

Final Management Order Housing Act 2004 Section 113

To:

Of:

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

>, which is a Residential Premises / House in Multiple Occupation (HMO) within the area for which it is the local housing authority; and < has determined that the best course of action in relation to this Premises / HMO is> <is under a duty > to make a Final Management Order because :

- An Interim Management Order <has expired> < has been revoked>and
- A Licence , as required by part <2 / 3 > of Housing Act 2004 in relation to the premises may not, at present, be granted <and>
- There is no suitable person available to manage the property for the immediately foreseeable future <and>
- The management of the property by or on behalf of the Council is necessary on a long term basis for the protection of the health, safety and/or welfare of persons <, for the time being, residing there> <carrying out their lawful activities in the vicinity of the premises>
- The Residential Property Tribunal has approved the order < ondate > < proposed by the council ><in the following terms: >

You should be aware that the Council and/or their instructed agent(s) <**NAME**>has/have assumed full management control of the property in relation to granting or terminating all forms of occupancy contracts³ and the carrying out of alterations or repairs to the premises as a whole. All rent 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 Owner(s) 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 Final Management Order is valid <Until ><For >.....²>.

A management scheme has been prepared by the Council in respect of the property and this scheme forms part of the Order

You have 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

Dated.....

Signed.....

(The person authorised for this purpose)

1 "Fit and Proper person" in relation to the management of houses, as defined by Housing Act 2004section 89

2 maximum period for operation is 5 years from the date of coming into effect

3 Subject to written permission to make such contracts from the person who would normally make such contracts except for this order if the contracts so made would require a notice to quit of more than 4 weeks to terminate. An assured shorthold contract of not more than 6 months may be made by the council without such authorisation but must not extend further than the date of expiry of this order

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 necessary for the health, safety and welfare of the occupants and as such shall <carry out or arrange to have carried out the following works> <and> <provide or arrange to be provided the following articles for use within the property by the lawful occupants> :

1)

Management Scheme

The manager(s) in respect of the property to which this notice relates are to be:-

Mssrs:

Of :

The Council shall provide detailed accounts relating to the management of the property on: DATE
at regular intervals of < period of accounts > and within 3 months of the expiry of this Order.

Tenancies / Licenses shall be granted for periods which will not exceed the length of this order and shall be subject to written consultation with the person(s) who – but for the existence of this order – would be expected to enter into such contracts with existing or prospective residents.

Repairs will be carried out to maintain the property in such a state as to be free from hazards of greater than Housing Health and Safety Rating band < ? > and at all times shall ensure that the property is considered as “Decent” as specified by UK Government “Decent Homes” criteria in force at the time of consideration.

All charges for any such maintenance shall be detailed in the regular accounts provided to the person(s) who – but for the existence of this order – would be expected to carry out such works.

Notes

Appeal

A person against whom an Interim Management Order or a Final Management Order 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 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 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 an owner or owners of the premises, ought to
 - i) Be offered the chance of managing the property; or
 - ii) Be served with the Management Order
- 4) That one of the courses of action (i) to (ii) 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 demolition order under section 265 Housing Act 1985 (c.68)
 - (iii) The inclusion of the property in a slum clearance scheme under section 289 Housing Act 1985 (c68)
- 5) That the service of the Order is unnecessary
- 6) That the Council has unreasonably refused to accept an alternative manager / License Holder.
- 7) That the terms of the Management Order do not provide for one or both of the matters in sec 110(5)(a & b) – payments of surplus rent –
- 8) That, in respect of a Final Management Order, the Management Scheme which 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 management Orders, 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 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 to the RPT against:

- i) A decision by the local authority to vary a Final Management Order, or
- ii) A decision by a local authority to refuse to revoke or vary a Final Management Order.

Schedule 6 pt2 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 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.

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 Final Management Order
- ii) Not to pay compensation to an owner or third party in respect of a Final Management Order

Within 28 days of that decision being notified to the owner or third party

Schedule 6 part 3 Para33 H.Act 2004

Duties and Powers of the Local Authority

The Local authority has a duty to make a Final Management Order :

- i) When a property which requires a license under part 2 or part 3 Housing Act 2004 does not have such a license and the local authority consider that they are unable to grant a license under part 2 or 3 of the Housing Act 2004
- ii) When a Temporary Exemption Notice expires or is removed by either the Local Authority or the RPT and there is no-one who may hold that license and no prospect of such a license holder becoming available in the foreseeable future

Sec. 113(2)(a&b) Housing Act 2004

The Local Authority has the power to apply to the RPT for a Final Management Order

- i) If an Interim Management Order has (or is about to) expire and the property will not require a license under part 2 or 3 Housing Act 2004 and the making of a Final Management order is, in the opinion of the Local Authority, necessary on a long term basis for the protection of the health, safety or welfare of the occupiers or visitors to the property or others engaged in lawful activities in the vicinity of the property
- ii) Which is expressed not to apply to part of a house which is occupied by a person who has an estate or interest in the whole of the house

Sec. 113(3)(a&b) Housing Act 2004

The Local Authority must review the necessity for the Order from time to time during its operation and revoke a Management Order if they are satisfied that there is no longer a state of affairs that makes such an order necessary, and if such an Order is revoked in respect of a licensable property issue a license for that property

Sec. 115(5) Housing Act 2004

Additional Duties

The Local Authority must make adequate provision for the Insurance of the property, while a management order is in effect

The Local Authority must , from time to time, review the management scheme which forms part of the Final Management Order and may vary or amend the scheme as is appropriate

Special Provisions

If a property is an HMO and does not require licensing, in giving authority to serve a Final Management Order the RPT must take into account the extent to which a landlord or person in control has adhered to any Codes of Practice / Conduct approved under the Act *Sec. 102(6) H.Act 2004*

Operative times and Effect

A Management Order comes into effect when it is made, unless it is made when a licence has been revoked, but the revocation has not ,as yet, come into effect. In these circumstances, the order comes into effect upon the actual revocation date of the License

If an appeal is brought to the RPT against a Management Order, 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 revoked.

For an Final Management Order, the period of operation is for a maximum of 5 years, it must then be either revoked by the Local Authority and subsequently removed from the register of local land charges or else a new Final Management Order should be made if the council has a duty to do so or an application for a new Final Management Order should be made to the RPT if the council has the power to do so and circumstances are such that they feel it is the most appropriate course of action in relation to the management of the property.

Schedule 6 pt3 H Act 2004

Residential Property Tribunal – powers

The RPT may, by order, Confirm, Reverse or Vary a Final Management Order and/or the management scheme which forms part of the order and, when an appeal concerns other persons who should have received such an order, vary such an Order to allow responsibility to be taken/a license to be held by any other such owner or responsible person or persons who is/are mentioned in the appeal *Schedule 6 pt3 para 30 H Act 2004*

If the RPT revoke a Management Order, and the property requires a license under part 2 or 3 of the Act, The RPT must direct one of the following actions:

- (a) In the case of an Interim or Final Management Order, Direct the Local Authority to grant a license to such a person and on such terms as they may direct
- (b) In the case of a Final Management Order, Direct the Local Authority to issue a Temporary Exemption Notice in respect of the property or part of it as the RPT may direct (regardless of the requirements of sec 102(9))

The revocation of a Management Order by the RPT does not affect the validity of anything previously done in the pursuance of that order.

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