

Appendix 1

ARUN DISTRICT COUNCILS'
ENFORCED SALES PROCEDURE

Contents	Page
Introduction	4
1. Benefits of using the Enforced Sales Procedure	4 - 5
• Social Benefits	
• Financial Benefits	
• Environmental Benefits	
2. Legislative Basis for Enforced Sales Procedure	5 - 6
3. The Legal Process	6
4. Human Rights Act 1998	6
5. The Limitations Act	6
6. Authorisation	7
7. Identifying potential properties for ESP	7
8. Action to be taken prior to consideration of ESP	7
9. Criteria for Enforcing the Sale of a Long Term Empty Property	8
10. Re-service of Notices	9
11. When the property is registered at HM Land Registry	10
11.1 Registration of charge	11
11.2 Notification of registration of charges	11
12 If the property is not registered at HM Land Registry	12
13. Methods of selling the property	13
13.1 Contract	13
13.2 Title deeds	13 - 14
• Registered title	
• Unregistered property	
• Prior to auction	
14. Post sale	14

Appendices

Appendix 1 - List of relevant statutes under which ESP can be used	15
Appendix 2 - Letter confirming intention to carry out ESP	16
Appendix 3 – Demand for Payment	17
Appendix 4 – Notice under Section 81A EPA 1990	18 - 19
Appendix 5a – s.103 Notice – Not EPA	20
Appendix 5b – s.103 Notice – EPA	21
Appendix 6a - Letter to Owner (requesting deed)	22
Appendix 6b – Letter to first mortgagee	23
Appendix 7 – Draft resolution	24 - 26
Appendix 8 – Letter to Owner / First Mortgagee advising of Council’s intention to sell	27

Introduction

The purpose of this document is to explain Arun District Council's policy on the Enforced Sales Procedure (ESP).

The aim of this policy is to ensure that the Enforced Sales Procedure is used in a consistent and transparent way and proportionately targets long term empty residential properties, and encourages the bringing back of these properties into use, where appropriate.

The ESP is a procedure whereby the Council can recover an outstanding debt, whilst also bringing about the sale of a privately owned property, in circumstances where a debt has created a Land Charge against a property.

1. Benefits of using the Enforced Sales Procedure

Social Benefits

Empty properties can have an adverse impact on people's quality of life in a number of ways. Where there are derelict or neglected properties in an area, this can negatively affect perceptions of the safeness, cleanliness and quality of that area.

In addition, long term empty properties can become a target for vandalism and other forms of anti-social behaviour and minor crime.

It is hoped that the change of ownership will bring investment in the property and subsequent occupation. It is anticipated that by bringing about a change of ownership, the new owner would be more willing and able to invest in the property and there is a stronger prospect that it would be inhabited again. Alternatively if that property were to be rented out, that would have a positive effect on reducing the numbers on the housing registers.

Financial Benefits

It is believed that the use, or potential use, of ESP to recover debts owed to the Council will be a more successful method of debt recovery than normal debt recovery processes, as the mere prospect of an enforced sale is likely to encourage some debtors to pay their outstanding debts to the Council.

Failure to effectively manage debts owed to the Council can reduce the level and quality of services the Council are able to offer.

There are also financial benefits to the Council from a reduction in Officer time spent on enforcement and savings from a potential reduction in the use of temporary accommodation.

Environmental Benefits

The use of this procedure will contribute towards improving the condition of the private sector housing stock within the Arun district.

The re-occupation of long term empty homes will improve the visual appearance of both the empty property and the immediate neighbourhood. This will help to enhance the desirability of an area and assist the local housing market.

2. Legislative Basis for Enforced Sales Procedure

Where there is a financial Charge registered in Part 2 of the Local Land Charges Register, a Local Authority has the power to enforce that Charge via the ESP.

The power to carry out an enforced sale is within the Law of Property Act 1925. This is essentially a method of debt recovery and a measure of last resort; however it can be used as a tool for regeneration in certain circumstances.

Where an Owner has not complied with certain Statutory Notices, the local authority may undertake works in default of a Notice and recharge the cost of the works to the Owner. This debt may be registered as a Local Land Charge. An authority that holds one or more Charges against a property where the debt remains unpaid may register that debt at the Land Registry as a priority legal interest. In effect this gives the local authority the same powers as a mortgagee, including the power of sale. The local authority can therefore enforce their Charge to satisfy the debt.

Attached at **Appendix 1** is a list of statutes which enable a Charge to be placed on a property in the event of works being carried out in default by the Council. This list is not exhaustive and the relevant statute should be checked. If the relevant statute results in a Charge on the property, it confers a power of sale under the Law of Property Act 1925 enabling the ESP to be used.

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 or Charge within the meaning of the Law of Property Act 1925.

Section 101(1) Law of Property Act 1925 confers on a mortgagee a power of sale. It is important to note that an Order of the Court is not necessary as the legislation itself provides that power.

Section 87(1) Law of Property Act 1925 confers a right of possession. In addition, many of the statutes used by the Council which result in carrying out work in default give the Council a power of sale and a right of priority over other Charges. However this should be checked from the outset as it may not be financially viable to pursue ESP if the Council Charge does not take priority.

If the Statute(s) does not create a Charge then it will be necessary to consider whether Section 7 of the Local Land Charges Act 1975 can be applied. If it can, the procedure may still be used as the Charge will be registered on the Local Land Charge Register but this

may **not** take priority over existing Charges. As previously noted, the existence of any prior Charges is a major consideration when deciding whether to pursue ESP.

If none of the above applies, the ESP cannot be used and consideration should be given to other procedures such as a Compulsory Purchase Order, if appropriate, or continuing to pursue the matter via the authority's normal debt recovery process.

3. The Legal Process

If ESP can be pursued, the first step is to serve a Notice under Section 103(i) Law of Property Act 1925. The Council may not exercise the power of sale unless and until this Notice (requiring payment of the mortgage money) has been given and a default of payment has been made for three months after the service of the Notice.

The Council must write to the Owner(s) stating that it intends to carry out the ESP (**Appendix 2**). The Council must also write to any other Chargees similarly.

If at any stage prior to the actual sale of the property the outstanding debt is repaid then ESP is no longer an option.

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.

The Land Registry will return the Charge Certificate at which point the property can be marketed for sale.

4. Human Rights Act 1998

When deciding whether to use ESP, consideration must be given to the Human Rights Act 1998. In particular, selling property belonging to a third party engages Article 8 of the Act, namely 'the right to respect for private and family life, home and correspondence.' Also, Article 1 of Protocol 1 is also engaged, namely ' the peaceful enjoyment of possessions' Therefore, interference is only permitted if such action is considered proportionate. The individual's property rights have to be balanced against the general benefits to the community if the property were to be brought back into use.

A statement detailing the reasons why the power of sale is considered proportionate should be recorded on the file and should be covered by correspondence to the Owners and Chargees. These matters will be dealt with by Legal Services.

5. The Limitations Act

Section 20 of the Limitations Act 1980 states that no action shall be brought to recover the principal sum of money secured by a mortgage, or other charge of property, or the proceeds of the sale of the land, after the expiration of 12 years from the date on which the right to receive the money accrued. Therefore enforces sales action must be taken within 12 years of the right to receive the money arising.

6. Authorisations

The Head of Technical Services Group has the delegated authority to decide to proceed with the ESP in respect of a particular property.

7. Identifying potential properties for ESP

The following actions will be carried out by the Empty Properties Officer.

Vacant properties can be identified in a number of ways. For example, information from:

- Council Tax database;
- Neighbours or other residents;
- Council Officers, local Councillors;
- Other bodies such as gas, electric and water companies;
- Electoral Register.

To assess whether a vacant property is potentially one that could be the subject of ESP the following needs to be checked:

- Land Registry registration. This can be done online via <http://www.landreg.gov.uk>
- Debt. The file will contain details of Works in Default and the Sundry Account Number of any Land Charge Debts.

It is important to liaise with all relevant departments to consider whether they have any outstanding debts on the property and to take those into account as well, in particular, Planning, Building Control and Environmental Health.

The Empty Property Officer will identify if there is a Land Charge against the property by contacting the Land Charges Department.

8. Action to be taken prior to consideration of ESP

The ESP is only one of the enforcement options available under the Empty Property Strategy and the Environmental Health and Private Sector Housing Enforcement policy. ESP will be used when it is the most appropriate option under the particular circumstances. The file will contain details of what other actions have been considered and why they were not appropriate.

Initially the Owner of the property should be traced and contacted. The following sources may assist:

- Council Tax (last payer);
- Land Registry;
- Neighbours;
- Serving Local Government (Miscellaneous Provisions) Act 1976 Section 16 Notices;
- Other Council departments.

Once an Owner is identified and contacted, the problems regarding the property should be discussed and the Owner should be offered advice and potential solutions should be discussed. They may include:

- offering advice about letting out the property;
- grants and loans available through the Council;
- with the Owner's consent, contacting relatives or others who may be able to assist;
- voluntary sale.

Each case will be assessed individually to ensure the most appropriate action is taken.

ESP can still be used when the Owner cannot be traced.

The use of ESP is available, where the statutory provisions permit, for the recovery of debts subject to four checks being carried out, namely:

- a property must be a residential dwelling;
- the property must be vacant;
- the property must be registered with the Land Registry;
- the property must have financial Local Land Charges registered against it.

If the title is not registered at the Land Registry and the Council is not aware of the identity of the Owner(s), the following enquiries should be completed:

- The Council's electoral register;
- Council Tax records;
- Enquiries with neighbours.

9. Criteria for Enforcing the Sale of a Long Term Empty Property

Once a property has been identified as potentially suitable for ESP, the Empty Properties Officer will prepare a report and instruct Legal Services to review the case and assess whether the criteria is fulfilled.

The criteria to consider whether a property is suitable for ESP within Arun District Council are:

- the property must be a dwelling which has been vacant for more than 6 months;
- a property where the total debt exceeds £1,000;
- the necessary Enforcement Notices and documentation have been served.

However, if there is a derelict property that is causing a problem where the debt is less than £1,000 and the Owner is either refusing to co-operate or cannot be traced, the use of this procedure could be considered. It should be noted that the smaller the debt, the greater the justification for using this policy will be required.

The reasons for using this procedure should be detailed on the file by the Lawyer responsible for the particular case.

Where a debt has been incurred that is not a Charge on the land, but a personal debt such as Council Tax, the Council can apply to County Court to award an interim Charging Order. If this is successful, the Council can subsequently apply for a final Charging Order and ultimately an Order for Sale of the property.

10. Re-service of Notices

In order to ensure that the Owner or any other interested party is properly aware of the debt, The officer to re-serve copies of each of the original Notices in consultation with legal services, by the following methods, together with Notices of demand for payment (**Appendix 3**)

- One must be served on the Owner(s) by post, or by hand or by affixing it to the property; and
- One must be posted to any other address(es) shown on the Land Registry;
- Copies must be stamped and signed by the serving Officer;
- A Certificate of Service must be completed for each Notice served by the serving Officer.

However, it is important to check with the relevant statute which method of service is deemed to be adequate.

A photograph must be taken as evidence of any Notices affixed to the property and weekly visits should be made to ensure the Notices are still in place.

Also any Notices that need to be served under Section 81A Environmental Protection Act 1990 are served (**Appendix 4**). These Notices should be served using the same procedure as above.

Note that there is no right to recover interest in relation to Charges arising from action under Environmental Protection Act 1990 until a Notice has been served under Section 81A of that Act.

After a period of 28 days if no appeal is made in respect of the Section 81A Notice or payment, then a Notice pursuant to Section 103 Law of Property Act 1925 is served by Legal Services. This Notice allows the Owner three months to pay the debt and the property cannot be sold until the Section 103 Notice has expired.

Separate versions of the Section 103 Notice are served dependent upon whether or not the debt arises from Notices pursuant to the Environmental Protection Act 1990 (**Appendices 5a and 5b**).

The Notice must be served to the Owner of the property on which the previous Default Notice was served. It will also be necessary to serve a copy of the Notice on any other Chargee.

The Notice should be served by the following means:

- left at the Owner's last known place of abode or business in the UK; or
- affixed or left for him on the land or any house or building comprised in the mortgage; or
- sent by registered post to his place of abode or business;
- sent by recorded delivery to his place of abode or business.

A photograph must be taken as evidence of any Notices affixed to the property and weekly visits should be made to replace any Notices that are missing. The Certificate of Service should be completed by the serving Officer.

Following the expiry of the three month period, Legal Services must check with the Debt Recovery Section to ascertain whether or not the debt has been paid.

If the debt has not been paid, the Head of Technical Services Group, will decide whether the ESP should be followed to its conclusion. This will be done in consultation with the relevant Officers.

Legal Services should send a written instruction to:

- Suspend all legal action regarding the debt;
- Obtain written confirmation that no payment has been received.

11. When the property is registered at HM Land Registry

All work from herein will be undertaken by Legal Services, unless otherwise stipulated.

The first step is to check which of the Default Works Charges remain outstanding. If the debt has been repaid then this process can no longer be used.

If Charges are still outstanding a letter is written to all persons having an interest in the property advising them of the position (**Appendices 6a and 6b**). This will include others who have a Charge registered against the property.

The Owner and any other interested party will be given fair notice of the steps the local authority proposes to take. Every attempt is made to give such persons notice of the proposals and ample opportunity to repay the debt.

The Owner's copy must be:

- delivered to the Owner(s) by post, or by hand or be affixed to the property if the Owner cannot be traced; AND
- must be posted to any other address(es) shown on the Land Registry.

A photograph must be taken as evidence of any Notices affixed to the property and weekly visits should be made to replace any Notices that are missing.

A period of 21days is allowed for responses to the letter.

11.1 Registration of Charge

A Charge must now be registered with the Land Registry. A sealed resolution (**Appendix 7**) must be prepared and record the following:

- the statutory provisions;
- the service of the necessary Notices;
- what work was done and when;
- the registration of the Charges in the register of Local Land Charge and claims priority over all estates and interests;
- a Certificate by the Council that it has all the necessary rights and powers to make the application for registration of the Charge and that it has taken all appropriate steps in accordance with the relevant statute.

The following needs to be submitted to the Land Registry:

- Covering letter;
- Application Form AP1 together with appropriate fee. Form AP1 can be obtained from www.landregistry.gov.uk;
- Completed Form SC1 in order to claim priority in favour of the Council's Charge over any existing Charge registered against the title. Form SC1 can be obtained from www.landregistry.gov.uk;
- Sealed and dated resolution together with a certified copy of each resolution;
- The Land/Charge Certificate or copies of the correspondence requesting the same.

11.2 Notification of registration of Charges

Confirmation will be received from the Land Registry once they have completed the registration of the Charges. Arrangements can then be put in place for the sale of that property.

First a check is made to ensure that the Charges have not been paid.

A letter is then sent to the Owner(s) and all interested parties advising that the Council's Charges are registered and it is the Council's intention to pursue a sale of the property (**Appendix 8**).

The Owner's copy must be:

- delivered to the Owner(s) by post, or by hand or should be affixed to the property;
AND
- must be posted to any other address(es) shown on the Land Registry.

If the letter is affixed to the property a photograph should be taken by the Officer who affixes the letter for evidential purposes and weekly visits should be made to ensure the letter is still attached.

12. If the property is not registered at HM Land Registry

Assuming the Charges are still outstanding, a search of the Index Map is undertaken at the Land Registry to ensure that the property is not registered. The search must also include adjoining properties. This could reveal what encumbrances affect the property and also the extent / limits of the title of the property in question.

Using any information found during this investigation and any information available as to the name(s) of the Owner, the purported Owner or any other interested party, a Land Charges Act 1972 search must then be carried out against the name of any such person(s) and the property concerned. This may produce clues as to encumbrances affecting the property e.g. easements, covenants and Charges.

Where the Statutory Charges bind all the estates and interests in the property any registered Charges will be of no great significance other than for the purposes of giving notice to any charging as to the Council's intentions.

If the Statutory Charge does not bind all the estates and interests, it would probably be inadvisable to proceed unless it is certain there are no prior Charges affecting the property and the Statutory Charges binds the freehold or long leasehold.

If the search provides any information as to the identity or whereabouts of the Owner(s) or other interested parties, or such information is already available, a letter is sent to all such parties in a similar way to advise them of the position. This will include others who have a Charge registered against the property. Refer to Appendices 7a and 7b.

The Owner's copy must be:

- delivered to the Owner(s) by post, or by hand or if the Owner cannot be traced, should be affixed to the property; AND
- must be posted to any other address(es) shown on the Land Registry.

If the letter is affixed to the property a photograph should be taken by the serving Officer for evidential purposes and weekly visits should be made to ensure the letter is still attached.

If either:

- no information is found as to the identity or whereabouts of the Owner(s) or other interested parties; or
- there is no reply within 21 days to the letter referred to above

then the property is put forward for sale which is detailed below. The contract for sale will need to contain special conditions and if this situation arises then these will be drafted by the relevant Lawyer within Legal Services.

13. Methods of selling the property

The property details will now be passed to the Private Sector Housing and Public Health Team in order to arrange the sale. The property will be sold by obtaining at least three written valuations from local estate agents, who will also give opinions on the sale method that will provide best price.

13.1 Contract

Registered property

The contract for sale will be the same as any contract for sale by mortgagee.

Unregistered property

There will probably be no deeds or details of any encumbrances affecting the property and the contract for sale needs to reflect this. On completion of sale, the Land Registry requires the Council to provide a letter containing a certification that they have the necessary rights and powers to dispose of the property. In such cases the above mentioned resolution (**Appendix 7**) is incorporated into the contract as a recital.

Also in the case of an unregistered property, it will be necessary for the purchaser to apply to the Land Registry for first registration of title. This will cause a problem for the Land Registry if no deeds or details of the encumbrances affecting the property are available. In those circumstances, the Land Registry will have difficulty:

- determining the extent of the land to be registered; and
- identifying the encumbrances affecting the property.

In cases where the boundaries are clearly defined on the ground, there should be no problem in identifying the extent of the land to be registered.

However, where the boundaries are unclear, the Council's surveyor will be required to investigate and produce a disposal plan.

So far as encumbrances are concerned, the Land Registry will probably make a 'protective entry' on the register to the effect that the property is subject to such encumbrances as affect the same at the date of the registration, no details having been provided on first registration.

13.2 Title deeds

The following action should be borne in mind where the title deeds have not been recovered:

Registered title

The Land Registry can provide copies of the document referred to on the title. If they are not available then an appropriate clause in the contract should be included to cover the position.

Unregistered property

There will probably be no deeds or details of any encumbrances and the contract for sale needs to reflect that. It will also be necessary for the purchaser to apply for first registration of title to the Land Registry.

Prior to auction

Immediately prior to the auction/exchange of contracts Legal Services must make a further check to confirm whether the Charges have been repaid.

14. Post Sale

The position is similar to an ordinary sale by a mortgagee.

The following deductions will be made from the proceeds of sale:

- Auctioneer's fee;
- Legal fees;
- Surveyors fees;
- Outstanding debt;
- Private Sector Housing and Public Health team administration fee.

Where the proceeds of sale do not cover the total costs of the sale and the outstanding debt (including interest), the remaining debt is taken off the property and placed against the Owner after the sale. This then takes the form of a personal debt which may be pursued in the normal manner.

If there are any balance proceeds from the sale and the Council is aware of the whereabouts of the Owner(s), the balance is paid to the Owner in the usual way.

Enforced Sales Procedure - Appendix 1

List of relevant statutes under which the Enforced Sales Policy can be used

This list is not exhaustive

Building Act 1984	S. 59 – Drainage S. 60 – Soil vent pipe S. 76 - Defective premises S. 77/78 – Dangerous buildings S. 84 - Yards
Environmental Protection Act 1990	S. 80 – Statutory Nuisance
Highways Act 1980	S. 154 – Hedges and trees S. 165 – Unfenced land
Housing Act 2004	S. 11 – Improvement notice S. 12 – Improvement Notice S. 40 – Emergency Remedial Notice S. 49 – Enforcement Action S. 50 – Recovery of Charges under S.49
Local Government (Misc. Prov.) Act 1976	S. 33 – Restore service S. 35 – Private sewers
Prevention of Damage by Pests Act 1949	S. 4 – Rats and Mice
Public Health Act 1936	S. 45 – Works to WC closets S. 83 – Filthy and Verminous premises
Public Health Act 1961	S. 17 – Works to drains
Town and Country Planning Act 1990	S. 215 – Untidy state of land S. 172 – Planning breach

Enforced Sales Procedure - Appendix 2

Letter confirming intention to carry out Enforced Sales Policy

Dear

Re: Property at

According to our records the above property for which I believe you are the Owner is currently unoccupied and has been for a considerable period of time.

As you may appreciate void properties can often lead to social problems in the locality as they can become targets for vandalism and havens for anti-social behaviour. They are also a wasted resource for their Owners and the community.

I am currently reviewing the Council's options for bringing the above property back into use. One option that I am considering is to use the Enforced Sales Procedure. This procedure allows Local Authorities the opportunity to bring empty properties back into use as well as enabling them to recover any debts that may be owed to them. The Law of Property Act 1925 provides Local Authorities the power to sell properties in order to release the money tied up in the value of the property.

I have not as yet made a final decision regarding the above property. I would ask that you contact me as a matter of urgency and in any event within 21 days to advise me what you intend to do to bring the property back into use. My direct dial number is (telephone number)

I look forward to hearing from you.

Enforced Sales Procedure - Appendix 3

Demand for payment

Dear

**Re: Property at
Notice served under Section (specify Section)**

On (date) Notice was served upon you requiring you to undertake work in order to remedy (detail Works)

As you did not comply with that Notice, the Council arranged for the work to be carried out in default. The cost of the work is £(specify amount) excluding interest. This is now a debt which you owe Arun District Council and one which comprises a Local Land Charge attached to the property.

I would now ask that you pay the amount in full within 28 days from the date of this Notice. If you are unable to do so please contact me on (telephone number).

If the bill is not paid within 28 days, the Council has the following options:

- it may commence proceedings in the County Court without further notice;
- it may arrange for the whole or part of the property to be sold at auction and to recover the debt from the proceeds of sale.

However, prior to seeking to sell the property the Council would be required to serve Notice under Section 103(1) Law of Property Act 1925.

It is important that you contact me urgently and in any event not later than (insert date) to ascertain a settlement figure inclusive of the interest due at the appropriate time and to make arrangements to resolve the matter.

It is important that you contact me rather than trying to make the payment independently.

If you are in any doubt as to the content of this letter I would advise that you obtain legal advice.

Enforced Sales Procedure - Appendix 4

Notice under Section 81A Environmental Protection Act 1990

Property address:

To:

On (insert date) Arun District Council served on you a Notice under Section 80 Environmental Protection Act 1990 (EPA 1990) requiring certain works to be completed and the taking of such other steps in relation to the above property to abate the nuisance or prohibit or restrict its occurrence arising from the defective state of such property.

You failed to comply with this Notice and the Council, in default, carried out such works and took such steps as aforesaid at a total cost to the Council of £(specify amount). This sum is recoverable to the Council pursuant to Section 81(4) EPA 1990 in respect of the above Notice and this Notice is given pursuant to Section 81A of the Act.

I am required by Subsection 81A(2) EPA 1990 to advise you that, pursuant to Section 81A(1), where any expenses are recoverable under Section 81(4) EPA 1990 from a person who is the owner of the said premises and the Local Authority serves a Notice on him under Section 81A EPA 1990 (pursuant to which this Notice is given):

- the expenses shall carry interest, at such reasonable rate as the Local Authority may determine, from the date of service of this Notice until the whole amount is paid;
- subject to the provisions of Section 81A EPA 1990, the expenses and accrued interest shall be a charge on the premises.

The rate of interest payable is determined by the Council as referred to above and varies from time to time.

I am further required to advise you of the provisions of Subsections 81A(4) to (6) EPA 1990 which are as follows:

(4) Subject to any Order under Subsection (7)(b) or (c) below, the amount of any expenses specified in a Notice under this Section and the accrued interest shall be a Charge on the premises:

- (a) as from the end of the period of 21 days beginning with the date of service of the Notice; or
- (b) where an appeal is brought under Subsection (6) below, as from the final determination of the appeal until the expenses and interest are recovered.

(5) For the purposes of Subsection (4) above, the withdrawal of an appeal has the same effect as a final determination of the appeal.

(6) A person served with a Notice or copy of a Notice under this Section may appeal against the Notice to the County Court within a period of 21 days beginning with the date of service.

If you are unsure about any aspect of this Notice you should take legal advice.

Dated:

Signed:

**Enforced Sales Procedure - Appendix 5a
(For cases other than the Environmental Protection Act)**

**Notice under Section 103(1) Law of Property Act 1925
Letter before action**

Property address:

To:

On (insert date) Arun District Council served on you Notice under the provisions of (statute and section under which original notice served) to carry out works to the above property. You failed to comply with that Notice and the Council, in default, carried out works to the cost of
£(specify amount)

Repeat above paragraph if more than one charge

These are now debts due to the Council as well as Local Land Charges registered against the above property. Interest is also accruing on such amount at the current rate.

By virtue of the provisions of the above statute(s), the debts due to the Council are registered against the property from the date of the works to the property being completed and the Council has all the same powers and remedies under the Law of Property Act 1925 as if it were a mortgagee by deed having powers of sale or lease.

The Council now requires you to pay in full the above amount(s) with the interest owing in respect of the debt(s) on the date of payment. If you do not pay the amounts due, the Council can, without further notice:

1. commence proceedings in the County Court if the debt is not paid within 28 date of the service of this Notice;
2. sell the above property if the debt is not paid within three months from the date of the service of this Notice.

The Council is legally obliged to give you Notice in accordance with Section 103(1) Law of Property Act 1925 if it chooses to sell the property. This letter constitutes such Notice.

It is important that you contact me urgently and in any event within 28 days to advise how you intend to proceed.

I would ask that you contact me directly on (telephone number) to discuss this matter.

If you are unsure about any aspect of this Notice you should take legal advice.

Dated:

Signed:

Enforced Sales Procedure - Appendix 5B

(For Environmental Protection Act matters)

Notice under Section 103(1) Law of Property Act 1925

Letter before action

Property address:

To:

On (insert date) Arun District Council served on you a Notice under Section 80 of the Environmental Protection Act 1980 (EPA 1980) requiring you to carry out certain works to the above property. You failed to comply with that Notice and the Council, in default, carried out works to the cost of £(specify amount)

This is now a debt due to the Council as well as Local Land Charges registered against the above property. Interest is also accruing on the amount at the current rate.

On the (insert date) the Council gave you Notice under Section 81A of EPA 1980. The period of 21 days referred to in subsections 81(4)(a) and (6) have now elapsed and the Council received no appeal against that Notice. Consequently by virtue of subsection 81A(4) of EPA 1980:

- the expenses incurred in carrying out the works by the Council as referred to above and the accrued interest have become a Charge on the above property; and
- the Council has, by virtue of subsection 81A(8) EPA 1980, for the purposes of enforcing the said Charge, all the same powers and remedies under the Law of Property Act 1925 and, otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

The Council now requires you to pay in full the above amount(s) with the interest owing in respect of the debt(s) on the date of payment. If you do not pay the amounts due, the Council can, without further notice:

3. commence proceedings in the County Court if the debt is not paid within 28 date of the service of this Notice;
4. sell the above property if the debt is not paid within three months from the date of the service of this Notice.

The Council is legally obliged to give you Notice in accordance with Section 103(1) Law of Property Act 1925 if it chooses to sell the property. This letter constitutes such Notice.

It is important that you contact me urgently and in any event within 28 days to advise how you intend to proceed.

I would ask that you contact me directly on (telephone number) to discuss this matter. If you are unsure about any aspect of this Notice you should take legal advice.

Dated:

Signed:

Enforced Sales Procedure - Appendix 6a

Letter to Owner requesting Deeds

Dear

Re: Property at

The Council has, pursuant to its statutory powers, carried out certain works to the above premises, the cost of which have been registered in Part 2 of the Register of Local Land Charges as financial Charges. Notice(s) detailing the works and the costs have been served, together with Notice(s) of demand for payment of the amount(s) due to the Council in order to satisfy the requirements of Section 103(1) of the Law of Property Act 1925.

The Statutes pursuant to which the Council has carried out such works confer, in favour of the Council, a Charge on the premises and all estates and interests therein and the Council has, for the purposes of enforcing the Charge, all the same powers and remedies under the Law of Property Act 1925 and otherwise as if it were a mortgagee by deed having powers of sale, of lease, of accepting surrenders of leases and of appointing a Receiver.

The Council proposes, pursuant to its statutory powers, to register the said financial Charges against the title to the above premises. Once the Charge(s) have been registered, the Council may then sell the premises and apply the proceeds of sale towards the discharge of the debt. If however the debt is greater than the proceeds of sale on any sale received, the Council has the right to pursue you for any balance owing, if necessary by legal action.

I would therefore be grateful if you would make arrangements through me for the discharge of the outstanding debt. If you are not prepared to do this, then please forward to me all the title deeds in your possession relating to the above property. If they are not in your possession, please notify me and advise me of the whereabouts of the deeds.

If I do not hear from you within 21 days of the date of this letter, namely by the (insert date), I will proceed to register the Council's Charges against your title to the above premises.

If you have any queries please contact me on (telephone number)

Enforced Sales Procedure - Appendix 6b

Letter to First Mortgagee

Registered Property

Dear Sirs,

Property:

Your charge dated:

I am aware from the contents of the register for title number (specify number), which relates to the above property, that you have a Charge registered against that property. That Charge is dated (specify date) and the owner of the property is shown to be (specify)

The Council has, pursuant to its statutory powers, carried out certain works to the above premises. The costs of those works have been registered in Part 2 of Local Land Charges register as financial Charges.

The statutes pursuant to which the Council has carried out such works confer, in favour of the Council, a Charge on the premises and all estates and interests therein and the Council has, for the purposes of enforcing the Charge, all the same powers and remedies under the Law of Property Act 1925, and otherwise as if it were a mortgagee by deed having powers of sale, of lease, of accepting surrenders of leases and of appointing a Receiver. The said statutes confer a priority on the Council's Charge over your own Charge and therefore when registered the Council will be the first Charge.

The Council proposes, pursuant to its statutory powers, to register the financial Charges against the title to the property. Thereafter the Council may exercise its power of sale over the property and apply the proceeds of sale towards the discharge of the debt due to the Council.

If you wish to repay the outstanding debt due to the Council, I can provide details of the outstanding amount. Otherwise I would be grateful if you could forward all the title deeds and documents in your possession that relate to the above property. If you do not have the deeds and documents in your possession, please notify me and advise me of the whereabouts of the deeds.

If you have any queries, please contact me on (telephone number)

Enforced Sales Procedure - Appendix 7

Property:

Arun District Council

1. Whereas Arun District Council ("the Council") is a 'local authority' within the meaning of (section from appropriate statute depending on nature of works).
2. And where a local authority, considers that (detail what works are required and why e.g. prejudicial to health, under what section and statute works were carried out and under what section Notice was served on owner / occupier)
3. And where a Notice under (state statute) is to be served in accordance with (state Section)
4. And where the expense of such works may, by virtue of (state section and statute), be recovered from the Owner or Occupier of the premises and such expense plus interest thereon, by virtue of (state section and statute), from the date of completion of the works shall, until recovered, be a Charge upon the premises and all estates and interests in them and gives a local authority for the purposes of enforcing such a Charge, all the powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed.
5. And where such Charge is by virtue of Section 1(1)(a) of the Local Land Charges Act 1975, registerable as a Local Land Charge.
6. And where, under Section 7 of the Local Land Charges Act 1975, a Local Land Charge falling within Section 1(1)(a) Local Land Charges Act 1975 takes effect as if it had been created by deed of Charge, by way of legal mortgage within the meaning of the Law of Property Act 1925 but without prejudice to the priority of the Charge.
7. And where Section 101 of the Law of Property Act 1925 provides that a mortgagee by deed shall have inter alia the power of sale of the property so mortgaged.
8. And where pursuant to a Notice dated (insert date) the Council gave Notice to the Owner(s) of the property known as (address of property) under (section of relevant Act) by serving Notice in accordance with Section (insert relevant section) of the Act by

(Check statute for service methods and then insert how Notice was served)
9. And where there being no counter-Notice served upon the Council within the period prescribed by (insert section), the Council executed the said works between the (date) and the (date) at a cost to the Council of £xxxx
10. And where on the (date) the Council registered the cost of the works in Part (insert which Part) of Arun District Council's Local Land Charges Register as a specific

financial Charge against the premises, such Charge attracting interest at such a rate from time to time applying.

11. And where pursuant to a Notice dated (insert date) the Council gave Notice to the Owner(s) of the property known as (detail address) under Section (insert section) of the Act by serving Notice in accordance with Section (insert section) of the Act by:

Look at relevant section and insert how which method of service was used

12. And where there being no counter-Notice served upon the Council within the period prescribed by (insert section), the Council executed the said works between the (date) and the (date) at a cost to the Council of £xxxxx
13. And where on the (insert date) the Council registered the cost of the works in Part xx of Arun District Council's Local Land Charges Register as a specific financial Charge against the premises, such Charge attracting interest at such a rate from time to time applying.
14. And where the said monies continue to remain outstanding.

ARUN DISTRICT COUNCIL being now desirous of exercising their aforementioned power of sale over the premises to recover the costs they have incurred in relation thereto

HEREBY RESOLVES

- 1(i) To make application to the District Land Registry for xxxxxxxxxx under the Land Registration Act 1925 to register their Charge against all titles subsisting in the premises.
- 1(ii) To claim, affirm and avow in said application the binding nature of the Council's Charge over all existing and future Charges affecting each and every title in the premises (whether or not they be registered).
- 1(iii) To affix the Council seal hereto.

HEREBY CERTIFIES TO HM LAND REGISTRY

- 2(i) As recited in paragraph 4 of this Resolution, the Act contains provisions conferring a Charge on the premises and on all estates and interests therein.
- 2(ii) As further recited in paragraph 4 of this Resolution, the Act confers on the Council all the powers and remedies under the Law of Property Act 1925 and otherwise as if it is a mortgage by deed.
- 2(iii) The Council has followed the procedure in the Act as to service of Notices and the carrying out of the works.

2(iv) The Charge(s) for which an application for registration is made pursuant to 1(i) above affects the whole of the property known as (insert address) and registered under title number (insert number).

2(v) As recited in paragraphs 10 and 13 of this Resolution, the Charge(s) for which an application for registration is made pursuant to 1(i) hereof was / were registered in Part 2 of Arun District Councils Register of Local Land Charges on the (insert date) and the (insert date).

Dated:

The COMMON SEAL of
ARUN DISTRICT COUNCIL
was hereunto affixed in pursuance
of an Order of the Council

Authorised Signatory:

Enforced Sales Procedure - Appendix 8

Letter to Owner / First Mortgagee advising of Council's intention to sell

Dear

**Re: Property at
Your Charge dated**

I refer to the above and my letter dated (insert date) requesting the Title Deeds and advising you of the Council's statutory powers in relation to the Charges outstanding in respect of the above property.

In that letter, I advised you that the Council has the power to sell the property, for the purpose of enforcing the Charge and to deduct from the proceeds of sale the debts due to Arun District Council.

The Council's Charge has now been registered at HM Land Registry and it is now the Council's intention to market the property with a view to selling it.

If you have any queries about this matter please contact me on (telephone number)