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Variation / Revocation of Prohibition Order
Housing Act 2004 Section 25

To:

Of:

Take notice that the *(the council)*, in relation to a Prohibition Order served on <DATE> in respect of:

(which is a residential property within the area for which it is the local housing authority)

- Is satisfied that the state of affairs which called for the service of the order <no longer exist ,> <have changed such that> the Order is hereby
- Has received a valid request, from a relevant person with respect to the property, that the Prohibition Order is Varied / Revoked. The order is therefore
- With the consent of the person(s) served with the order, decided that the order be
- An appeal to the Residential Property Tribunal has determined that the prohibition order be

Revoked on: <forthwith> / Varied in accordance with the schedule hereto attached

Dated…….. Signed……..
(The person authorised for this purpose)

This order < has > <has not > been suspended < until: >

Ref:

Using or permitting premises to be used, without reasonable cause, in contravention of the requirement(s) of this order whilst knowing that this order is operative, is an offence. The person or persons who use the premises contrary to the provisions of this order or permit such use by act, default or sufferance may be liable, upon summary conviction, to a fine not exceeding level 5 on the standard scale and a further fine of £20 per day that the breach of the terms of the Order continues.

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Notes

Category of hazard under HHSRS:
As detailed under part 1 of Housing Act 2004. A hazard assessed as having a score of greater than a level set by the appropriate national authority shall be a category 1 hazard. A local housing authority has a duty to take appropriate action when notified of a category 1 hazard which exists at a residential premises, whether or not that premises is occupied at the time of that notification. This action may include the service of a Prohibition Order which may prohibit or alter the permitted use or occupation level and/or type of the premises in such a manner as to reduce the effect of the Hazard(s) to an acceptable level *Sec 5 H.Act 2004*
A hazard assessed as having a score of less than a level set by the appropriate national authority shall be a category 2 hazard. A local housing authority has the power to take appropriate action when notified of a category 2 hazard which exists at a residential premises, whether or not that premises is occupied at the time of that notification. This action may include the service of a Prohibition Order which may prohibit or alter the permitted use or occupation level and/or type of the premises in such a manner as to reduce the effect of the Hazard(s) to an acceptable level *Sec7 H Act 2004*

Houses in Multiple Occupation (HMO), Flats and Common parts
A Prohibition Order may prohibit the use or occupation level or type in respect of the dwelling on which it is served, or a HMO which contains the dwelling in which the Hazard(s) exist(s). If the premises are a flat within a building containing one or more flats the order may prohibit or alter the use or occupation level and/or type with respect to any part of that building, including the use of any common parts *Sec28 (3)&(4) H Act 2004*

Appeal
A person who receives a Prohibition Order under sections 20 or 21 of the Housing Act 2004 has the right of appeal against the service of the Order to the Residential Property Tribunal (RPT) within 21 days of the service of the notice. *Schedule 1 pt3 H Act 2004*

Insert Address of Head Office and Local RPT, include phone and email details

An appeal against the service of the order may relate to one or more the following reasons:
1) That there is a major defect inconsistency or error in connection with the order such that the order is invalid
2) That the person on whom the order is served is not the person who should be in receipt of the order
3) That one or more other persons, as an owner or owners of the premises, should also be in receipt of the order
4) That one of the courses of action (i) to (iii) below is the best course of action in relation to the hazard(s) for which this order is served
   (i) Serving a Hazard Awareness Notice under Section 28 or 29 of this Act;
   (ii) Serving an improvement notice under section 11 or 12 of this Act; and
   (iii) Making a demolition order under section 265 Housing Act 1985 (*c.68*)
   (iv) Declaring the property to which the order relates part of a clearance area under section 289 Housing Act 1985 (as amended)
5) That the Actions / prohibitions detailed in the order are unnecessary
6) That the requirements of this Order are over prescriptive and that the Council has unreasonably refused to accept alternative works/actions.
   (other notices, requiring work, served upon the same property within the same time period may be taken into consideration by the RPT)
Schedule 1 pt3 H Act 2004

Variation or Revocation by the Local Authority
The local authority must revoke a Prohibition Order when satisfied that the hazard(s) detailed in the notice has/have been removed or reduced sufficiently to allow a different use or occupation level or type to that specified.
This notice must first be revoked if an enforcement notice is to be served in respect of the same hazard as detailed in this notice
The local authority may revoke a Prohibition Order served in respect of a category 1 hazard if they consider there are any special circumstances which make it appropriate to revoke the Order.
The local authority may revoke a Prohibition Order served in respect of a category 2 hazard if they consider it is appropriate to revoke the Order.
Where a notice relates to more than one hazard; each hazard (and any associated requirements exclusive to that hazard) may be treated separately. If as a result of alterations, works or other changes to the premises; sufficient risk of harm remains afterwards to justify the service of a Prohibition Order this Order remains in force and may be varied as appropriate. *Schedule 1 pt3 H Act 2004*

Variation or Revocation - appeals
The person on whom the Order was served or the person who applied for a variation or revocation (the relevant person) may appeal within 28 days of the service of the order to the RPT against:
1) A decision by the local authority to vary a Prohibition Order, or
2) A decision by a local authority to refuse to revoke or vary the terms of a Prohibition Order. *Schedule 1 pt3 H Act 2004*

Appeal times
The RPT may allow an appeal outside of the appeal times stated above if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time) *Schedule 1 pt3 H Act 2004*

Withdrawal of appeal
The withdrawal of an appeal has the same effect as a decision by the RPT to confirm the Order .

Costs
The RPT does not have the costs jurisdiction – appellants are responsible for their own fees in taking or responding to the appeal in respect of an Order, unless it is proved that there has been unreasonable conduct by or on behalf of either party. The maximum allowable costs in the event of Unreasonable behaviour is £500 or other such amount as specified in regulations issued by the appropriate national authority.

Operative times and Effect
If an appeal is brought to the RPT against a Prohibition Order, and a decision is given to confirm the Order, the operative time is as follows:
(a) If the period allowed for appeal to the RPT expires without such an appeal being brought – the "operative time" is the end of that period i.e.28 days
(b) If an appeal to the RPT is brought, the "operative time" is the time when a decision is given on the appeal to confirm the Order *Schedule 1 pt3 H Act 2004*

Residential Property Tribunal – powers
The RPT may by order, Confirm, Quash or Vary a Prohibition Order and, when an appeal concerns other persons who should have received such an Order, vary the Order to allow action to be taken by any other such owner or responsible person or persons who is/are mentioned in the appeal *Schedule 13 H. Act 2004*

Appeals against a decision by the RPT
Any such appeal against a decision by the RPT must be made to the Lands Tribunal and is subject to permission for such an appeal being granted by the RPT and is to be carried out in accordance with the procedure required for Land Tribunal hearings

Charges for Prohibition Orders or Emergency Prohibition Orders
The council may charge the relevant person(s) for the costs incurred in the service of the order

Compensation in respect of Prohibition Orders or Emergency Prohibition Orders
Upon the coming into force of a Prohibition Order or Emergency Prohibition Order the council shall pay to each owner pro rata to their share in the property, a sum equal to the diminution in value of the compulsory purchase value of the property as a result of the service of the order.
Where a Prohibition Order is revoked and a demolition order is substituted in its place the amount payable as compensation to any owner in that event (pro rata to their share in the property) shall be reduced by the amount paid under the Prohibition Order. Sec 584(a) *Housing Act 1985(as amended)*
The operation of a Prohibition Order may be suspended by a local authority until a set of circumstances are satisfied, a set time has elapsed or until any other state ceases to have an effect. Any dates within the Order may be fixed with reference to when the suspension ends. *Sec 16 H Act 2004*
A local authority may at any time review a Prohibition Order whose operation is suspended and may vary or revoke either the qualifications for the suspension of the Order or part thereof or the Order itself in whole or in part.
A local authority must undertake a review of each Prohibition Order whose operation is suspended, not later than one year from the date after the service of the notice and at subsequent intervals of not more than one year *Sec 16 H Act 2004*

E & OE – users of this notice are advised to check with their own legal advisors regarding suitability and/or accuracy as no specific warranty is offered by the vendor