

<b>Subject:</b>	Enforced Sales Policy and Procedure July 2018	<b>Status:</b>	For Publication
<b>Report to:</b>	Cabinet	<b>Date:</b>	12 <sup>th</sup> September 2018
<b>Report of:</b>	Director of Communities	<b>Portfolio Holder:</b>	Health, Housing, Communities and Customer Service
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	Initial EIA only	Attached: Yes
<b>Biodiversity Impact Assessment</b>	Required:	<b>No</b>	Attached: <b>No</b>
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<b>1.</b>	<b>RECOMMENDATION(S)</b>
1.1	That Cabinet approves the Enforced Sales Policy and Procedure.
1.2	All future minor amendments to the Enforced Sales Policy to be delegated to the Director of Communities in consultation with the Portfolio Holder.

## 2. PURPOSE OF REPORT

2.1 To inform Members of the proposed Enforced Sales Policy and Procedure which will be added to officers' toolkit in the recovery of appropriate charges.

## 3. CORPORATE PRIORITIES

3.1 The matters discussed in this report impact directly on the following corporate priority:

- **A proud, healthy and vibrant Rossendale:** our priority is to ensure that we are creating and maintaining a healthy and vibrant place for people to live and visit.

## 4. RISK ASSESSMENT IMPLICATIONS

4.1 Failure to implement an effective Enforced Sales Policy and Procedure will restrict the Council's ability to recoup debts registered as Local Land Charges.

The property may not sell. To mitigate the Council will value the property at a realistic price, using all outlets for property sales such as auctions.

Property is not refurbished and occupied after it is sold at auction. The Council would endeavour to find a prospective purchaser who would carry out all necessary work to make the property suitable for habitation within a reasonable time period and also either occupy the property or let the property to a suitable person(s). This will be stated in the conditions of sale.

## 5. BACKGROUND AND OPTIONS

5.1 Enforced sale is a power executed under the provisions of s.103 of the Law of Property Act 1925 for the recovery of debt.

5.2 Enforced sale is a provision that enables the Council to recover outstanding debt following actions that have created a local land charge against a property. Whilst principally a debt recovery procedure, it has been adopted by a number of local authorities across the country as a very effective way of dealing with long term empty residential properties where the owner cannot be traced or is unwilling to work with the authority to bring the property back into occupation.

5.3 The Council already has an established cross departmental Empty Property Task Group who identify suitable actions and existing debts for individual properties and land. The group consists of Officers from Health, Housing and Regeneration; Planning (inc. Conservation); Building Control; Legal; Environmental Health and Service Assurance. The group will oversee the use of the Enforced Sales procedure

#### **Extent of debt owed to Rossendale**

5.4 Rossendale Borough Council's Finance Department shows that the debt outstanding to the Council because of works carried out in default is £64,777.57 and of that the debt owed from empty properties and land is £14,772.38.

5.5 Legal and finance departments welcome the introduction of such a procedure to support the recovery of council expenditure registered on the Land Charges register.

#### **Current position and options**

5.6 Officers have produced a Policy and Procedure, attached to this report, which provides a complete description of the process and roles involved. Given that this is a new procedure, officers have brought this to the attention of Cabinet for approval, and to avoid any future challenges from property owners on the basis that the Council has not fully considered and approved its policy and procedures in respect of Enforced Sales.

5.7 The procedure may ultimately be stopped by payment of the outstanding debt. However at the very least the Council will have recovered the debt and made the owner aware that it is prepared to take action.

5.8 Compulsory Purchase and charging orders for Council Tax debt can be considered and be used in relation to empty properties. However, these are not always practicable and it takes longer to recoup debts. Likewise demolition is not always a practical option as it does not recoup the debt and prevents the property from being reoccupied. The other properties in the street could be in a good condition and this makes demolition impractical

#### **Criteria for Enforced Sale**

5.9 Enforcing the sale of the property will generally only be pursued by the Council if all the following criteria are met:

- The owner owes outstanding monies, of £500 or more, to the Council following the carrying out of remedial works,
- The property has been empty or appears to have been abandoned and/or has been a source of frequent complaints received by the Council.
- There should be no proposed CPO action within a 2 year period.
- The property must not be the subject of any bankruptcy action. (This would usually be noted on the title or highlighted through Council Tax Records).
- The necessary Statutory Notices and documentation have been served.

The following criteria would also be considered and add weight to a decision regarding whether or not to carry out ESP:

- The property is likely to deteriorate and attract more complaints, becoming detrimental to the amenity of the area
- The owner is absent, uncooperative, and the property is uninhabitable.

5.10 If the Owner appears, or is known to be, vulnerable or disadvantaged, then officers will consider whether other agencies could assist in the case. For example they may be in need of community care services by reason of mental or other disability, age or illness and/ or may be unable to take care of him/herself.

In this case Officers will carefully consider the impact of using the enforced sale procedure, whether the enforced sales approach is necessary and proportionate in the circumstances and if so, whether there are any steps they could take to mitigate the effect of using this method. Due regard will be had to the Council's obligations under the Equality Act 2010.

**COMMENTS FROM STATUTORY OFFICERS:**

**6. SECTION 151 OFFICER**

6.1 Financial matters are noted in the report.

**7. MONITORING OFFICER**

7.1 Approval of this policy will ensure there is a clear policy in place to set out the framework for Enforced Sales which are recognised nationally as an effective means to deal with long term empty properties. Each individual case will be reviewed to ensure it meets all legal requirements to enable enforced sale to proceed.

**8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT**

8.1 Direct consultation with:

- Internal Council Departments
- Overview and Scrutiny

8.2 The report was reviewed by the Overview and Scrutiny Committee in March and recommended that Cabinet approve the Policy and Procedure after minor non-material amendments.

**9. CONCLUSION**

9.1 There are social and financial benefits from adopting an Enforced Sales Policy and Procedure. The adoption of the Enforced Sale Procedure will greatly support the recovery of outstanding debt and add a further option to consider when addressing problematical long term empty properties which blight neighbourhoods.

9.2 Implementation and publicity of this policy will also encourage other empty property owners to maintain their properties in a reasonable state and condition resulting in less time spent by the Council in having to deal with the associated problems that long-term problematic empty properties attract.

**Background Papers**

Background Papers	
Document	Place of Inspection
Enforced Sales Policy and Procedure July 2018	Appendix 1
Initial Equality Impact Assessment	Appendix 2