

Newcastle-Under-Lyme Borough Council Empty Dwelling Management Order (EDMO) Procedure

Preparation for Interim EDMO

1. Identify an empty property, check with Council Tax it has been empty for over 12 months. Check it does not fall into the exemption category 'Prescribed exceptions' (appendix 1).
2. Document the history of the property's vacancy so far, any outstanding debt with the Council, Council tax, planning issues, enforcement action and environmental health. If no contact details for the owner use a tracing agency or put an advert in the paper. (appendix 2)
3. Document the history and record all future actions for the property on APP.
4. Carry out a site visit for initial inspection, check location, condition and type of property.
5. Carry out an up to date land registry search
6. Letter 1 **LTR1** (appendix 3), letter 2 **LTR2** (appendix 4) and letter 3 **ENF1** (appendix 5) should be sent to the owner prior to consideration for an EDMO.

From this point onwards all paperwork to go by HAND and by post – If out of area contact relevant Council for assistance. At this point a tender will be prepared for engaging a Managing Agent as their input will be required for further actions.

7. Send letter 4 **EDM1** (appendix 6) to owner at all known addresses, include copies of **LTR1, LTR2 and ENF1** – diarise for 3 weeks.
8. If no response, send second letter **EDM2** (appendix 7) & questionnaire **EDMQ** (appendix 8) to owner at all known addresses for owner – response within 14 days – diarise.
9. If no response, send third letter **EDM3** (appendix 9) & questionnaire **EDMQ** reminder to the owner at all known addresses – response within 10 days – diarise
10. Contact neighbours and Council wards, police, fire service to collect any relevant information to support your case
11. Letter **EDM4** (appendix 10) sent to owner & cc to other parties of interest: mortgage lenders, banks, persons with interest/charges relating to the property, for gaining access to property for inspection of works to be undertaken. Housing Officer, managing agent representatives need to attend, so book with them first, property owner and Housing Technical Officer / Building Control to attend. (appendix 7) – response within 7 days, otherwise proceed with appointment.
12. If the owner did not attend, or failed entrance send letter **EDM5** (appendix 11) to owner & cc to other parties of interest: mortgage lenders, banks, persons with interest/charges

relating to the property, for gaining access to property for inspection of works to be undertaken. Housing Officer, Managing Agent representatives need to attend, so book with them first, property owner and Housing Technical Officer / Building Control to attend. Response within 7 days, otherwise proceed with appointment

13. If the owner again fails to provide access into the property the Housing Officer is to apply for a Warrant to gain entry through the Magistrates Court. Once granted attend site meeting with Housing Technical Officer / Building Control and Managing Agent representatives.
14. Once in receipt of report for property, from Managing Agents and Housing Technical Officer send letter **EDM6** (appendix 12) - 14 days to respond – diarise
15. Preliminary cost assessment undertaken by the Managing Agents, copy to Housing Officer, Housing Technical Officer / Building Control to assess the viability of an EDMO.

Application to serve an EDMO

1. Carry out a “Balancing Exercise” of the pros and cons of using an EDMO. In reaching the decision of applying to the Residential Property Tribunal (RPT) the Council must take into account the rights of the relevant proprietors of the dwelling and the interest of the wider community. You will need to be able to show why you have reached your decision, having carefully considered all the relevant evidence and importantly have the documentation to prove it.
2. Seek approval from Revenues and Housing Portfolio Holder to proceed with an Interim EDMO.
3. The following information will need to be collated to submit to the RPT:
 - a. “Statement of Reason”. Set out statement in a format that details each relevant section of the legislation and explains what steps the Council has taken to ensure it has met the requirements. include the council’s outline plan for the property so the Residential Property Tribunal knows exactly what the council intends to do if authorised to make an Interim EDMO. (see appendix 13) for Officers statement application)
 - b. the outline plan for the property
 - c. a detailed survey report of the properties condition
 - d. outlined costs (including schedule of works)
 - e. a statement of housing needs in the area
 - f. who is likely to be housed in the property
 - g. a map of the property location
 - h. an Ordnance Survey map of the local neighbourhood
 - i. a layout drawing of the arrangement of rooms in the dwelling

- j. extensive photographs of the property – internally and externally
- k. statement of the Council Tax bands which the property falls
- l. Statement of expert witnesses and/or confirmation of witnesses/neighbours preparedness to give evidence
- m. the draft interim EDMO (see appendix 14)

Section 134 91)-(3) of the 2004 Act explains simply the terms under which the Residential Property Tribunal (RPT) will assess the application and may decide to grant authorisation for an Interim EDMO. In summary, there are four main counts; the RPT must be satisfied that:

- the property has been empty for more than twelve months, with little prospect of occupation without an EDMO and more chance if an EDMO is authorised;
 - the authority has notified the owner of its intention, tried to find out what plans, if any, s/he has to return the property to use, and complied with any other requirements;
 - the authority has considered the rights of the owner and the interests of the wider community; and
 - it has itself considered the interests of the wider community and the effects an EDMO would have on the rights of the owner and might have on those of third parties.
4. All documents to be submitted in a single bundle documentation in good time, referenced and cross referenced for ease of identification. Send full copies to the owner at all known addresses.

Residential Property Tribunal (RPT)

1. Arrange local authority legal representative if required
2. Prepare for officers oral statement. Ensure ability to answer questions from RPT panel members (remember always show trying to assist the landlord)
3. A decision will be between 1 week to 2 months

Serving an Interim EDMO

1. Make the Interim EDMO itself – within 7 days of the Interim EDMO being made serve notice of having served it on all relevant persons with the explanatory notes (see appendix 14 & 15)
2. Add the property to the authorities Register of Management Orders
3. Apply for a restriction to be entered in the register of title held at the Land Registry.

Interim EDMO actions

1. Insure the property
2. Continue discussions with the owner to seek voluntary agreement send letter to owner (see appendix 16).

3. Enter the property to conduct a detailed survey and secure, change locks if necessary – invite the owner and advise them in writing if the locks are changed.
4. Managing Agents to line up contractors.

Preparation for Final EDMO

1. Seek approval from Revenues and Housing Portfolio Holder for consideration to proceed with a Final EDMO.
2. The Interim EDMO is the last opportunity for the owner to come to agreement. The Interim EDMO usually lasts 12 months – to allow enough time to reach agreement if one is in prospect - but you are within your rights to proceed to the Final EDMO at any stage during that time if, in your judgement, no such resolution is likely to be reached. **Section 136 (1) (b) of the 2004 Act** states only that the council must first have “*taken all such steps as it was appropriate for them to take*” under the Interim EDMO. In some cases, for example where there is no known owner, you can move from Interim to Final EDMO more or less immediately.
3. Assess the likelihood of reoccupation without a Final EDMO
4. Produce a detailed Management Scheme (see appendix 17) for the property in preparation for a Final EDMO. The Management Scheme is part of the Final EDMO. The Council will by this stage already to have much of the content, including details of works required to the property and cost estimates (for administration, works and management). It should also cover payment arrangements (including compensation, if any). Schedule 7, paragraph 13 (3) of the 2004 Act sets out what it “*must (in particular) include*”, and Schedule 7, paragraph 13 (4) lists additional, optional content; these lists are also set out at Chapter 8.4 of the DCLG Guidance Note on EDMOs.
5. Liaise with the Managing Agent & housing benefits to determine the rent to be set – Don’t assume you may have to charge open market rent, some councils have successfully set an affordable rent. – The owner/landlord would have to appeal against the affordable rent level.

Serving Final EDMO

1. Serve notice of intention to make a Final EDMO (14 days consultation) (see appendix 18)
2. Make the Final EDMO, incorporating any changes resulting from consultation response.
3. Serve notice of the Final EDMO on the owner within 7 days (owner has 28 days to appeal to the local authority & PRT) (see appendix 19).
4. If there is no appeal the final EDMO is confirmed at the end of the 28 days.
5. If there is an appeal the final EDMO is not confirmed pending the RPT’s decision.
6. It’s important to remember that there are three distinct stages to making a Final EDMO: consultation on the council’s intention to make the Final Order; giving notice to the owner of the intention to make the order; and confirmation of the Final EDMO.

Once the Final EDMO is in place

1. Gain entry, secure the property and change the locks, if not already done.
2. Update the entry on the authority's Register of Management Orders.
3. Clear the property and any gardens of rubbish, abandoned cars etc. (see appendix 20)
4. Store or dispose of any furniture not required by the owner. – try to ensure the local authority doesn't store furniture as this is very expensive.
5. Commission and oversee necessary works.
6. Contact Managing Agent and ensure they keep detailed accounts of all income and expenditure.
7. Ensure provision of floor coverings, furniture and white goods.
8. Ensure the property is let and remains occupied or with minimal void periods.
9. Monitor and review the management of the property on a regular basis and inform the owner of your findings.
10. Ensure any surplus rental income is paid to the owner.
11. Write to the owner when the property is repaired and let, confirming management arrangements and whom the property is let to and offering an opportunity to view and inspect the property.

For any further information or clarification refer to:

http://www.emptyhomes.com/usefulinformation/papers_publications/edmo_guide/edmo_stepby_step.html