



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

**Regeneration and Sustainable Development Scrutiny Committee**  
12<sup>th</sup> July 2019

**Report of the Head of Planning and Public Protection**  
N. Pearce

### **Matter for Information**

**Wards Affected:** All

### **Problematic Empty Homes (Private Dwellings)**

### **Purpose of the Report:**

To provide Members with an overview of the way Problematic Empty Homes are dealt with throughout Neath Port Talbot.

### **Executive Summary:**

This report provides an update regarding the way Problematic Empty Homes are reported to the Environmental Health and Trading Standards department, together with the procedure Officers follow to ensure the empty homes are risk assessed and prioritised for action by the Environmental Health & Trading Standards Department.

## **Background:**

The Environmental Health and Trading Standards department created a new performance indicator (PI) for 2019/20 to show the number of problematic empty homes that are dealt with by the service through direct action. The current National Performance Assessment Measure 'PAM/13: percentage of empty private properties brought back into use' will continue but it differs as it measures all empty homes not just problematic empties.

Property owners have a responsibility to prevent empty houses falling into disrepair or becoming a nuisance. Long term empty properties are a wasted housing resource and can attract pests, vandalism, anti-social behaviour and unauthorised entry. Properties in a poor condition can also blight an area and reduce the value of nearby homes. Given the number of empty properties currently recorded within Neath Port Talbot, which will be outlined later in this report, it was considered necessary to start recording and reporting on these numbers and the actions taken by officers to address this increasing problem. This is especially important to ensure that Members are fully aware of the often lengthy and complicated investigations and legal action that are often required to bring these properties back into beneficial use.

Not all properties require such intervention from officers. The best and most efficient and cost effective solution is for owners to bring the empty property back into use of their own accord. This can be achieved by selling it, renting it or renovating it and living in it. Advice and even financial support are options that can be given to bring a property back into use.

### What is a Problematic Empty Home?

Problematic empty homes are empty houses that have been the subject of a complaint concerning its condition, or the property has been identified from Council Tax records as being empty for a significant period of time (i.e. over 5 years).

Unlike the National PAM, this indicator will seek to capture properties which have been un-banded by the Valuation Office Agency, due to their dilapidated and poor condition, and removed from the Council Tax database.

The typical direct action taken to deal with problematic empties will include providing advice about loans or other financial assistance and the options for bringing it back into use.

### What is the scale of the problem in Neath Port Talbot?

On 1<sup>st</sup> April 2019 there were 1697 homes throughout NPT that were classed as empty according to the Council Tax database. We are currently analysing this data and making contact with each home owner, where we will remove any houses classed as second homes, new build dwellings or owned by a Registered Social Landlord.

The Environmental Health team receive complaints from residents and Members where an empty property affects neighbouring property or the surrounding community. To-date, the EHTS problematic empty homes database has 405 empty homes assessed. 42 of these have been risk assessed as 'high priority' for pro-active enforcement action to bring them back into use.

### How are complaints about empty homes dealt with in Neath Port Talbot?

#### Online complaint referral procedure

In 2018, the Environmental Health service introduced an online system to deal with Problematic empty homes. All complaints about an empty property should be made by completing an online form which can be found at [Empty Homes](#). Neath Port Talbot CBC call centre staff will assist members of the public complete the form if needed. The form requires details of the property, the complainant, and details of the problem that is being experienced. Once completed, details will be received by the department's Triage officers who will undertake background checks into the property's complaint history and ownership, and will visit the property to carry out a

prioritisation assessment, to enable the service to deal with the most serious problematic properties first.

### Prioritisation assessment

The prioritisation assessment considers the previous history of complaints received by the Environmental Health department, length of time it has been vacant, and its current condition. These factors calculate a score which places the property in a band which indicates its priority status of high, medium or low.

### **Enforcement action**

A range of enforcement measures are available to the Authority to deal with problematic empty homes ranging from securing the property from unauthorised entry, statutory nuisance (mainly damp) and overgrown gardens and waste accumulations (dealt with by the waste enforcement team in Streetcare services). These measures are short term and do not tackle the underlying issue that the property will remain empty. In January 2017, the Environmental Health and Trading Standards department introduced an Enforced Sale policy to provide a mechanism to bring long term empty property back into use. Enforced Sale is a complex lengthy legal procedure which enables the Authority to force the sale of a property to recover an outstanding council debt that exists on it, such as any works undertaken in default of a legal notice.

The Welsh Government have recently focussed more attention on addressing the rise in empty properties and are contacting all authorities in Wales offering training, on the basis that they consider adequate enforcement tools are already in place. We disagree with this assertion and are in the process of providing formal feedback to Welsh Government identifying the problems experienced on a day to day basis, including the lack of resources. Nevertheless we will continue to implement the tools we currently have available as effectively as possible.

## **Monitoring**

The service has created a local performance indicator to inform Members of the number of problematic empty homes that are brought back into use through the direct action of the service. This differs from the National performance measure that looks at all empty homes.

The benefits of bringing long term problematic empty homes back into use are numerous and would result in knock-on benefits to other departments such as Streetcare, who are responsible for investigating complaints relating to accumulations of waste within garden areas and on open ground, in addition to complaints relating to overgrown gardens and pest control issues in and around property. Investment in (if necessary) and the re-occupation of such properties could potentially alleviate further action from this section. Furthermore its re-occupation could also increase council tax revenue into the authority.

## **Proposal:**

To note the procedures currently being implemented to deal with problematic empty property in Neath Port Talbot to ensure they are dealt with in a systematic and methodical way thus ensuring the worst problematic empty homes in the County Borough are dealt with as a priority.

## **Financial Impact:**

A fund has been established for the service to enable direct action to be undertaken should it be necessary. This is a recyclable fund whereby recovered costs are deposited into the fund to enable us to deal with future action when necessary.

## **Integrated Impact Assessment:**

There is no requirement to undertake an Integrated Impact Assessment as this report is for monitoring / information purposes.

**Valleys Communities Impacts:**

No implications.

**Workforce Impacts:**

No implications.

**Legal Impacts:**

No significant legal impacts.

**Risk Management impacts:**

None

**Consultation:**

There is no requirement for external consultation on this item.

**Recommendation(s):**

That the report be noted.

**Reason for Proposed Decision(s):**

Matter for monitoring. No decision required.

**Implementation of Decision:**

Matter for monitoring. No decision required

**Appendices:**

None.

**List of Background Papers:**

16. Neath Port Talbot Enforced Sale Policy –

[Enforced Sales Policy](#)

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Appendix 1



**Neath Port Talbot County Borough Council**

**Planning and Public Protection**

**Environmental Health**

**Enforced Sale Policy**

## **1. PURPOSE**

1.1 The purpose of this policy is to set out a framework for Environmental Health to use the Enforced Sale Procedure under the Law of Property Act 1925 with a view of targeting long term problematic empty properties, and to bring these properties back into use where possible.

1.2 Neath Port Talbot Borough Council recognises the importance of bringing empty properties back into use, as they can be a source of many problems.

1.3 Long term empty properties can have a negative impact on the visual amenity in the immediate neighbourhood and cause nuisance to adjacent occupiers. They can also lead to increased fly-tipping, vandalism, arson, potential squatting and other anti-social behaviour.

## **2. POLICY BACKGROUND**

2.1 The Enforced Sales Procedure is a process by which the Council brings about the sale of a privately owned house. It is used as a means to "sell on" a long-term vacant house to a new owner, in circumstances where the present owner is either unwilling or unable to deal with the house and its problems; or the ownership is unknown.

2.2 By bringing about a change in ownership, it is hoped that a new owner will be more willing and able to invest in the property, and ensure its likely reoccupation, upkeep, and proper use.

2.3 The process of Enforced Sales is a method for the recovery of debt owing to the Council, and could be used to recover debts where the owner of a property has made no attempt to make payment.

### **3. IDENTIFYING AND PRIORITISING POTENTIAL PROPERTIES FOR ENFORCED SALE**

3.1 The Council uses a number of methods to identify empty private properties, including Council Tax information and referrals from members of the public, local Councillors, Police, Fire and Rescue Service, Planning Enforcement, Building Control and Waste Enforcement.

3.2 Environmental Health maintain a database of empty private properties, that is regularly reviewed using a risk based assessment, to identify priority properties that are suitable for proactive Statutory Action and the Enforced Sales process.

### **4. PRE-ACTION TO ENFORCED SALE**

4.1 When an empty property has been identified as a priority for intervention, steps will be taken to trace and contact the owner.

4.2 If an owner is identified, they will be contacted and provided with advice and a number of solutions to bring the property back into use. For example:

- We will inform the owner about the problems being caused by the property being empty, together with its impact upon the wider community.
- We will offer potential financial solutions, including the availability of Empty Homes loans or negotiate the private sale of the property.
- We will highlight the consequences of allowing the property to fall into further disrepair, including its market value depreciation and risk of enforcement action.
- We are able to inspect the property to identify if it is suitable for rental/letting, and inform the owner of the works required to bring it up to current standards.
- We can guide existing and future owners through the legal requirements of Rent Smart Wales registration and licensing.

4.3 The market value of the property should be discussed and the owner notified about any charges registered against the property. The owner will be

encouraged towards selling the property without our formal intervention at this stage. The Council is able to provide a service to the owner to facilitate the Voluntary Sale either privately, or to an interested Registered Social Landlord.

4.4 Each individual case will be assessed individually and the use of the Enforced Sales Procedure should be seen as a means of last resort. Properties will only be selected for Enforced Sales when the Council has exhausted all other reasonable options to resolve the existence of the empty property, remedy any associated problems caused by the poor condition of the property and the recovery of debt owed to the Council.

4.5 Environmental Health will liaise with other departments and agencies, particularly those with an enforcement or financial role with a view to putting pressure on the owner to deal with the property. Examples of matters to be considered include:

- Involvement of other Enforcement Authorities such as Building Control, Pest Control and Waste Enforcement, and Planning Enforcement.
- Removal of exemptions or relaxations for Council Tax payments.
- Debt Recovery processes should be actively chased.
- Involvement of mortgage lenders if appropriate.

## **5. SERVICE OF NOTICES & REGISTRATION OF CHARGES**

5.1 Environmental Health will ensure all of the Statutory Enforcement Notices have been correctly served, and will ensure the correct notices are served in accordance with the legal procedures.

5.2 Where works in default have been undertaken to comply with a notice, and a debt is owed to the Council, checks will be made to find out if the debt is registered against the property.

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5.3 Where debts are not charges registered against the property, but are personal debts the Council may be able to pursue the debt at the County Court and secure an order against the property.

## **6. LEGISLATIVE BASIS FOR ENFORCED SALE**

6.1 The legal process for Enforced Sale is complex, and this section is provided for general information only.

6.2 There are various Acts of Parliament which allow the Council to make appropriate debts a charge against a property. These Acts give the Local Authority the power to enforce that Charge, so that the Enforced Sale Procedure under the Law of Property Act 1925 can be used to enforce the sale.

6.3 Section 7 of the Local Land Charges Act 1975, provides that a financial Local Land Charge takes effect, as if it had been created by a Deed of Charge within the meaning of the Law of Property Act 1925.

6.4 Section 101(1) of the Law of Property Act 1925, confers on a mortgagee a power of sale. An Order of the Court is not necessary as the legislation itself provides that power.

6.5 Section 87(1) of the Law of Property Act 1925, confers a right of possession. In addition, many of the statutes used by the Council, which enable works to be carried out in default, also give the Council a power of sale and a right of priority over other Charges.

6.6 The first step in pursuing the legal process for Enforced Sales is to serve a notice under Section 103 of the Law of Property Act 1925. The Council may not exercise the power of sale unless and until this Notice (requiring payment of the debt), has been given, and a default of payment has been made for 3 months after the service of the Notice.

6.7 The Council should write to the Owner requesting the Land or Charge Certificate. The Council must also write to the Owner, and any other Chargee, stating that it intends to carry out an enforced sale. If another Chargee should pay the outstanding money, this prevents the Council taking priority over their charge.

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6.8 Likewise, if, at any stage prior to the actual sale of the property, the Owner should pay the outstanding debt, then Enforced Sale is no longer an option.

6.9 Once default of payment is apparent, the Council can apply to the Land Registry for registration of the Charge, claiming priority over all other Charges.

6.10 When the Charge Certificate is returned from the Land Registry, the property can be marketed for sale. Another letter will be sent to the Owner and any Chargees to warn them again that the charge is to be recovered by Enforced Sale.

## **7. PROCEDURE WHERE THE PROPERTY IS NOT REGISTERED**

7.1 In some instances, properties may be discovered which are not registered with the Land Registry. This will increasingly be the case for older properties, particularly where no recent sales have taken place, or the property has changed ownership without proper conveyancing. The Enforced Sale Procedure can be applied to unregistered property.

## **8. HUMAN RIGHTS ACT 1998**

8.1 Consideration of the provisions of the Human Rights Act 1998, must be taken into account by the Council. In particular, the right to respect for private and family life, home and correspondence and peaceful enjoyment of possessions. These rights need to be balanced against the general benefits and rights of neighbours and the surrounding community. For example, the need to deal with any dangerous or health risk conditions, the desire to bring a long term empty property back into use; and to reduce crime, arson, fly tipping and the negative impact of the empty property on the locality.

8.2 A statement that the intended action of the Council in exercising its power of sale is considered to be proportionate in accordance with the Act, and this should be included in the decision making document seeking authorisation to pursue an Enforced Sale.

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## **9. RECOVERY OF COSTS**

9.1 If a debt can be registered as a local land charge then that should happen after the debtor has failed to pay the bill in relation to the works completed in default.

9.2 If the statute says a debt can be enforced as a charge then you can enforce that debt whether it is registered as a local land charge or not. In most cases, it is not important on whom the notice was originally served.

9.3 It does not matter, whether the property has subsequently changed ownership. Once the charge has been established, the land continues to be subject to the charge even if it has passed to subsequent owners.

9.4 Debts are affected by the Limitation Act, in that any debts over 12 years old (generally from the date when the expense was incurred) are no longer recoverable. Thus, any attempts to recover debts through Local Land Charges or by using the Enforced Sale Procedure, are not permissible after this time has passed.

9.5 All debts owed to the Council on the property are recovered on sale. In addition, reasonable costs incurred by the Council in pursuing the sale can also be deducted. This includes all legal, surveying, marketing and administrative costs.

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## **10. MARKETING AND SALE**

10.1 Some of the processes which might normally be associated with the sale of properties are not possible when using the Enforced Sale Procedure. For example, there is no right of entry for prospective purchasers to view the property or its condition and there is no power to put up a 'For Sale' sign.

10.2 The Council has a duty to secure the best possible price for an enforced sale. Reasonable care will be taken to ensure the best sale price is achieved by the Council using either an Auction Sale or Sale by Private Treaty.

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10.3 One of the intentions of the Enforced Sale Procedure is to try and change ownership of the property in a positive way. If the conditions of the property do not improve following the sale, further enforcement action will be considered and the Enforced Sales process repeated.

