

The Empty Homes Agency

**Empty Dwellings
Management Orders
~
The Facts**

2006



Introduction

On July 6th 2006 Empty Dwelling Management Orders came into force. Their introduction has been widely reported in the press and continues to promote much discussion and debate. Unfortunately much of the coverage has been misleading and some of it factually incorrect. We welcome the debate but we think it is important that the debate is on the facts not the myths.

This leaflet looks at some of the more common myths reported in the press and provides the factually correct information.

For more information on how EDMOs work please read this [briefing note](#) prepared by the Empty Homes Agency

Empty homes can be seized after being empty for only six months

Not quite. A council can apply to a Residential Property Tribunal for an interim EDMO to be made if a dwelling has been empty for six months or more. However most empty homes will be covered by one of the ten exemptions, if any of these apply an EDMO cannot be made. The council will also need to demonstrate that it has enquired as to what steps the owner is taking to deal with the property and provide help and assistance to help get the home back into use. In practice all this will take much longer than six months.

EDMOs last for seven years

There are two types of EDMO. The first, an interim EDMO, can last up to a year, if during this time the owner embarks on

returning the home to use the order should be revoked. Only if this doesn't happen can a final EDMO be served. This can last up to a maximum of seven years although it can be less.

The council is not obliged to obtain a market rent

This is untrue. If councils charge a below market rent they must compensate the owner with the difference between the rent they charge and the market rent

EDMOs are the only way councils can bring empty homes back into use

No. The vast majority of empty homes brought back into use by councils are through informal means. Many councils provide help and assistance to owners of empty homes, some provide grants and loans.

There are already a number of pieces of legislation that councils can use to enforce owners to bring empty homes back into use. These include: of compulsory purchase where the council buys the property without the owners permission and enforced sale where the owner forces requires the property is sold on the open market.

EDMOs do not replace these powers

Councils can seize furniture, fixtures and fittings,

This is misleading. What the power does is put the responsibility of looking after any contents in a property where an EDMO has been made onto the council. They have to give it back to the owner if the owner requests it.

Councils can charge whatever they like for managing the property

This is untrue, the council can only charge “reasonable” costs against the rent. They have to set out their costs to the owner in a management plan. The owner has the right to challenge the council for unreasonable costs or inefficient management and the RPT can force the council to pay compensation if they are unreasonable.

Homes of the deceased can be taken over from as soon as six months from the death of the owner

This is untrue. Inherited properties are exempt whilst probate is resolved and for a further 6 months after grant of representation has obtained. The property would continue to be exempt if one of the other exemptions applied, for example if the property was marketed for sale.

The empty home does not have to be run down or uninhabitable for EDMOs to apply

This is true. It was not part of the Empty Homes Agency’s original proposal, but this is how the management order arrangement now stands.

With tenants in the home, it will be more difficult to return the home to the owner if the order is revoked

This is untrue. Any occupants placed in the property by the council will not have a tenancy and so can be moved out should the need arise. The council is obliged to return the property to the owner with vacant possession.

EDMOs do not apply to publicly owned empty properties

True. But since 1980 there has been the power of a PROD – a public request ordering disposal, by which a member of the public has the power to request the disposal of an empty public sector home. The Secretary of State for Communities, Ruth Kelly, recently approved a PROD of several public properties in Liverpool.

If a refurbishment takes more than 6 months the council will be able to make an EDMO

This is possible but very unlikely. In most cases if the property is empty because renovation or alteration work is being carried out or if planning permission is awaited the Residential Property Tribunal will not make an EDMO. In a small number of cases an EDMO may be made if for example building works have been abandoned and there is no prospect of them being completed.

There is no right of appeal for EDMOs.

There are several rights of appeal. Including a right of appeal against the decision to make an EDMO. Like all legislation there is an appeal period in this case it is 28 days. The owner can also appeal at any time during an EDMOs duration if they think the council is not managing the property efficiently. They

can also apply to have the order revoked if they have new plans to manage the property themselves.

Homes already up for sale can be seized if a council thinks the asking price is 'unrealistic'.

Arguably this could happen but it is very unlikely. Properties for sale or to let are exempt but there is a qualification that if the property is for said to be marketed but there is no intention to sell or let the RPT could reach the view that is not genuinely marketed.

The owner can even be charged and billed for their property being seized.

The only circumstances in which owners can be charged is if they want to sell before the end of the management order term or if there is any outstanding service charges and there are still outstanding costs. In all other cases any loss must be borne by the council. In most circumstances the owner will be paid a surplus.

The council is not obliged to obtain a market rent, but can take any of the rent to meet its costs

There is and if a council doesn't, they have to pay the difference to the owner.

There is a government programme to seize thousands of empty homes.

No the power is a discretionary one, councils make their own decision of whether to use it. There is no push by government for councils to use these powers. There is no guarantee that all councils will use EDMOs sensibly, but we believe the vast majority will. It is one of many different approaches that councils can take. Many already give grants and loans to help empty home owners with repairs, some offer tenant finding schemes, some help owners sell and market their homes. Only when these sorts of services have been offered and have failed should EDMOs even enter councils minds.

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The Empty Homes Agency was set up in 1992 in response to the high number of empty properties and the crisis with homelessness - something had to be done! In the early days the Agency worked on bringing individual properties back into use and encouraged local authorities to implement empty property strategies.

The Agency as an independent campaigning charity, aims to:

Raise awareness about empty properties in England, devise and promote solutions to bring empty properties back into use

We do this through campaigning and providing advice and support.

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