

South Ribble Borough Council

Empty Properties Policy

June 2013

Housing Services

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South Ribble Borough Council

Empty Properties Policy

1. What is an empty home?

A property which has been empty for in excess of *6 months* is considered to be a long term empty property. Central Government has for a number of years encouraged local authorities to take action to bring empty properties back into use and has strengthened the powers available to local authorities to assist with this through the Housing Act 2004.

2. Why are properties being left empty?

It is important to recognise that not all empty homes are a major problem and there are often good reasons for properties being left empty, for example they can be empty between a change of occupants, if they are for sale, or undergoing refurbishment. However, there are increasing numbers of empty homes and properties that are problematic and empty for longer than is reasonable due to the housing market.

The estimated number of empty domestic properties in South Ribble at November 2012 was 1030. Of these approximately 456 properties had been empty for over 6 months, and 13 empty for more than ten years. The 2010/11 English House Survey shows that 4.2% of private dwellings are vacant nationally compared with 2.4% in South Ribble.

Reasons a property may be left empty;

Individual factors

- The owner may be unwilling to consider leasing or letting the property.
- The owner may be temporarily working abroad and intend to live in the property in the future.
- The owner may not be aware of the property's existence, for example where property records are not kept.
- Unresolved ownership matters e.g. following the death of an owner.
- The owner may not fully appreciate the financial benefit of bringing their empty property back into use.
- The property may have been acquired solely for speculative investment purposes and the owner is not concerned that the property is empty.
- The property may be owned by a development company who has plans for its future redevelopment.
- The property may be joined to a business property and the business owner does not want to let it.
- The owner may be in hospital or care

Property factors

- The property may be in need of major repairs or refurbishment and the owner may not have the necessary resources to make the property habitable.

- There may be problems with accessing the property.
- There may be planning restrictions which restrict the occupancy of the property.
- The property has been repossessed.

3. Aims and objectives of the Empty Homes Policy

The overall aim of this policy is to

- Reduce the number of long term empty homes in the borough.
- Improve the housing supply
- Tackle issues relating to property nuisance

This policy will bring about the improvement and occupation of empty houses, increasing the supply and use of housing to all.

The council will work with homeowners, to support and encourage voluntary action, but commit to take appropriate enforcement action where reasonable negotiations fail. Emphasis will be placed on developing appropriate, low cost solutions which are both effective in bringing empty homes back into use and help meet our broader housing objectives to increase the availability of decent, affordable housing in South Ribble.

4. Why is there concern over properties being left empty?

What happens to empty homes is not simply a matter of concern to those who own them.

- A property that is left unoccupied and not maintained will eventually impact on its surroundings including neighbouring properties whose condition and value might be adversely affected.
- Empty properties are at risk from being broken into by vandals and squatters and in extreme cases might become a target for arson and anti-social behaviour.
- Empty homes can be the cause of complaints in relation to environmental health issues, and the police and fire services are also regularly called out to deal with empty properties. Bringing empty homes back into use will save hours of officer time and enable investment to be targeted into other areas.
- Bringing empty homes back into use can reduce the need to build more much needed new homes thus reducing pressure on greenfield development. The reuse of the existing building fabric is also generally more environmentally sustainable than building new homes
- Bringing empty homes back into use can also act as a catalyst for wider regeneration by boosting confidence in the property market.
- Empty homes are a wasted resource from the point of view of the local authority, especially at a time when there are people in urgent need of suitable accommodation.
- The only effective way to reduce the negative impact of an empty dwelling is to occupy it. It is therefore in the public interest that empty homes are brought back into use.

5. Available Resources

The extent of enforcement activity undertaken by the council will be determined by the resources available to fund both the revenue and capital related elements of the activity.

Officers in the housing team will work closely with officers in the finance and legal teams prior to taking action and other relevant teams who carry out enforcement work to ensure that the council is not being subjected to unnecessary risk.

The council will always look to secure external sources of funding via Central Government initiatives e.g. Methodist Action-A Place to Live empty homes bid. This will ensure that empty homes will be occupied at the least cost to the council and owner.

The council will also work closely with voluntary and charitable agencies to ensure that a range of advice, options and incentives are available for owners

6. How will the Council deal with empty homes?

We will deal with the issue of empty homes on both a proactive and reactive basis.

On a reactive basis we will:

- Seek to minimise the problems of empty homes by talking to the owner and trying to ensure that the property is in a secure condition and not a statutory nuisance.
- Take enforcement action including work in default and legal action to recover costs and legal proceedings for non-compliance with notices

On a proactive basis we will:

- Effectively collect and collate information on empty homes and their owners by identifying those properties that have been empty for over six months based on information supplied from the council tax department. A letter will be sent to the owners advising them of how the council can assist them in returning the property to use.
- After a property has been empty for more than 12 months and no contact or correspondence has been entered into, a member of the housing team will inspect the property and complete a prioritisation sheet.(appendix a) Properties scoring the highest points and empty the longest will then be targeted for priority treatment.

To ensure all relevant departments are involved an Empty Homes Project Group has been set up to work with colleagues and partner agencies to exchange information, identify and prioritise homes and develop new initiatives for homes identified as a priority for action.

The project group will include:

- Housing Officers
- Building Control Officers
- Environmental Health Officers

- Property Services officers
- Legal and council tax officers

They will liaise with:

- Councillors
- Town and Parish Councillors
- The Fire Service
- The Police Authority
- The general public and any other interested parties as part of this process

The Housing Act 2004 (s237) allows the council to use information provided for the purpose of council tax to identify properties that are registered as empty in order that it can take steps to bring these properties back in to use.

In seeking to identify empty properties all processing of personal data will be in accordance with the council's data protection policy and the rights of data subjects contained in Part 2 of the Data Protection Act 1988.

The council will contact the owners/landlords of empty properties and will offer advice and support to those wishing to bring their properties back into use. It will do this by providing information on repairs, grants and loans assistance and letting and managing a property.

We will also outline the financial benefits to the owner of bringing the property back into use by consideration of the potential income, the savings on maintaining and securing an empty property, the increased value that will result from the occupancy of a property and conversely the depreciation in value if the property is not maintained and occupied.

If the owner is unwilling to bring the property back into use the council will consider using its enforcement powers to bring the property back into use.

7. What approach will the Council take to enforcement action?

The council will adopt the following principles in its enforcement activity:

- Transparency
- Accountability
- Proportionality
- Consistency
- Targeted only at cases for which action is needed

The council will at all times have regard to an owner's human rights and will not pursue enforcement action where it is disproportionate in human rights terms. This will be considered alongside the benefits to the wider community that will arise from ensuring that properties do not remain empty in circumstances that are disproportionate and unjustified.

The council will not use enforcement powers until all other avenues to encourage the owner to bring the property back into use have been exhausted. The council will want to see that

the owner is taking proactive steps to bring the property back into use and that progress is being made in this respect.

For those owners who do not respond to positive encouragement, or when informal working does not bring a property back into use, and where it is appropriate, the council will take enforcement action but only after a property has been empty for more than twelve months.

Only when informal options have been exhausted or no contact has been established with the owner, is the property referred to the Empty Homes Project Group for consideration.

Where there is an urgent need to make a property safe or remove a nuisance immediate enforcement action can be taken..

The council will always use the most appropriate enforcement action to provide the desired result which is to bring the property back into use. It is acknowledged that taking enforcement action will not be without cost and so a cost benefit analysis will be undertaken and a business case made for consideration by the Empty Homes Project Group before recommending and taking action.

Properties empty for more than twelve months will be assessed and scored for inclusion on the empty homes priority list and enforcement action taken on the worst properties, which take into account the following factors:

- Length of time the property has been empty
- History of the owner in respect of co- operating with us
- Property history in respect of being open for access
- Requests for action from the Fire Brigade or Police
- Number of complaints about the property
- Anti-Social behaviour; fly tipping, vandalism, arson, graffiti, substance abuse
- Location of the Property
- Unsafe or dangerous elements
- Effect on adjacent homes
- Overgrown gardens
- Accumulation of rubbish
- Condition of boundary walls and fences
- Impact of the property on the street and surrounding amenity

We will communicate our intentions in plain English or in the appropriate language or method in accordance with the needs of the owner. The owner of the property will be made aware of the advice and support that the council can provide to assist the owner in bringing the property back into use, the enforcement powers it has and what action the council would intend to take including the relevant timescales and processes.

Once the owner of the property has been advised of the council's intention to take enforcement action there will be a period during which the owner can consider their options and appeal against the proposed action being taken.

Details of the council's complaints and appeals processes will be provided at the outset.

In addition any enforcement action will be answerable and open to appropriate review in the light of changed circumstances at any stage of the enforcement process.

The council will undertake enforcement action as promptly and efficiently as possible in order to minimise delays and feedback will be sought on the service provided.

All action taken will be proportional to the circumstances of the individual case and the extent and impact of the empty home in the borough at the time.

The council will seek to ensure that cases are dealt with in a consistent manner and a regular review of the effectiveness of its enforcement activity will be undertaken. All officers undertaking enforcement action will be suitably trained, qualified and authorised so as to ensure that they are fully competent to undertake their enforcement duties.

8. What enforcement powers are available to the Council in respect of empty homes?

The council will take a phased approach to enforcement action, giving the homeowner every opportunity to bring their property back into use on a voluntary basis but committing to taking enforcement action where this proves necessary or appropriate.

Phase 1 – Option Appraisal

Action

Once a property is identified as being empty for 6 months or more the council will initially contact the owner outlining what options are available to bring the property back into use. Information on why the property is empty and what help is required by the owner is gathered so that all options can be explored.

If no response is received a follow up letter will be sent. Before any formal action is considered, the council will seek to work with the owner to identify the range of options available to them to bring the property back into use. This may involve practical guidance on matters such as letting, leasing, property valuation, building regulations and planning, grant assistance and loan schemes, demolition, and debt recovery, drawing as required on the expertise of other departments in the council and elsewhere.

The aim will be to help the owner arrive at a solution, which meets their needs and preferences whilst achieving the overall aims and objectives of this strategy.

If the property is still empty after 12 months an inspection will be arranged and carried out by a member of the housing team they will complete a prioritisation sheet which will allocate a point score to the property (see attached in documentation section). This will provide a score for the property taking into consideration the condition, complaints etc. Those identified as being scored the highest will then be prioritised for action

Phase 2 – Informal warning

Action

If no response is received from the empty homes owner, or if the empty homeowner has not implemented the agreed option to bring the property back into use we will issue a written warning. However if the homeowner can demonstrate good reason for delay or failure to implement the agreed option, a revised timescale or option will be negotiated.

Outcome

Written warning to the owner –

- Confirming satisfactory progress has not been made
- Requesting a reason for lack of progress
- Confirming formal action will ensue if no reasonable explanation or undertaking is offered within a reasonable period of time.

Phase 3 – Formal Action

Action

Where the owner of a property is untraceable or demonstrates an unwillingness to work with the council and/or satisfactory progress has not been made the council will consider taking appropriate enforcement action:

Where a property has been empty for a long period of time and officers have spent time encouraging the owners to re occupy the property but no progress has been made, it will be unlikely that these properties will be brought back in to use and therefore all properties which have been empty for longer than 6 years will be considered by the group to determine and agree the most appropriate course of formal action to be taken.

A report will then be submitted to the Director of Planning and Housing where the Empty Homes Project Group recommends the following actions –

- Empty Dwelling Management Order (EDMO)
- Other enforcement action we may take:
 - Local Government (Miscellaneous Provisions) Act 1982 s29 enables the council to secure a property that is open to access
 - Building Act 1984 s77 and s78 enables the council to require an owner to make a property safe or allow emergency action to be taken to make it safe
 - Town and Country Planning Act 1990 s215 enables the council to take action to address unsightly external appearance
 - Housing Act 1985 s265 enables the council to demolish a property that cannot be satisfactorily repaired (i.e. derelict properties)

The enforcement recommendations would be carried out under a Delegated Decision. A report on the recommendations from the Empty Homes Project Group will then be submitted to Cabinet for approval if the recommendations made are for–

- C.P.O (Compulsory Purchase Order)
- Enforced Sale

If approved then the relevant procedure will be enforced.

Outcome

- Empty Dwelling Management Order (EDMO)
Under the Housing Act 2004 the council can apply to a Residential Property Tribunal to impose an EDMO on the owner of an empty home in order to achieve occupancy of the house. The Order gives the council management of the house, but not ownership, for a set period for a maximum of 7 years after which another order can be applied for. The council must then let the house to a tenant and recover their costs through rental. If there is any excess it goes to the owner. Practically, this option is only available to homes which are in a good state of repair and ready for occupancy.
- Enforced Sale
Enforced sale is an option available to the council where an empty home has accrued costs to the council for works which have had to be done to the house, which the owner has neglected, and refused to repair or clear up, and has then refused to pay the cost for this. The council can seek an order to compel sale of the house on the open market to recoup its costs. The owner takes the balance of the sale price.
- Compulsory Purchase Order
The Housing Act 1985 gives Local Authorities the power to apply to the Secretary of State for the council to compulsorily purchase the property. This power should be a last resort for the council in its efforts to bring the house back into use and stop the anti-social ‘knock on’ effects that such a house inflicts upon its neighbours. The council will have exhausted all efforts to persuade the owner to deal with their house by this stage.
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 - Town and Country Planning Act 1990 s215 enables the council to take action to address unsightly external appearance
 - Housing Act 1985 s265 enables the council to demolish a property that cannot be satisfactorily repaired (i.e. derelict properties)

The council will seek to recover all of its costs where possible in bringing empty properties back into use and will look at all the options available legally within existing resources prior

to taking enforcement action to ensure that the council is not being subjected to unnecessary risk.

9. Recovery of costs associated with bringing empty properties back into use

The council will seek to recover all of its costs where possible in bringing empty properties back into use.

10. Complaints and appeals process

Any complaints will be dealt with in accordance with the council's corporate complaints procedure.

11. Equality Impact Assessment

This policy has been subject to an equality impact assessment

12. Start date

This policy will become effective from September 2013 subject to cabinet approval.

13. Review

This policy will be reviewed annually by the Empty Homes Project Group, led by the housing team.

Documentation

Empty Property Prioritisation Sheet

ADDRESS:

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Date of Assessment:

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Officer Assessing:

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Description of Property	Residential – House	
	Bungalow	
	Flat	
	Flat Above Shop	
	HMO	

			Points Scale	Points Awarded
Length of Time Vacant	12 months – 3 years		3	
	3-6 years		10	
	6 years - 10 years		25	
	Over 10 years		30	
Property Condition	No Disrepair	Cost - Nil	0	
	Minor Disrepair	Cost £1- £1000 - £	2	
	Major Disrepair	Cost >£1000 - £	5	
	Derelict	£	10	
Social Impact	No detriment to the amenity of the area		0	
	Front and / or Rear Garden Overgrown		3	
	Incidents of Arson / Fire at Property		5	
	Vandalism to Property		5	
	Fly tipping occurring / occurred at property		5	
	Property provides cover for criminal activity		5	
	Contributes to very poor street scene		5	
No of complaints received	Low number (1-3)		1	
	Medium number (4-8)		3	
	High Number (9 and over)		5	
			<i>Total</i>	

Notices Served / to be served (SRBC)	Total Cost	Number of Notices	Weighting	Total Points

Empty Property Banding	Score Banding		Priority
1	Over 40 Points	A High	
2	16 -39 Points	B Medium	
3	0 – 15 Points	C Low	