



EMPTY HOMES POLICY

DECEMBER 2019

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1. Background & Introduction

- 1.1 Empty homes are a wasted resource, especially in light of the high demand for housing in Test Valley. Empty homes can lower the quality of the local environment and affect the sense of community.
- 1.2 We are fortunate that the borough experiences relatively low levels of empty dwellings. This policy sets out a pragmatic framework that underpins the way Test Valley Borough Council will approach its work to tackle empty homes. It has been developed in the context of the Council's corporate aims and values, and to underpin a response that is proportionate in context; the number of long term vacant properties (vacant for 2 years or more) is low in Test Valley.
- 1.3 In developing this policy, the Council has considered the Regulators' Code (April 2014) made in accordance with Section 23 of the Legislative and Regulatory Reform Act 2006. In that context, this policy aims to:
 - Support owners of empty homes to bring them back into use so far as reasonably practicable;
 - Encourage engagement between empty home owners and the Council, and ensure that the views of owners of empty homes are listened to;
 - Promote compliance with regulatory requirements through informal means wherever possible and ensure that any regulatory action taken is reasonable, proportionate (taking account of any risks), consistent, and properly targeted;
 - Ensure that appropriate information is given to owners of empty homes in respect of implementing this policy;
 - Set out clearly the Council's service standards;
 - Set out how to comment or complain about any aspects of implementation of this policy.

2. Empty Dwellings

- 2.1 There are broadly two types of empty residential 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. They are part of the normal cycle of moving house. The vast majority of all empty properties are empty for less than six months, though they may be empty longer should they be subject to renovation works.
- 2.2 In some instances, a property may be empty or appear to be empty, but is not classed as empty. 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.
- 2.3 This policy is primarily concerned with properties that have been empty for at least two years and where the vacant dwellings have not arisen as the result of any transactional reasons. Notwithstanding that enforcement action referred to in Section 4 may also apply to those properties that have been vacant for less than 2 years, where they may be particularly problematic or there are obvious strategic reasons for doing so in the interests of meeting the needs of the local community.
- 2.4 This policy will apply to dwellings that are furnished or unfurnished.

3. Initial Process

- 3.1 Properties may be brought to the Council's attention in a variety of ways and through different departments. We may do periodic searches of the Council Tax database to identify long term empty properties that we were not otherwise aware of. These will then be investigated and subject to a staged and proportionate course of action.
- 3.2 During the initial period that a property is empty (i.e. approximately 24 months) we will take a minimal involvement approach to allow the owner time to decide on an appropriate course (unless the property is subject to vandalism/anti-social behaviour or we are contacted for specific advice/action). This is to ensure we are operating proportionately and recognising the various issues that may affect someone with an empty property in the first 24 months.

Stage 1: Monitoring & Review

- 3.3 Liaison will take place between relevant Council departments to establish what is known about the property and/or to identify any specific concerns that need to be investigated and considered. These departments include, but may not be limited to, Private Sector Housing, Environmental Health, Environmental Services, Planning Enforcement, Building Control and Council Tax.

- 3.4 Where a property is not causing any nuisance or antisocial behaviour problems, we will, after a period of 24 months, initially trace and contact the owner offering advice, encouragement and assistance where possible to bring the property back into use, and asking that they provide information regarding their intentions for the property. This may be a protracted stage if the property is unregistered or the owner is registered at the property with no alternate contact address.

Stage 2: Further Contact

- 3.5 Regular contact will be instigated with owners of properties at intervals. It is our aim to do so within 6 months but during busy periods the intervals between contact may be longer, but wherever possible within 12 months. The detail included in our correspondence will depend on the reason that the property is empty. It will set out action that the Council may consider as outlined in this policy.

Stage 3: Notification of Potential Enforcement Action

- 3.6 After the property has been empty at least 2 years and providing that previous contact has been made by the Council, a formal advice letter will be issued stating that enforcement action may be considered by the Council with the intention to force the property to be brought back into use.
- 3.7 Following this, a decision will be made on what the appropriate action might be to deal with that property, taking into account the circumstances of the case. It is anticipated this action will be started within 12 months of the formal advice letter. There are various options the Council could consider taking and these are set out in the following section. The Council will review the progress of these empty properties and the choice of action may alter depending on changing circumstances. These reviews will normally occur at intervals of 6 to 12 months.
- 3.8 The types of assistance that can be made available to owners during Stages 1 to 3 (subject to current resources and policies) are:
- Site meeting to offer advice and ideas
 - Financial assistance to bring the property back into use through the Council's current Private Sector Housing Renewal Policy
 - Letting packages supported by the Housing Options Service
 - Access to tenancy services
 - Signposting to funding opportunities
 - Assistance with selling the property
- 3.9 Any enforcement action would be on a case by case basis and with full regard to the Council's relevant Enforcement Policies and the statutory principles of good regulation (as set out in the Regulators' Code (April 2014)). When making decisions for regulatory action, the Council will take in to account the following issues:

- Condition of the property including compliance with the Housing Health and Safety Rating System
- Complaints received
- Association with anti-social behaviour
- Neighbourhood blight
- Housing need in the area
- Any explanation provided by the owner of the reasons for the home being empty (e.g. the personal circumstances of the owner)

4. Additional Action that may be taken

- 4.1 Whilst the initial negotiation stages are being undertaken, or the owner is working through other barriers to bringing the property back into use (probate et cetera), the Council will seek to ensure the empty property is not causing a nuisance or affecting neighbouring houses, by considering a range of other legal powers.
- 4.2 This action may include boarding up properties to prevent unauthorised entry, or works in relation to the upkeep of the garden or dwelling. All action will be undertaken in accordance with local team enforcement policies to ensure the response is balanced and proportionate. Where costs are incurred by the Council, for example through carrying out works in default of enforcement notices, they will be recovered from the property owner wherever possible.

Private Sector Housing Grants & Loans:

- 4.3 The Council will consider making offers of financial assistance to landlords and owners of empty properties as set out by the Council's current Private Sector Housing Renewal Policy at that time. This policy is subject to periodic amendment and available funding, therefore considerations associated with grants or loans must be made with due regard to the Council's policy position at any given time.
- 4.4 Any grants or loans that may be considered will be subject to the Council's application process, and any relevant terms and conditions, including levels of financial aid available.
- 4.5 The Council will generally not consider, save in exceptional circumstances, the option of financial support once enforcement action has commenced.

Tenant Finder & Support Services

- 4.6 The Council's Housing Services provide advice and support to landlords and tenants, along with a range of services to support landlords to meet their obligations and responsibilities as landlords.

- 4.7 Where an empty property may be at a lettable standard, the Housing Service will work with willing owners/landlords to supply a tenant or tenants with regard to the landlord offer that is available at that time.

Stage 4: Enforcement Options

- 4.8 There is no quick or easy fix to the issue of empty properties.
- 4.9 In the event that negotiation and encouragement are unsuccessful in the initial stages as set out above, the Council may consider how a range of options might apply to individual empty properties.
- 4.10 Where complaints are received about an empty home, and where a property has been empty for a considerable length of time, an option appraisal will be carried out to determine the most appropriate course of action and this report will be authorised by the Head of Housing and Environmental Health in consultation with the Head of Finance. The following options will be considered as part of the option appraisal.
- 4.11 Please note, all interventions during stages 1 to 3 above will be fully documented in order to inform the appropriate action and further, no hierarchy or preference is implied in the order of the subsequent enforcement options explained below. The hierarchy of action is covered later in Section 5 of this Policy.

Empty Dwelling Management Orders (EDMOs):

- 4.12 These are discretionary. The aim of the EDMO is to ensure that the property becomes occupied. When considering whether this is an appropriate course of action, the Council must consider the rights of the relevant owner as well as the interests of the wider neighbourhood community. All other options must have been considered and alternative avenues explored prior to instigating this course of action.
- 4.13 Before applying for an interim order the Council must be satisfied that the dwelling has been unoccupied for a period of 2 years and there is no reasonable prospect that the dwelling will become occupied in the near future, and/or, that if the order is made there is a reasonable prospect the dwelling will be occupied.
- 4.14 EDMOs will only be considered in exceptional circumstances for long term, problematic, empty properties. This consideration will have due regard to the factors set out above.
- 4.15 Where an EDMO is being considered, support will be requested in the first instance from either Valley Housing Ltd (the Council's housing company) or from a Registered Provider partner, to ensure any future letting can be

managed and administered by an appropriately positioned partner. (*This could require agreement from the relevant partner that any letting will be undertaken in consultation with the Council's Housing Services to support a household (or households) on the Council's Housing Register or who may be homeless or threatened with homelessness*). This is a key factor in developing the case for an EDMO to be pursued, in addition to the factors set out above.

- 4.16 The decision to pursue an EDMO application will be taken by Executive Decision of the Council's Cabinet having had due regard to all of the facts of the case, the option appraisal undertaken and with reference to the Council's Empty Homes Policy.
- 4.17 The development of the case to progress to an EDMO could be developed by any Council service. It is anticipated that in most cases, however, the lead service will be the Housing & Environmental Health Service, with direct support from the Council's Legal & Democratic Services, Estates team, and Finance.
- 4.18 Relevant professional officers of the Council will advise Cabinet of the benefits of pursuing such an Order against the identifiable risks associated with any individual case.

Voluntary Purchase:

- 4.19 Where contact has been made with an owner of a property that cannot be sold on the open market, or there would be a significant benefit to the Council or a partner Registered Provider of social housing, in certain circumstances, the Council may consider purchasing the property. This may be through partnership working with a Registered Provider or other appropriate partner, to facilitate the purchase, and for the property to be brought into use. The intention would always be to bring the property back into use and/or to redevelop or regenerate the land for the purposes of residential accommodation, unless part of a wider regeneration scheme.
- 4.20 Any arrangement with third party housing providers would include an agreement that the property is brought back into use within an agreed period.
- 4.21 Voluntary purchase will only be considered where all other enforcement action is deemed unsuitable or not cost effective, or where it is a necessary step to achieving enforcement (such as part of the process towards achieving a Compulsory Purchase Order).
- 4.22 The decision to pursue a voluntary purchase will be taken by Executive Decision of the Council's Cabinet having had due regard to all of the facts of the case, the option appraisal undertaken and with reference to the Council's Empty Homes Policy.

- 4.23 The development of the case to progress to a Voluntary Purchase arrangement could be developed by any Council service. It is anticipated that in most cases, however, the lead service will be the Housing & Environmental Health Service, with direct support from the Council's Legal & Democratic Services, Estates team, and Finance.
- 4.24 Relevant professional officers of the Council will advise Cabinet of the benefits of progressing a voluntary purchase against the identifiable risks associated with any individual case.

Enforced Sale:

- 4.25 Where there is a debt to the Council that remains unpaid, the Council will consider forcing a sale of the property to recover its costs. This could be, for example, from unpaid Council Tax or where the Council is required to spend money in default of an owner after a statutory notice has been served and the owner does not repay the costs to the Council. The Council will then consider the most appropriate follow up action for the property on an individual basis. This could be by sale to a Registered Provider, sale on the open market, or disposal to Valley Housing Ltd.
- 4.26 The decision to pursue Enforced Sale will be taken by Executive Decision of the Council's Cabinet having had due regard to all of the facts of the case, the option appraisal undertaken and with reference to the Council's Empty Homes Policy.
- 4.27 The development of the case to progress to an Enforced Sale could be developed by any Council service. In this instance, in light of the most likely debt to the Council arising through Council Tax, it is anticipated that the Revenues Service, with direct support from the Council's Legal & Democratic Services, Estates team, and Finance may be the lead service in these instances.
- 4.28 Relevant professional officers of the Council will advise Cabinet of the benefits of progressing an Enforced Purchase against the identifiable risks associated with any individual case.

Compulsory Purchase Orders:

4.29 Compulsory Purchase Orders (CPOs) are a sanction of last resort and there must be a compelling case in the public interest to pursue one. The Council must be able to demonstrate that:

- We are authorised by statute to purchase land compulsorily and the CPO is necessary to achieve this purpose.
- There is a compelling case in the public interest which justifies interfering with the rights of those with an interest in the land.
- We have taken into account Article 1 (Protection of Property) and Article 8 (Protections of a Person's Home) of the European Convention of Human Rights.
- We have adequate resources to implement the CPO within a reasonable time frame. (*The Council will carefully consider the necessary funding in each specific case before moving ahead*).
- There is no reasonable alternative means of bringing about the objective of the CPO –for example, to bring the property back into use or to utilise the land for an alternative dwelling.

4.30 Negotiations for acquisition by agreement should have been pursued in all cases, and been demonstrably fruitless, before a CPO can be progressed. In this context, see also 'Voluntary Purchase' above.

4.31 In cases where the Council believes it would be appropriate to pursue a CPO, it will seek support to use its powers to CPO the land from the Council's Cabinet (through their recommendation to Council where appropriate) having due regard to all the facts of the case and having obtained the necessary information as required and as referenced in Annex 2 of this policy.

4.32 To identify a property/site for progressing to a CPO the following must be considered and meet at least one of these criteria:

- It has a detrimental effect on the area; or
- All appropriate enforcement powers available to the Council have been exhausted; or
- It affects the stability of adjoining residential properties; or
- It is attracting anti-social behaviour; or
- When a residential property is considered for CPO for housing purposes, information needs to be provided on the housing stock available and the need for that type of accommodation; or
- It has been identified as necessary to bring forward a development/regeneration area/site.

4.33 Having met these conditions, the following additional criteria may also prioritise those that are pursued:

- Squatted properties (*with due regard to the Council's duties under Part 7 of the Housing Act 1996 – Homelessness*), and unlawful trespassers;

- Residential properties causing a nuisance to neighbours;
 - Land or property needed to bring forward development;
 - Residential properties identified by the Police as causing particular problems in terms of crime; and
 - Residential properties within or adjacent to regeneration schemes and which might benefit the overall aims of the project.
- 4.34 Relevant professional officers of the Council will advise Cabinet of the benefits of pursuing such an Order against the identifiable risks associated with any individual case.
- 4.35 The principles below are set out as a guide for officers working on empty property with a view to potential CPO:
- Any case for compulsory purchase must include proposals for the property or land in the event that a CPO is confirmed.
 - The Council needs to be satisfied at the outset of the CPO process that its aims for the site or property are likely to be achieved and funding needs to be allocated.
 - With an empty home, a change of ownership by itself is very likely to see it reoccupied, there may be extensive repairs and improvements required.
 - Where the aim is to secure redevelopment, more details will be required as to how this will be achieved.
 - The issue of whether planning permission will be required for the final development will need to be addressed, and whether it should be obtained before the CPO is confirmed.
 - In the event of planning permission being obtained after the CPO is confirmed, it should be clear that there will be, in all probability, no impediments to achieving a suitable permission.
 - In either case the council will need to consider the funding available for the CPO project. The costs may, for example, be provided wholly or mainly by a third party.
 - Proposals will be dependent on the type and location of the site or property but may include the sale of the property on the open market which may be through a property auction using a local preferred agent.
- 4.36 If a CPO proceeded then the owner would be entitled to various forms of compensation which partly reflect the value that the property would be expected to achieve on the open market.
- 4.37 The Crichel Down Rules apply to any land acquired by or under threat of compulsion, and mean that if the Council intends to sell or dispose of the property, the previous owners must be given right of first refusal. There is an exemption where the Council may have purchased the dwelling for onward sale to a Registered Provider.

General Statement - Policy Position:

- 4.38 The Council reserves the right to determine the action it may decide to take in the particular circumstances of any empty property.
- 4.39 Whilst this policy 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 proportionate in any individual case.
- 4.40 Whilst the policy sets out the Council's general approach, it does not imply that all empty homes within the borough will be dealt with in the context of the policy. Rather, the policy 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 property.

5. Hierarchy of Action: Enforcement

Advice and information to empty property owners and local residents		
Help owners to sell the property: <ul style="list-style-type: none"> - Advice on estate agents/auctions - Incentives 	Help owners to rent the property: <ul style="list-style-type: none"> - Providing information on being a landlord - Discussing the Housing Options Tenant Finder service - Reviewing incentives 	
Signposting tenants to landlords Where property is ready to let, in an area of housing need, and the owner is prepared to manage the property themselves – signposting of tenants to landlords and support through the housing options Tenant Finder Service		
Consider grants/loans Refer to current Private Sector Housing Renewal Policy		
Enforcement Action: Improving Condition of Property	Where property is adversely affecting amenity of an area, the Council may serve Section 215 Notice (Town & Country Planning Act 1990)	Planning Enforcement
	Where property is dangerous or requires boarding up, the Council may carry out works or require that the owner carries out works to make the property safe (Building Act 1984)	Building Control
	Where a property is likely to become a danger to public health (Public Health Act 1936), is causing a statutory nuisance (Environmental Protection Act 1990), requires securing against unauthorised entry (Local Government (Miscellaneous Provisions) Act 1982) or where there are pest control issues (Prevention of Damage by Pests Act 1949) the Council may serve notices or carry out works to remedy conditions	Environmental Health/Private Sector Housing
	Where a hazard exists at a property that has the potential to result in harm (Housing Act 2004) the Council may serve notices or carry out works to remedy conditions although this would have to affect occupants or visitors to the property	Private Sector Housing
Enforced Sale Where a local land charge has been made on a long term empty property due to an outstanding debt (possibly through enforcement action outlined above), the Council can force the sale of the property to a third party.		
Empty Dwelling Management Order (EDMO) Where property has been empty for over 2-years for no apparent reason and the owner has refused all reasonable offers of assistance. The property must be in area of housing need and no prospect of property becoming occupied under current owner. The Council would facilitate any capital works needed to allow the property to be leased and used to accommodate people in housing need. An interim EDMO can be obtained but the Council will need to assess costs against potential income when applying for a final EDMO – Housing Act 2004.		
Compulsory Purchase Order (CPO) Where a property is long term empty, in poor condition, and in an area of housing need, ultimately for those owners who fail to re-use their property the threat and use of CPO will be considered. This power is most appropriate for property which requires extensive renovation and where an EDMO is unlikely to be persuasive or cost-effective – Housing Act 1985.		

6. Resources

- 6.1 There are no specific budgetary allocations for improving a property subject to an EDMO or CPO. Additional funding requests would have to be submitted through the Council's normal processes.
- 6.2 It is anticipated that the cost of improvements for properties subject to an EDMO would be recovered from rent received when letting out the property and therefore there will not be an overall cost to the Council. Where it is identifiable that the Council may be unable to recover costs (e.g. because the anticipated costs of renovation are 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 this action.
- 6.3 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.
- 6.4 Resources for carrying out the alternative stages of the policy will be met from existing staffing budgets.
- 6.5 Consideration will be given to targeting the Affordable Housing Capital Fund where properties may be brought back into use as affordable housing, subject to relevant case by case considerations, including available finance within any partner agency in the purchase of empty properties for this purpose. This includes consideration of negotiating Voluntary Purchase.
- 6.6 Potential external sources of funding may be explored before consideration is given to targeting Council funds for the purposes of purchasing empty dwellings (either through compulsory or voluntary means).

7. Council Tax – Empty Homes Premium

- 7.1 The Council may make use of 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.
- 7.2 The Council will consider the financial and equalities impacts of introducing the higher tariff premiums to Council Tax charges in future years and in light of any future changes to the regulations affecting Council Tax.

8. Monitoring & Review

- 8.1 This policy will be reviewed periodically and at least every five years.
- 8.2 Further interim reviews may be prompted by changes in legislation, guidance, cases taken, or feedback on enforcement action.

- 8.3 Minor amendments to the policy will be approved by the Head of Housing and Environmental Health, in consultation with the Head of Legal & Democratic Services and with approval from the Cabinet Member for Housing & Environmental Health. This includes any amendments that may be made specifically to reflect changes in the law and statutory guidance where these may be appropriate.
- 8.4 Significant amendments and changes to policy will be approved by Cabinet.

Annex 1: Background Information on EDMO

1. There are a number of prescribed exceptions which would prevent an Order 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.

Annex 2: Background Information on CPO

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 Ministry for Housing, Communities and Local Government) in 2015 and was last updated in February 2018. 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.
 - i. 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) Executive resolution to declare and make a CPO.
 - 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 of the CPO procedure and should not be used as a definitive guide.