Interim Empty Dwelling Management Order
Housing Act 2004 Section 133

To:

Of:

Take notice that the *(the council)* In relation to:

,
which is a Residential Premises within the area for which it is the local housing authority; and <
has determined that the best course of action in relation to this Dwelling is to serve an Interim Empty Dwelling Management Order because the property has been wholly unoccupied[1] for: < >
and an application to the Residential Property Tribunal has resulted in the authorisation to make such an order being given.
<Furthermore >
<The management of the property by the Council is necessary for >

The Residential Property Tribunal has approved the order < proposed by the council >
<in the following terms: >
< on …….date >

You should be aware that the Council and/or their instructed agents <**NAME**>has/have assumed full management control of the property in relation to granting or terminating all forms of occupancy contracts[2], the provision of furniture and fittings as may be necessary and the carrying out of alterations or repairs to the premises as a whole. All rent(s) or sums due as rent shall be payable to the Council or their agents for the time that this Order is in force
The Council may charge all costs in connection with this management responsibility to the Relevant Proprietor directly or, may deduct the cost or a proportion thereof from any rental income generated by the property during the period of the Council's control.

This Interim Order is valid <Until ><for >……[3]>.

The relevant proprietor has the right of appeal to the Residential Property Tribunal within 28 days of the service of this order please see "notes" on the last page of this Order

This Order may be registered as a local land charge in favour of the Local Authority

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

1 Wholly unoccupied, for the purposes of an EDMO means that no part is occupied, whether lawfully or unlawfully
2 Subject to written permission to make such contracts from the person who would normally make such contracts except for this order
3 maximum period for operation is 12 months from the date of coming into effect

Schedule

The Council, having assumed management control of the property, is under a duty to carry out or arrange to have carried out, such actions and/or works as are considered appropriate for purpose of securing that the property becomes, and remains, occupied and as such shall

<carry out or arrange to have carried out the following works>

<provide or arrange to be provided the following articles for use within the property by any lawful occupants>:

Notes

Appeal
A person on whom an Interim Empty Dwelling Management Order (EDMO) or a Final EDMO is served has the right of appeal against the service of the Order to the Residential Property Tribunal (RPT) within 28 days of the service of the Order. *Schedule 6 &7 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 it 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 relevant proprietors of the premises, ought to
   i) Be offered the chance of managing, occupying or otherwise letting the property; or
   ii) Be served with the EDMO
4) That one of the courses of action (i) to (iii) below is the best course of action in relation to the reasons for which the Order is served
   (i) Making a prohibition order under Section 20 or 21 of this Act;
   (ii) Making a closing order under section 264 Housing Act 1985 (c.68)
   (iii) Making a demolition order under section 265 Housing Act 1985 (*c.68*)
5) That the service of the Order is unnecessary
6) That the Local Authority has unreasonably refused to accept an alternative manager.
7) That the terms of an interim EDMO do not provide for one or both of the matters in sec110 (5)(a & b) – payments of surplus rent –
8) That, in respect of a Final EDMO, the Management Scheme that forms part of the Order is defective or not suitable or insufficient for the purpose for which it is intended.
9) That, in respect of Final EDMOs, The Local Authority have not had due regard to the responses to the consultations in respect of the Order and or the management scheme which forms part of it.
   (other notices, served upon the same property on or about the same time period may be taken into consideration by the RPT, as may reports received and evidence offered by other agencies / authorities who have an interest in the property or the occupants of the property or in the area in which the property exists)

Schedule 6 & 7 H Act 2004

Duties and Powers of the Residential Property Tribunal (RPT) in respect of EDMOs
Upon the application of a Local Housing Authority for an Interim Empty Dwelling Management Order the RPT may authorise the making of an order if:
   i) The property has been wholly unoccupied for a minimum of 6 months (or such longer period as may be prescribed)
   ii) There is no reasonable prospect that the property will become occupied in the near future, following enquiries into the relevant proprietors intentions with regard to the property by the Local Housing Authority
   iii) Should an interim order be made, there is a reasonable prospect that the dwelling will become occupied
   iv) They are satisfied that the Local Housing Authority have made reasonable attempts to notify relevant proprietor of their intention to apply for an EDMO
   v) They are satisfied that the Local Housing Authority have made reasonable attempts to gain the authority of the relevant proprietor in relation to the EDMO,
   vi) The making of an EDMO in relation to the property is in the best interests of the community
   vii) The making of the order would not be unreasonably detrimental to the rights of the relevant proprietor and/or any affected 3rd parties.
   viii) They are satisfied that the dwelling is not included in a category of prescribed exceptions as set down by the appropriate national authority

Sec 134 housing 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 to the RPT against:
   i) A decision by the local authority to vary an EDMO, or
   ii) A decision by a local authority to refuse to revoke or vary an EDMO.

Schedule 6 & 7 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 6 & 7 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. *Schedule 1 pt3 H Act 2004*

Compensation (appeals)
An appeal may be made to the RPT regarding a decision by the Local Authority regarding
   i) The amount of compensation that should be paid to an owner or third party in respect of a EDMO
   ii) The decision by a Local Authority not to pay compensation to an owner or third party in respect of a EDMO

Within 28 days of that decision being notified to the owner or third party, and the RPT may (following the hearing of that appeal) by order vary , revoke or confirm that decision

Schedule 6 part 3 Para33 H.Act 2004

Operative Times and Effect
An Interim EDMO comes into effect when it is made
If an appeal is brought to the RPT against an EDMO, and a decision is given to confirm it, the operative time is as follows:
   i) 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
   ii) 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

If the Order becomes "operative" it may be registered as a local land charge until the order either expires or is removed. For an Interim EDMO, this period is for a maximum of 1 year; it must then be revoked by the local authority and subsequently removed from the register of local land charges or else replaced with a Final EDMO

When an Interim EDMO is in force the Local Authority shall take such steps as they consider to be appropriate with a view to the proper management of the property, which must include that adequate provision is made for the insurance of the dwelling against the destruction or damage by fire or other causes. *Sec 135(5) H. Act 2004*

While the Interim EDMO is in force the Local Authority shall consider an application by a third party at any time in respect of compensation, which it is considered by that 3rd party should be paid to him, in respect of any interference in consequence of a final EDMO with his rights *Sec 138(3) H. Act 2004*

While an interim EDMO is in force, the rights of a relevant proprietor to assign or dispose of his/her interest in the property shall not be prejudiced

Should any decision by either by the Local Authority or by the RPT following appeal, be made in favour of a payment of compensation to any 3rd party; The Local Authority shall as soon as practicable, vary the management scheme contained in the order so as to specify the amount of compensation to be paid. *Sec 138(5) H. Act 2004*

The application by a local authority for authorisation to make an interim EDMO may also include an application for an order under paragraph 22 of Schedule 7 (Housing Act 2004); determining a lease or license to a dwelling. *Sec 133 (6) H. Act 2004*

Requirements for revocation
The local authority must revoke an EDMO if they are satisfied that
   i) there is no longer a state of affairs that makes such an order necessary or in the case of an Interim Empty Dwelling Management Order, 12 months have passed since it came into force.
   ii) Upon review, there are no steps which they could appropriately take to secure that the property remains occupied

Sec. 137 Housing 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