailed that since 2017, there has been a steady increase in empty homes nationally. The increases have occurred across the country in both low and high value property areas. This is despite the ability since April 2019 for councils to be able to introduce higher council tax premiums on properties vacant for 2 or more years, and with even higher more punitive premiums for homes empty for 5 and 10 years.

An empty dwelling is a wasted resource which could provide a valued home to a household and a useful income to the owner if let or sold.

## 2. Requirement for an Empty Property Strategy

Local authorities in England are not required to publish a specific strategy for dealing with empty homes, but it is good practice to do so. A property does not need to be used all of the time to be 'occupied'. Properties that are used infrequently, such as a second home or a holiday home, are not covered in the strategy. This strategy sets out a pragmatic framework that underpins the way Winchester City Council will continue to approach its work to tackle empty homes and aims to build on the previously named 2016 - 2021 Empty Property Strategy. The new strategy has been developed in the context of the council's corporate aims and values and contributes to the wider Housing Strategy 2017/18 – 2022/23: Priority 4 – To make the best use of housing. It provides a response that is proportionate and in context; in that Winchester is fortunate and has for its 54,427 homes and 250 square mile district size relatively low levels of very long term vacant properties. In fact, the number of such properties (vacant for 36 months or more) actually declined over the 5 year life of the previous strategy. This was likely due in part to the implementation of powers to charge a premium on council tax payable on empty homes.

## 3. Action

The council can either take enforcement action or provide advice and assistance or a combination of both to the owners of empty homes. Whilst the council has legal powers to bring empty homes back into use, it is neither practical nor feasible to be involved in the vast majority of cases. Many less entrenched empty homes will be returned to use by their owners without any need for assistance or intervention by the council. However, where the owner is either unable, or unwilling, to return a very long term empty home back in to use, the council may intervene. Focus will be given to properties that have been vacant for in excess of 24 months and where it can be demonstrated and evidenced that the property has been problematic and has had a significant and negative impact on the local community. This will normally be through it having attracted anti-social behaviour (ASB) in its widest forms; from the neglect of

the property causing it to seriously impact on and cause damage to adjoining homes; to it being used as a drinks / drugs den; for fly tipping or by vandals and squatters etc.

## 4. Successes

During the life of the previous strategy the council was successful in obtaining an Interim Empty Dwelling Management Order (EDMO) from the First-tier Tribunal (Residential Property Chamber) which was followed by the issuing of a Final EDMO in respect of a home in the Badger Farm neighbourhood of the city. This property had been vacant for in excess of 10 years and during this time suffered a

flood causing extensive internal damage, plus had been subject to ongoing and frequent ASB. The house was blighting an otherwise pleasant community. After securing control of the property for 7 years and renovation works costing in excess of £50k, the house was let to a family previously facing homelessness. The rental income during the 7 years the council has control over and responsibility for the property will enable the council to recoup its refurbishment costs in full. At the end of the 7 years the house will be returned to the owner. There is no dedicated budget set aside for improving a property via the EDMO process and any funding request would have to be addressed through the council's normal processes.

The instigation of enforcement action through the EDMO process is only suitable in quite extreme cases as demonstrated by the relatively few issued nationally. Albeit old, according to Parliamentary Questions, in 6 years to and including 2011 just 43 EDMOs had been authorised by the First-tier Tribunal (Residential Property Chamber) from 64 applications submitted by local authorities. The Government does not collect data on the number of EDMOs issued, but in February 2015 an investigation by the Guardian newspaper reported that 108 EDMOs had been issued since their inception.

#### Winchester Property pre EDMO Renovation Works





## 5. Strategic Aim

The overarching aim of the strategy is to help return long term private sector empty homes to occupation through primarily informal methods, although ultimately enforcement action may be required.

One of the first and key steps in tackling empty homes is understanding the reasons why a property has become empty. Reasons for vacancy will vary according to owner and property circumstances and establishing why a property has been left empty will play an important first step in bringing about its re-occupation. Those properties that have been left empty the shortest time will likely return to occupation, but in cases where a property is proving problematic, it will be examined on its own merit and its circumstances assessed before a decision is reached as to the best course of action for the council to pursue.

## 6. What is an Empty Home?

In this policy the term 'empty home' is taken to be an empty residential dwelling i.e. a house, bungalow, flat or maisonette as defined under the Housing Act 2004 (see Appendix 2).

There are broadly two types of empty properties: transactional empty properties and long-term empty properties. Transactional empty properties are usually empty for up to six months, as the result of a change in tenant or ownership as part of the normal cycle of moving house. The vast majority of properties are empty for less than six months, apart from those occasionally undergoing major renovation works.

In some instances, a property may be or appear to be empty, but is not classed as an empty home. A property does not have to be used all the time to be classed as occupied. For example, if it is:

- a second home or a holiday home;

- a property which is part of a wider regeneration programme and could be in the process of being developed or marked for demolition;
- a property which appears empty due to an overgrown garden or through lack of maintenance or repair but which could in fact be occupied;
- a property which has pending planning permission, could be awaiting refurbishment or could be waiting for new occupants to move in;
- where the owner is living elsewhere to provide or receive personal care (illness, old age, disablement, drug or alcohol dependence or mental disorder);
- a property which is genuinely on the market for sale or letting; or
- a property in which the mortgagee has entered into possession of the dwelling.

It is not always as straightforward to identify an empty property as it may seem, but generally, an empty home is a property which has been void of people for at least 6 months and does not fall under any of the above points.

This strategy is primarily concerned with properties that have been empty for at least 2 years and where the vacant dwelling is not a result of any transactional reasons. Notwithstanding, the enforcement action referred to in Section 11 may also apply to those properties that have been vacant for less than 2 years. The wider enforcement powers detailed in Section 12 are primarily only applicable to longer term and more problematic properties that have been vacant for in excess of 2 years and are having a severe detrimental impact on the local community.

## 7. Why are Properties Empty?

There can be a complex range of interrelated factors behind why a property is empty and in more recent times this may have been influenced by a number of factors including pre-Brexit concerns and reducing transaction levels. However, more common traditional reasons can be due to the personal and / or financial circumstances of the owner or individuals concerned, to the particular property or to wider economic, social or environmental effects:

### a) Individual factors:

- unresolved ownership (usually following death of owner)
- bankruptcy of owner;
- owner might be institutionalized e.g. in hospital or prison;
- owner might lack required experience in property letting and tenancy management;
- past experience – owners who do not wish to sell or rent due to previous bad experience or sentimental reasons;
- owners who simply refuse to bring the property back in to use.

### b) Property factors:

- property acquired for investment – purchased to profit from the tendency for property to increase in value without any intention of either improving or letting;

- owner might not appreciate the financial benefit of bringing property back into use;
- poor property condition where costs of refurbishment to current standards are prohibitive, relative to the income the property might realise;
- repossession of the property;
- the property might be blighted by environmental or commercial factors e.g. a major road has been built nearby or business or factories which previously sustained households in those properties have closed / moved away.

c) Wider economic and other factors:

- low housing market demand (environmental or economic factors, as above);
- housing market collapse – the impact of repossession; negative equity;
- area regeneration – the complex and involved work required in area regeneration schemes can result in properties being left empty for longer than desirable pending clearance or renovation.

## 8. The Local Perspective

Contrast in empty homes property numbers between December 2015 and March 2022

	2015	2022
Vacant between 6 to 12 months:	102	175
Vacant between 12 to 24 months:	90	147
Vacant between 24 to 36 months:	37	45
Vacant in excess of 36 months:	78	42
Total:	307	409

Although the total number of empty homes has increased in line with national trends, the number of very long term homes vacant for in excess of 36 months have fallen by nearly 50%. This may be attributable to the higher council tax premium payable of 100% for homes vacant over 2 years. Generally, the very long term empty properties cause the most concern, as if not maintained they will deteriorate and become an eyesore, attract ASB and blight a neighbourhood.

## 9. Benefits of bringing an Empty Home back into Use

An empty home is not just the concern of the owner, because a property left unoccupied and not maintained will over time impact on its surroundings. The longer a property is left empty the more money it will cost to bring it back into use as the condition of the property deteriorates. A long term empty home if not maintained can also negatively impact on neighbouring properties leading to a decline in their condition and value. Empty properties also run the risk of attracting unwanted attention from vandals and squatters and in extreme cases can become a target of arson.

The benefits from bringing an empty home back into use through targeted action include:

- provides income for the owner if it is sold or rented out;
- reduces the likelihood of vandalism, anti-social behaviour and crime;
- reduces the likelihood of attracting squatters;
- reduces the likelihood of arson;
- reduces the likelihood of house price depreciation for neighbouring properties;
- reduces the depressive effect an empty home can have in the community;
- assists in the District's housing need by increasing the availability of homes.

Bringing an empty home back into use can also help to stimulate economic activity and can increase spending in the local economy. This is in contrast to unsightly empty homes deterring investment in an area which can lead to decline or area blight.

### For the wider community

Having empty homes re-occupied also helps to boost the well-being of communities, reduces demand on public bodies such as the Fire and Rescue Service, the Police and council services enabling resources to be used more effectively elsewhere.

## 10. Strategy Objectives – Our Approach to Empty Homes

The council's main approach to tackling the issue of long-term empty homes is to work with the owners to encourage them to bring their homes back into use voluntarily. The council will work with the owners of empty homes and pursue the following objectives to bring about the return of empty homes to occupation with legal action being considered as a last resort.

- Objective 1 – Identify and monitor

The council will use primary data such as council tax information, councillor and officer knowledge and local intelligence to identify and build up an on-going register of empty homes.

- Objective 2 - Engagement

One of the most important measures in attempting to bring empty homes back into occupation is through engagement with empty property owners and establishing good dialogue and communication. The council will periodically make contact with empty home owners through its 3 letter approach (see Appendix 1), in conjunction with providing them with advice and assistance on:

- how to rent their property by providing information on becoming a landlord;
- how the council's rent deposit scheme may be of benefit to a tenant;
- how the council's Tenancy Support team may be able to assist a tenant;
- how to sell their property by providing information on selling privately.

- Objective 3 – Signposting

When the council is approached by a private developer or individual who has expressed an interest in purchasing and refurbishing an empty home, the council will contact the owner of the empty property and try and bring both parties together. Any potential sale or letting agreement would be a private matter between both parties and the council will take no part and accept no responsibility for any voluntary negotiation for sale or rent.

- Objective 4 – Enforcement

In the first instance, it is the council's policy to make use of informal engagement to encourage owners to bring empty properties back into use voluntarily before moving on to enforcement. If decided upon, it will be important to make sure that any enforcement action that is taken is in line with the council's Private Sector Housing Enforcement Policy.

## 11. Enforcement – Options for dealing with problems associated with empty homes

The council has at its disposal a variety of legislation which can be used to deal with problems associated with empty homes, for example, the removal of rubbish / works to secure a property against unauthorised entry and issues with vermin etc. The need to take legal action in ongoing cases where owners are not fulfilling their responsibilities helps to build up a case for more major enforcement action such as Interim Empty Dwelling Management Orders, Enforced Sale or potentially in extreme and suitable cases Compulsory Purchase, in order to secure a change in ownership or management.

Table 1 – Enforcement powers available to the Council to tackle long term empty homes

Problem	Legislation	Power Granted
Dangerous or dilapidated buildings or structures	Building Act 1984 Sections 77 and 78	To require the owner to make the property safe (Section 77) or enable the Local Authority to take emergency action to make the building safe (Section 78).
	Housing Act 2004 Part 1	Under the Housing Health and Safety Rating System local authorities can evaluate the potential risks to health and safety arising from deficiencies within properties and take appropriate enforcement action
Property causing a statutory nuisance	Environmental Protection Act 1990 Sec 80	To determine whether any premises is in such a state as to be prejudicial to health or a nuisance.
Unsecured properties (where it poses a risk that it may be entered or suffer vandalism, arson or similar)	Building Act 1984 Section 78	The power to take emergency measures if it appears a building is in a dangerous state.
	Local Government (Miscellaneous Provisions) Act 1982 Part 11 Section 29	To require an owner to take steps to prevent unauthorised entry
Blocked or defective drains or private sewers	Local Government (Miscellaneous Provisions) Act 1976 Section 35	To require the owner to address obstructed private drains.
	Building Act 1984 Section 59	To require the owner to address blocked or defective drainage.
	Public Health Act 1961 Section 17	To require the owner to address blocked or defective drainage

Table 1 (cont.) – Enforcement powers available to the Council to tackle long term empty homes

Problem	Legislation	Power Granted
<p>Vermin (where it is either present or there is a risk of attracting vermin) that may detrimentally affect people's health</p>	<p>Public Health Act 1961 Section 34</p> <p>Prevention of Damage by Pests Act 1949 Section 4</p> <p>Public Health Act 1936 Section 83</p> <p>Environmental Protection Act 1990 Section 80</p>	<p>To require the owner to make the property safe (Section 77) or enable the Local Authority to take emergency action to make the building safe (Section 78).</p>
<p>Unsightly land and property affecting the amenity of an area</p>	<p>Public Health Act 1961 Section 34</p>	<p>The power to take steps for removing rubbish</p>
	<p>Building Act 1984 Section 79</p>	<p>To require the owner to address dilapidated and neglected sites</p>
	<p>Town and Country Planning Act 1990 Section 215</p>	<p>The power to require proper maintenance of land through its disrepair.</p>
	<p>Community Protection Notice Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014</p>	<p>To stop a person or a body (e.g. a legal person such as a business) continuing with conduct which unacceptably affects victims and the community.</p>

## 12. Wider Council Enforcement Powers

The value of property in the Winchester district is high and the majority of empty properties in the district will over time be returned to occupation, without recourse to the most serious enforcement powers that the council has at its disposal. However, in cases where the softer skills of advice, encouragement, negotiation and persuasion do not result in effective engagement with the owner, or an owner does not adequately demonstrate clear plans to reoccupy a property and where the house is subject to ongoing complaints; the council will consider enforcement to secure a change in ownership or management if necessary.

It is likely it will only be an appropriate course of action for dealing with a very small number of the most problematic long-term vacant properties given the resources required.

When the council has exhausted all efforts to try and engage with an owner of an empty property to bring it back into use, it will consider the following enforcement powers:

- Enforced Sale Procedure

Where there is a debt to the council on a property that remains unpaid and the council is unable to recover it, the council has the statutory power to force the sale of a property through the Law of Property Act 1925 s103 to recover its costs. This could be, for example, from unpaid council tax or where the council has been required to spend money in undertaking works in default after a statutory notice has been served and the owner does not repay the costs to the council on completion. In such circumstances a charge may be attached to the property on the Local Land Charges Register. This re-charge can then be recovered by way of an enforced sale and under this procedure, the property is sold on the open market at auction.

- Empty Dwellings Management Orders (EDMO)

Empty Dwelling Management Orders (EDMO) were introduced by the Housing Act 2004 and provide a mechanism by which local authorities can secure occupation of a long-term empty property and take over the management.

Two forms of EDMO exist:

- i. an interim EDMO;
- ii. a final EDMO.

- Interim EDMO

An Interim EDMO Order should be considered as the final opportunity to find a voluntary solution with the owners to bring the property back into use. In order to obtain an Interim EDMO, an application must be made to the First-tier Tribunal (Property Chamber). To obtain an Interim EDMO the Tribunal must be satisfied that:

- a) the property is not exempt according to the Housing Strategy Statistical Appendix (HSSA);
- b) that the owner has been notified that the council is going to apply for an EDMO;
- c) that the council attempted to ascertain what steps the owner is taking to bring the property back into use (and the details of the action taken);

- d) the property must have been empty for at least 2 years and contributed to anti-social behaviour activity;
- e) that by generating the Order, there is a reasonable prospect of the property being brought back into use.

If these matters are satisfied, the First-tier Tribunal (Property Chamber) will then balance the rights of the owner against those of the wider community in making their decision as to whether to approve the Interim EDMO.

- Final EDMO

Where an agreement cannot be reached between the owner and the council, a Final EDMO can be made by the council to replace an interim EDMO. A final EDMO can be made for up to 7 years. A final EDMO gives the council the right to manage a dwelling in the most appropriate manner without the owner's consent. This could include:

- i. direct management by the Council;
- ii. transferring the management to a residential social landlord;
- iii. transferring the management to a private lettings agent.

The financial and time resource implications for the making of a final EDMO are quite considerable. It is only therefore properties which require relatively low levels of refurbishment work that will be suitable for this procedure. Any monies recovered from the rental income will contribute to paying off any debt incurred from refurbishment and legal costs.

- Compulsory Purchase Orders

Compulsory Purchase Orders (CPO)s are the mechanisms by which the council can purchase a property without the voluntary agreement of the owner if the circumstances meet set criteria and there must be a compelling case in the public interest to pursue one. A CPO can be enforced under either S17 of the Housing Act 1985 or S226 (1) (a) Town and Country Planning Act 1990. Application for a CPO is to the Secretary of State but before any such application is made, the council must demonstrate that all other available methods of redress have been exhausted. Under the CPO process the council would most likely seek to dispose of the property to a third party (e.g. Housing Association or private developer). A condition on the contract of sale can be added to ensure that the property is refurbished and brought back into use within an agreed timescale. The timescales involved in administering a CPO can be extensive and it is therefore seen as a sanction of last resort.

## 13. General Statement – Strategy Position

The council reserves the right to determine the action it may decide to take in the particular circumstances of any empty home. Whilst this strategy sets out the type of enforcement action the council may consider taking, it does not pre-ordain the action that the council will take and nor does it fetter the council's discretion to act in a way that it considers to be appropriate or proportionate in any individual case.

Whilst the strategy sets out the council's general approach, it does not imply that all empty homes

within the district will be dealt with in the context of the strategy. Rather, the strategy will act as a framework against which the council may consider taking specific types of action to address issues arising in any particular instance of an empty home.

## 14. Authorisation

The approval to commence and implement enforcement activity in respect of an Empty Dwelling Management Order, Enforced Sale Procedure or Compulsory Purchase Order (CPO) will be subject to the decision of the Service Lead (Legal), in consultation with the Strategic Director and Portfolio Holder for Housing Services.

## 15. Resources

There are no “quick fixes” in addressing empty properties and the council has no direct financial incentives to offer owners to encourage them to return their empty properties to occupation. The primary thrust to achieve this will be through advice, encouragement, negotiation and persuasion achieved within current Private Sector Housing team resources. Some additional indirect financial assistance can be provided to an owner by the council issuing them with a letter to submit to HMRC under VAT Notice 708: buildings and construction. This will enable the owner to claim VAT at 5% when refurbishing a property that has been empty for 2 or more years immediately before the start of works. The reduced VAT rate would hopefully incentivise owners to undertake refurbishment works to bring empty properties back into use.

There is no budget set aside for improving a property that has been subject to an EDMO and where required, funding requests would have to be submitted and processed through the council’s normal financial processes.

Where EDMO and / or CPO funding is approved, it is anticipated that the cost of improvements / purchase for properties subject to a final EDMO / CPO would be recovered from rent received when letting out the property and/or possible sale. Therefore, there should not be an overall cost to the council. Where it is identifiable that the council may be unable to recover its costs (e.g. because the anticipated costs of renovation is so very high and/or the rent likely to be achieved over the life of the EDMO would not be sufficient to cover costs), this may have a direct bearing on the council’s decision to progress with such action.

The resale of any property subject to a CPO should recover most costs at least incurred in the purchase process including any compensation payments. There may be a risk of not recovering all costs in some cases. Resources for carrying out these alternative stages of the strategy will be met from existing staffing budgets.

## 16. Council Tax – Empty Homes Premium

Since 1 April 2013, local authorities in England have been allowed to charge a premium on top of the normal council tax payable for empty homes. Between 1 April 2013 and 31 March 2019, the premium was up to 50% for dwellings that have been empty for more than two years. From 1 April 2019, the premium could be up to 100%. From 1 April 2020, the premium could be up to 100% for dwellings that have been empty for between 2 and 5 years and up to 200% for dwellings that have been empty for more than five years. For properties empty over 10 years the premium can be up to is 300%.

The council has opted to make use of the available powers to charge a premium on council tax

payable on empty homes. This is in the interests of deterring homes from being left unoccupied and in respect of homes left empty for over 2 years a 100% premium is added; if empty over 5 years a 200% premium is added and for properties empty over 10 years the premium is 300%.

## 17. Energy Efficiency

In law, the minimum level of energy efficiency for domestic private rented property in England is EPC (Energy Performance Certificate) Band E. It is, however, the aspiration of the government that as many privately rented homes as possible are upgraded to Band C by 2030 where practical, cost effective and affordable to do so. The council when engaging with empty home owners who wish their property to be re-occupied, will ensure at least the legal minimum standard of Band E is met if it is the intention of the landlord to rent the property. Similarly, vacant home owners will be encouraged to ensure their property achieves at least a Band E, or preferably higher, if it is their intention to put the property on the market for sale.

## 18. Monitoring and Review

This strategy is operational for five years but will be reviewed periodically and at least every five years. Further interim reviews may be prompted by changes in legislation, guidance, cases taken, or feedback on enforcement action.

Minor amendments to the strategy will be approved by the Service Lead for Strategic Housing in consultation with Service Lead (Legal). This includes any amendments that may be made specifically to reflect changes in the law and statutory guidance where these may be appropriate. Significant amendments and changes to policy will be approved by Cabinet Housing Committee.

## 19. Equality Impact Assessment

This strategy has been subject to an equality impact assessment.

## 20. Contact Information

Should you have any comments about this strategy or require any further information on empty property issues, please contact the Private Sector Housing team at:

Winchester City Council, City Offices, Colebrook Street, Winchester, SO23 9LJ

Tel. 01962 848 526

Email: [\\_privatesectorhousing@winchester.gov.uk](mailto:_privatesectorhousing@winchester.gov.uk)

## Appendix 1 – Standard Letter 1

NAME

ADDRESS

XXXXXXX

Winchester

POSTCODE

XX MONTH YEAR

Dear xxxxxxxxx

Re: Empty Property – xx xxx Street, XXXXX, XXX

According to Council Tax records you are the person listed as responsible for Council Tax for the above property, which has been empty for over 2 years. If you think that there is someone else that I should be talking to about this property, please let me know their contact details. I am writing to you because the council is keen to see long-term empty properties brought back into use. I would like you to contact me to discuss the reasons why the property is empty and your plans to bring it back into occupation.

The council's concern is that by continuing to leave the property vacant, it is a waste of a valuable housing resource and if occupied will assist in providing much needed housing in the district. The occupation of the property will also help reduce the risk of vandalism, crime and other problems which may affect the local community. However, the council understands that there are a number of reasons why properties are left empty and this is what I would like to discuss with you.

As the owner of an empty home there are many options available to you, all of which are probably more beneficial to you and the local community than leaving your property empty.

You will be aware that a 100% premium is now added to Council Tax and charged on properties that have been vacant for 2 years or more; for properties left empty over 5 years a 200% premium is added and for properties empty over 10 years the premium is 300%.

You may want to consider the financial impact this is having on you and how you could potentially benefit if you sold the house, or decided to let it, which could possibly generate a substantial income per month.

If you do have plans for the above property please let me know so that I can update my records, or if you are unsure of what to do with it, you can call me on the number quoted above for advice or assistance.

Should you require information regarding planning, advice it is available via the council's website:  
<https://www.winchester.gov.uk/planning/application-for-pre-application-advice>.

If you need more detailed planning advice there may be a charge.

You may not be aware but should you wish to refurbish the property, under section 8 of HM Revenue & Customs VAT Notice 708: buildings and construction, you can seek to claim VAT at a rate of 5% rather than the standard rate of 20%. This is applicable to refurbishment of residential premises that have been empty for 2 or more years immediately before the commencement of works.

More detailed Information is available on the GOV.UK web site:

<https://www.gov.uk/guidance/buildings-and-construction-vat-notice-708>

The council is able to provide a letter to the owners of property meeting the above criteria for them to present to HM Revenue & Customs to confirm that the council is satisfied that the dwelling has been vacant for at least two years and that the refurbishment works will attract the 5% VAT rate.

I would advise that where properties remain empty with no progress towards re-occupation, the council does have and will consider using its enforcement powers to bring, where appropriate and warranted, an empty home back in to use.

I hope that you are able to respond to my request for information in respect of the property listed above. If you have any queries please call on the contact number at the top of this letter where I will be pleased to offer you advice.

Thank you in anticipation of your assistance.

Yours faithfully / sincerely

Individual Name

Job title

Private Sector Housing

## Appendix 1 – Standard Letter 2

Ref: Letter 2

Our ref:

Contact:

Direct Line:

E-mail:

XX MONTH 2022

Dear xxxxxxxxxxxx,

Re: Empty Property – xx xxx Street, xxxxxxx, xxxxx

I wrote to you on XXXX 202X regarding the above property and do not appear to have received a reply. As I explained in the earlier letter, Council Tax records show that you are the person responsible for Council Tax. If you think that there is someone else that I should be talking to about this property, please let me know their contact details. The council's concern is that the property has been empty for more than 2 years. I would like you to contact me to discuss the reasons why the property is empty and your plans to bring it back into occupation.

The council is keen to see long-term empty properties brought back into use to provide much needed housing in the district and to reduce the risk of vandalism, crime and other problems which may affect the local community.

As the owner of an empty home there are many options available to you, all of which are probably more beneficial to you and the local community than leaving your property empty. This is especially as a 100% premium is now added to Council Tax and charged on properties that have been vacant for 2 years or more; for properties left empty over 5 years a 200% premium is added and for properties empty over 10 years the premium is 300%.

You may want to consider the financial impact this is having on you and how you could potentially benefit if you sold the house, or decided to let it, which could possibly generate a substantial income per month.

I would like to emphasise, as I explained in my earlier letter, that if you have plans for the above property or you are unsure of what to do with it, please call me on the number quoted above to let me know what your plans are or for advice or assistance.

Should you require information regarding planning advice it is available via the council's website:

<https://www.winchester.gov.uk/planning/application-for-pre-application-advice>

If you need more detailed planning advice there may be a charge.

You may not be aware but should you wish to refurbish the property, under section 8 of HM Revenue & Customs VAT Notice 708: buildings and construction, you can seek to claim VAT at a rate of 5% rather than the standard rate of 20%. This is applicable to refurbishment of residential premises that have been empty for 2 or more years immediately before the commencement of works.

More detailed Information is available on the GOV.UK web site:

<https://www.gov.uk/guidance/buildings-and-construction-vat-notice-708>

The council is able to provide a letter to the owners of property meeting the above criteria for them to present to HM Revenue & Customs to confirm that the council is satisfied that the dwelling has been vacant for at least two years and that the refurbishment works will attract the 5% VAT rate.

Where properties remain empty and there is no progress towards re-occupation, the council does have and will consider using its enforcement powers to bring them back in to use. The council prefers not to have to take such action but will do so in cases where it is appropriate and warranted.

Without any information the council cannot be assured that any progress is being made and I therefore would encourage you to respond to the request for information in respect of the empty property identified above.

If you have any queries please call on the number given above where I will be pleased to offer you advice.

Thank you in anticipation of your assistance.

Yours faithfully / sincerely

Individual Name

Job title

Private Sector Housing

## Appendix 1 – Standard Letter 3

Ref: Letter 2

Our ref:

Contact:

Direct Line:

E-mail:

Xx MONTH 202X

Dear xxxxxxxx,

Re: Empty Property – xxx, xxx, xxxxx, xxx xxx

I have previously tried to contact you regarding the above property which, according to Council Tax records, has remained empty for more than 2 years. To date, I do not appear to have received a reply from you about your plans to bring it back into occupation.

As stated in my previous letters to you the council is keen to see long-term empty properties brought back into use to provide much needed housing in the district and reduce the risk of vandalism, crime and other problems which may affect the local community.

Where properties remain empty with no legitimate reason and there is no progress towards getting them re-occupied, the council has enforcement powers granted through government legislation to bring them back in to use and occupation. This may include the compulsory purchase of the property or gaining control of its management. Ultimately, the council does not want to take such action and I urge you to contact me on the number above to make me aware of your plans to occupy the property or seek any advice which may help you achieve this.

If your property continues to remain unoccupied and no action is taken to bring it back in to use and occupation, the council will consider the possibility of using the enforcement powers available.

Please be aware that should you either choose not to respond to this letter, or action to bring the property back in to occupation does not commence and/or continue, Winchester City Council will examine whether the use of enforcement powers are appropriate.

As the owner of an empty home there are many options available to you, all of which are probably more beneficial to you and the local community than leaving your property empty. This is especially as a 100% premium is now added to Council Tax and charged on properties that have been vacant for 2 years or more; for properties left empty over 5 years a 200% premium is added and for properties empty over 10 years the premium is 300%.

You may want to consider the financial impact this is having on you and how you could potentially benefit if you sold the house, or decided to let it, which could possibly generate a substantial income per month.

I would also remind you that should you wish to refurbish the property, under section 8 of HM Revenue & Customs VAT Notice 708: buildings and construction, you can seek to claim VAT at a rate of 5% rather than the standard rate of 20%. This is applicable to refurbishment of residential premises that have been empty for 2 or more years immediately before the commencement of works.

More detailed Information is available on the GOV.UK web site:

<https://www.gov.uk/guidance/buildings-and-construction-vat-notice-708>

The council is able to provide a letter to the owners of property meeting the above criteria for them to present to HM Revenue & Customs to confirm that the council is satisfied that the dwelling has been vacant for at least two years and that the refurbishment works will attract the 5% VAT rate.

Without any information the council cannot be assured that any progress is being made and I therefore would encourage you to respond to the request for information in respect of your empty property identified above.

A failure to respond will result in a full review of the known circumstances surrounding the property and a decision made as to whether it is appropriate and warranted for enforcement action to be taken to secure the re-occupation of the property.

I hope that enforcement action will not prove necessary and urge you to contact me for advice in respect of bringing the property back into use.

Yours faithfully / sincerely,

Individual Name

Job title

Private Sector Housing

## Appendix 2 – Background Information on EDMO

1. There are a number of prescribed exceptions which would prevent an EDMO from being pursued. These are defined in section 134(1)(b) of the Housing Act 2004. An empty dwelling falls within a prescribed exception if:
  - a) it has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because:
    - i. He is temporarily resident elsewhere;
    - ii. He is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder
    - iii. He is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or
    - iv. He is a serving member of the armed forces and is absent from the dwelling as a result of such service;
  - b) it is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
  - c) it is genuinely on the market for sale or letting;
  - d) it is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986 or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995;
  - e) it is usually occupied by an employee of the relevant proprietor in connection with the performance of his duties under the terms of his contract of employment;
  - f) it is available for occupation by a minister of religion as a residence from which to perform the duties of his office;
  - g) it is subject to a court order freezing the property of the relevant proprietor;
  - h) it is prevented from being occupied as a result of a criminal investigation or criminal proceedings;
  - i) it is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or
  - j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.
2. When applying for an Interim EDMO, the Council must show the First-tier Tribunal (Property Chamber) that:
  - i. The Council have made all reasonable efforts to notify the owner of its decision to apply for an authorisation for an interim EDMO were made, giving the owner at least three months warning before doing so.
  - ii. All other interventions have been considered and rejected.
  - iii. the property has an adverse effect on the neighbourhood i.e. it is causing a nuisance and blighting the local community and the community supports the course of action.

- iv. The property does not fall into one of the prescribed exemptions.
- 3. Any tribunal would only authorise the Council to make the interim Order if they decide it is in the interests of the community and taking into account the effect that the Order will have on the relevant proprietor. The proprietor could attend any tribunal hearing and make a case that they were taking steps to bring the property back into use. This may include that they are carrying out repairs or seeking to clear a property of belongings (e.g. furniture) prior to either sale or letting the property out. On balance, a tribunal may not then make an Order, however, this would be a decision for the tribunal. This means there is no guarantee that an application for an EDMO will succeed as each case must be judged on its individual merits.
- 4. The tribunal could also order the Council to pay compensation to the proprietor for interference with their rights.
- 5. If the Order is made the Council would then need to take the necessary steps to secure that the dwelling is occupied, this could include paying to bring the property up to a reasonable condition. The interim Order will last 12 months unless it is discharged before then (or a final Order is made). The property - when it is subject to an interim EDMO - can only be let with the consent of the proprietor. If consent is not forthcoming, the Council can make a final Order and then the property can be let without the proprietor's consent. Any final Order will last for a maximum of 7 years.

## Appendix 3 – Background information on CPOs

### CPO Regulatory Framework:

- 1. Guidance on the Compulsory Purchase Process and The Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion was published by the then Department for Communities and Local Government (now Department for Levelling Up, Housing and Communities) in 2015 and was last updated in July 2019. The guidance is available here:

<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

- 2. The guidance is extensive and will be taken into account, including changes in practice arising from primary legislation and case-law, when deciding how to proceed in each case. The decision to proceed with CPO powers in any particular case will be via Executive approval in conjunction with Officers of the Council.
- 3. Section 226(1)(a) Town and Country Planning Act 1990 (as amended) provides the Council with wide power to acquire land and buildings to facilitate their improvement, development or redevelopment provided this will bring social, environmental or economic benefits. It does not matter that the improvement, development or redevelopment is to be carried out by a third party, such as a purchaser from the Council. This power will often be used where a vacant site is subject to CPO so that development can be undertaken by a third party. It can also be used to CPO an empty home which is in poor condition, where it can be said that the compulsory acquisition of the house will secure its 'improvement'. The MHCLG guidance says: 'This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms.....'

ii. Section 17 of the Housing Act 1985 gives local authorities the power to acquire land, houses or buildings for the purpose of improving and providing housing accommodation. This power can

be used to acquire empty homes. It can also be used to acquire land and buildings for housing development. In both these cases there is often a choice of whether to use housing or planning powers. MHCLG guidance provides: 'Where an authority has a choice between the use of housing or planning compulsory purchase powers the Secretary of State will not refuse to confirm a compulsory purchase order solely on the grounds that it could have been made under another power'. It should be noted, however, that it is only possible to use planning powers to CPO an empty property where the property is in poor condition and in need of improvement. For the purpose of this policy, and in this specific context, it should be considered better when seeking to CPO an empty property to use the housing power.

iii. The Acquisition of Land Act 1981 contains the statutory procedures for the making and confirmation of CPOs. Comprehensive guidance on the general procedure for CPOs is contained in MHCLG online guidance. In particular it provides guidance on CPOs used for planning and housing purposes. The test set out in the online guidance that the Secretary of State applies in deciding if a CPO should be confirmed is that of 'a compelling case in the public interest'. This is also the test that a local authority should apply in deciding if it should make a CPO. Any CPO that interferes with the human rights of those with an interest in the land - if the compelling case test is met - any interference with those rights is proportionate and lawful.

iv. If the empty property is a listed building in poor condition, Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also permits the use of CPO.

4. For ease of reference, a highly simplified description of the Compulsory Purchase procedure has been included here. The process outlined is dependent on the initial investigations (e.g. agreement of the extent of the site and full title investigations) being successfully undertaken and in the context of the considerations set out above. Every effort must be made to acquire by agreement or to negotiate empty property back in use. CPO is used as a last resort.
5. Once initial investigations have been carried out, and the relevant officers including Senior Management Team are satisfied there are realistic prospects of success and would – where appropriate – represent prudent use of public funds, the process for this scheme is briefly outlined below:
  - a) Senior management decision to declare and make a CPO by Service Lead (Legal), in consultation with the Strategic Director and Portfolio Holder for Housing Services.
  - b) Preparation of statement of reasons – justification on why the CPO is required.
  - c) Making the Order and notifying known owners and occupiers then submitting the Order to the appropriate Secretary of State for Housing, Communities and Local Government – this includes the Statement of Reasons. The making of the Order is advertised and is available for general inspection as well as being served on all parties with an interest in the dwelling.
  - d) If no objections are received within the objection period (a minimum of 21 days must be allowed) and the Minister is satisfied proper procedures have been followed; he can confirm the order without modification, subject to modification (e.g. certain properties are excluded from the Order) or reject it.
  - e) If objections are received, the matter can be dealt with by written representations or at a public inquiry. The Council will have to provide a full statement of case for the inquiry. This process will generally take a year to reach a decision.
  - f) The Inspector heading the public inquiry provides a written report for the confirming Minister with

his recommendations and the confirming Minister then either confirms, modifies or rejects the Order.

g) Following confirmation of the CPO (providing proper procedure is followed and relevant notices served) a General Vesting Declaration can be executed which transfers all the land into the Council's ownership, with the compensation payable to the owners and occupiers to be agreed later, if not already agreed at the time. This part of the process is likely to take around 4 months.

h) In the event that compensation cannot be agreed between the Council and the claimant, then the compensation will be determined by the Upper Tribunal (Lands Chamber).

**NOTE: This is a very simplified version**

## Appendix 4 – Aims and objectives

Key Action Requirement	Timescale	Responsible Officer(s)
<p><b>Objective 1 – To Identify and Monitor</b></p> <p>Aim To continue to identify and periodically monitor empty homes using primarily data such as council tax information, councillor and officer knowledge and local intelligence to maintain a data base and build on the register of empty homes.</p>	2022 and ongoing	PSH Team
<p><b>Objective 2 - Engagement</b></p> <p>Successful delivery of the strategy and objectives will involve the engagement of both internal and external partners including:</p> <ul style="list-style-type: none"> <li>• Revenues (Council Tax)</li> <li>• Housing Options</li> <li>• Environmental Protection</li> <li>• Police</li> <li>• Hampshire &amp; Isle of Wight Fire &amp; Rescue Service</li> <li>• Empty Home Owners</li> </ul> <p>i. To engage with empty home owners and other stakeholders as required to establish good dialogue and communication.</p> <p>ii. To annually contact empty home owners through the 3 letter approach, in conjunction with email correspondence and telephone calls where information held.</p> <p>iii. To promote and publicise the strategy on the council web site</p>	2022 and ongoing	PSH Team

## Appendix 4 – Aims and objectives

Key Action Requirement	Timescale	Responsible Officer(s)
<p><b>Objective 3 – Signposting</b></p> <p>Aim To signpost and assist in creating and fostering relationships between empty home owners and developers or individuals who have expressed an interest in purchasing and refurbishing an empty home.</p> <p>In depth information on Empty Homes can be found at:</p> <ul style="list-style-type: none"> <li>i. Action on empty homes: <a href="https://www.actiononemptyhomes.org">https://www.actiononemptyhomes.org</a></li> <li>ii. House of Commons Library Briefing Paper Number 3012 of 21 October 2020: Empty Housing (England)</li> </ul>	Information	PSH Team
<p><b>Objective 4 – Enforcement</b></p> <p>Aim As a last resort to make use of the wider enforcement options available to address the most problematic empty homes which have been vacant for in excess of 2 years and which are significantly impacting on local communities and contributing to anti-social behaviour.</p>	As and when required	PSH team Planning Enforcement Legal



Winchester  
City Council