



# **The County Council of the City and County of Cardiff**

## **Shared Regulatory Services**

### **Private Sector Empty Homes Policy 2021-2024**





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# **Shared Regulatory Services for The County Council of the City and County of Cardiff**

## **Private Sector Empty Homes Policy**

### **Scene Setting / Introduction**

At any one time in Cardiff, there are a number of empty residential properties. This variable figure will be made up of both transitional and non-transitional empty properties and it is the latter type with which this policy is concerned. Transitional empty properties are properties which are empty typically less than 6 months and are actively involved in the local housing market, whereas non-transitional empty properties are considered to be those empty for more than 6 months.

Although transitional empty properties form an essential part of a healthy housing market, non-transitional properties in comparison represent stagnation and a wasted housing resource, in addition to potentially causing nuisance to neighbouring properties and blighting local communities.

The purpose, therefore, of this policy is to tackle the issue of long-term or 'non-transitional' private sector empty properties. Although the primary focus of this policy is residential properties, the Council may consider the impact of long-term empty commercial properties where they could feasibly be returned to use as new residential accommodation.

The Welsh Assembly Government is committed to supporting local authorities in dealing with long-term empty properties and has considered several recommendations made by the Equality, Local Government and Communities Committee within their document Empty Properties; October 2019. The Council intends to review and update this policy in line with any changes as appropriate as this is particularly important with increasing demand for affordable housing.

The Council intends to tackle the issue of empty properties by taking a corporate strategic approach, which involves working proactively across the various sections of the Council for which housing and community issues are integral to their respective policies and strategies. In addition to using a corporate approach, the Council will work with other partners, detailed later.

## Definition of an 'empty property'

For the purpose of this policy and in terms of how the Council reports performance to the Welsh Assembly Government, an empty property is defined as follows within the Welsh Local Government Association 'Public Accountability Measures 2019-20:

*'An empty property is a property liable for Council Tax, which has been unoccupied for a period of 6 months or more'*

This definition excludes:

- A second or holiday home
- A property owned by any of the following:
  - Registered Social Landlords (RSLs)
  - Police and Armed forces
  - National Health Service
  - Universities and colleges
  - Local authorities and government
  - Crown estate
  - Churches and other religious bodies
- A property that is purpose built for use as student accommodation
- A property that is in use but for non-residential purposes
- Properties that have been unbanded by the Valuation Office Agency

## Reasons properties become empty

Residential properties can become empty long-term for a wide variety of reasons. The more common reasons can include the following type of situations however, this list is not exhaustive:

- **Unresolved ownership** – the legal process to resolve ownership can be lengthy and the property may be left unoccupied during this time. This is often seen when an owner dies intestate.

- **Abandonment** – owners abandon a property for various reasons, but typically due to construction, location or condition, mortgage debt, lack of funds.
- **Dilapidation** – the condition of the property prevents it from being occupied before renovation work is undertaken.
- **Inheritance** – incidental ownership following death of previous owner. The new owner may financially and/or practicably be unable to deal with the property or may be unwilling to deal with it, particularly if they are living away or abroad.
- **Property Holding** – owners keep the property empty for a speculative or inheritance reasons rather than sell or let it, including homeowners who begin co-habiting but do not sell or let the other property.
- **Care Holding** – owner moves into other accommodation for care or support on a permanent/long-term basis and do not sell or let their property.
- **Lack of knowledge/options** – owners are unsure of how to deal with their property and lack awareness of help available.

# **Effects of empty properties on local communities, housing markets and the Council**

## **Effects on communities:**

Very often, properties left empty long-term deteriorate in condition as a result of neglect and lack of maintenance which often results in overgrown gardens in addition to poor property condition, which can advertise that a property is likely empty. There is also the potential for dangerous structures.

Aside from deterioration in property condition, neglected empty properties can blight a community by becoming a target for:

- Anti-social behaviour – vandalism, fly-tipping, unauthorised entry and/or arson, pest issues
- Cover for criminal activity
- Squatting and/or drug use

This is particularly problematic in areas of lower housing demand as it can be made difficult to improve an area and attract development due to the negative perception of an area. This in turn can contribute to increased crime rates and further economic decline. In more affluent parts of Cardiff, such issues can contribute to a lack of security and fear of crime.

## **Effects on local housing markets:**

Long-term empty properties present a wasted housing resource and in some cases, this may be the only effect if the exterior is maintained however, neglected empty properties can result in serious issues for neighbouring residents, described above and can cause depreciation of property values. Research by the Royal Institute of Chartered Surveyors estimate that properties adjoining poorly maintained empty properties can be devalued by up to 18% and can also make it difficult to sell a property.



## **Effects on the Council:**

Although there are a number of enforcement options available to the Council to deal with problematic long-term empty properties, there is significant demand for input both in terms of time and cost. This is true of both the reactive and proactive work (discussed later) necessary to make a visible impact on the number of empty properties.

Additionally, whether or not the property is maintained, the lack of inclusion in the local property market is significantly problematic given the disparity between available housing and the high level of housing need in Cardiff and the Council continues to be under pressure to provide assistance to address homelessness issues. Additionally, there is ever-increasing demand for housing developments on 'greenfield sites' with Cardiff's Local Development Plan agreeing 35% non-strategic earmarked land for greenfield development. If housing cannot be found within the existing housing stock, further housing will be sought elsewhere, leading to further edge of City pressure.

Although a 50% reduction in Council Tax charges can be awarded for a maximum of 6 months, in April 2019 a premium of 150% was introduced on Council Tax charges for empty properties following any discount in order to discourage owners from leaving properties empty long-term. This has been carried out in response to recognition of the seriousness of the impact both environmentally and economically, that long-term empty properties present.

# Local Context for Cardiff

## Local housing market:

There are approximately 152,374 residential properties in the Cardiff County Borough made up of:

- 63% Owner occupied
- 21% Privately rented
- 8% Rented from an RSL
- 8% Rented from Local Authority

Cardiff is made up of concentrated urban areas immediately surrounding a vibrant economic centre, in addition to central parkland with further diverse outlying suburbs. 10.8% of the Cardiff population is made up of students and 15.5% is made up of ethnic minorities. There is an unsurprising trend of increased population over the years which is projected to increase further, year on year. The Council's Local Development Plan outlines the issues faced within the county and includes evidence-based objectives relating to housing and economic development needs.

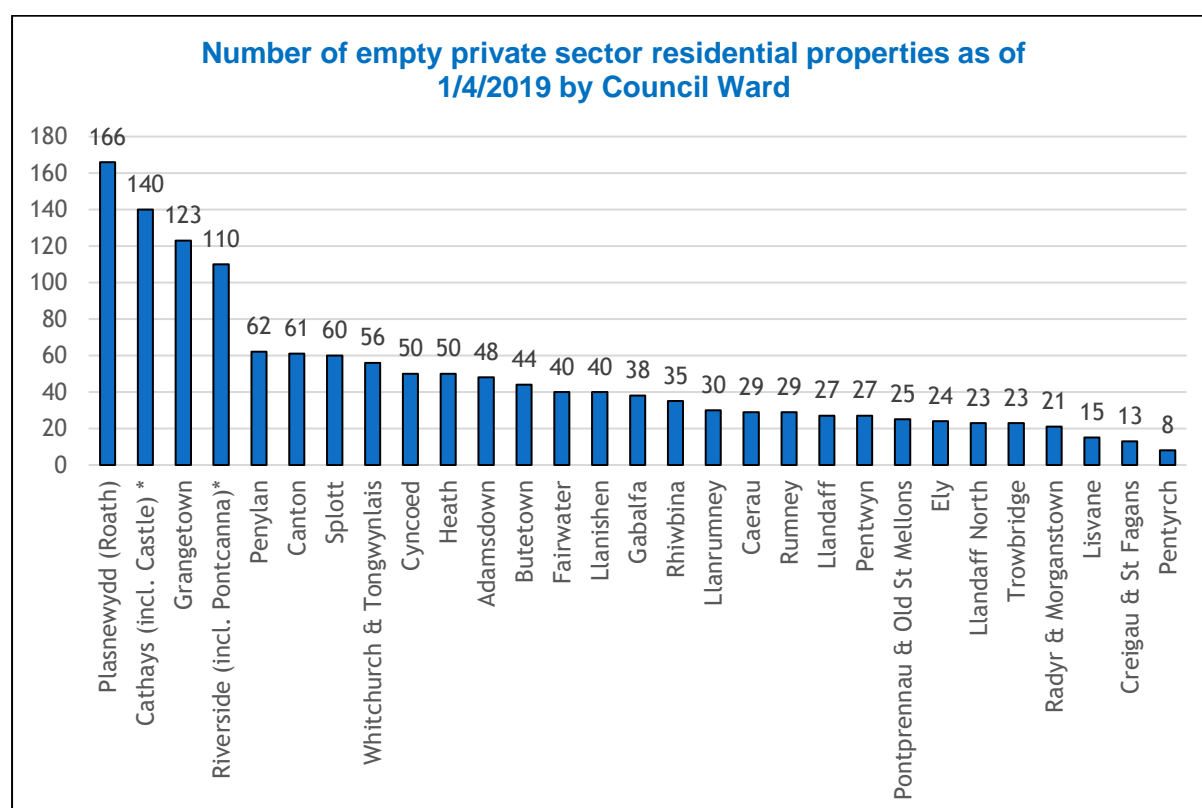
Additionally, the Plan recognises significant health inequalities experienced by the Cardiff population and although Cardiff possesses generally a high quality of life, there are areas of deprivation geographically concentrated in the 'southern arc'.

## Empty homes in Cardiff:

Data from Council Tax shows that 2.14% of the total chargeable dwellings for the whole of Cardiff were empty as at April 2019, which equates to 3363 dwellings. Of that figure 1% or 1451 had been empty for more than 6 months.

The chart below shows the spread of empty private sector residential across the County. Although there appears to be a concentration of empty properties in Plasnewydd (Roath), Cathays, Grangetown and Riverside, it is worth noting that these areas are heavily populated and contain many sub-divided properties. The overall percentage of empty properties in Plasnewydd (Roath) is 2% compared to,

for example Lisvane, the figures for which, represent 1% of all properties in that area.



## Housing need:

A solid indicator of the need for housing in Cardiff is demonstrated by the number of applications for housing on the social housing register. This can be through applications for social housing or through those seeking assistance under homelessness legislation.

## Social housing demand:

Since April 2014, a Common Waiting List has operated in Cardiff, providing a single point of access for all social housing across the city. As at June 2021, 7544 households are registered on the Common Waiting List for Council and Housing Association properties. In 2020/2021, only 1504 social housing lets were made demonstrating how significantly demand exceeds supply.

## **Homelessness and temporary accommodation:**

During 2020/21 3,875 applications for assistance were received which resulted in a homeless assessment being made. Of these 3,739 were eligible for assistance. As at 31/3/21, 1,480 households were in temporary or supported accommodation across the family, young persons and single persons gateways.

## **Affordable Housing:**

The Council recognises the need for more affordable housing. Cardiff's Local Development Plan (2006-2026) indicates it will seek 30% affordable housing provision on green field sites and 20% affordable housing provision on brownfield site residential developments. The Cardiff Housing Strategy (2016-2021) anticipates that 4,220 units of affordable housing would be delivered via various routes, including 2,770 anticipated units delivered as a result of planning obligations. In addition, the Council has its own target of completing 1,000 new council homes by 2022.

The Cardiff Local Housing Market Assessment (2015) also recognises the contribution that bringing empty properties back into use can make and encouraging the return to use of long-term empty properties helps to relieve pressure on housing need and the push to develop green field sites. It can be appreciated that the number of long-term empty properties in Cardiff has the potential to impact significantly on the need for affordable housing.

## The Council's approach

This policy builds upon and replaces the Council's Empty Property Policy published in 2014 and expands by placing greater focus on the need to deal with private sector empty properties in order to support the corporate objectives of the Council to provide much needed housing.

In general, the Council's approach to empty property work is to use informal methods to encourage owners to return properties to use, to foster positive engagement and to be a source of advice and assistance. The work comprises a combination of proactive and reactive work:

### Proactive work:

The Council carries out an annual targeted mailshot of properties from Council Tax data which have been empty for more than 6 months however, the definition of an empty property in terms of length of time empty is currently subject to review by the Welsh Assembly Government. The mailshot includes a questionnaire in addition to helpful literature offering advice and invites recipients to respond.

### Reactive work:

Alongside cases generated by proactive work, the Council also deals with complaints regarding empty properties not already being monitored. These may be properties for which no response was received from a mailshot exercise or properties that do not appear on Council Tax data because they have either not been reported by their owner as an empty property or have been unbanded by the Valuation Office Agency.

### Prioritising action:

The Council is generally dealing with approximately 200 active cases at any given time and whilst there is a procedure (see **Appendix 1**), the way cases progress following initial investigation is bespoke depending on a number of factors such as whether the owner engages with the Council, the extent of the issues caused by the property and whether the Council needs to consider using enforcement action. In

order to deal effectively with the significant number of properties the Council deals with, it is necessary to prioritise the work. This is done by risk assessing, or 'categorising' each property against a set of criteria for example the length of time empty, whether or not it is causing nuisance or whether the Council has had to carry out works in default to remedy any nuisance. The score is then banded into categories A, B or C, with A being the worst. A copy of the categorisation form and associated guidance notes can be seen in **Appendix 2**.

Although higher category empty properties will generally be prioritised for targeted action, a category C property for example could also be considered a priority if it is in an area of higher housing need and of a type in higher demand. This reflects the need to not only deal with visibly problematic properties, but to address housing need as described earlier.

### **Engagement, Advice and Assistance:**

The first stage to resolving long-term empty property issues is to establish a dialogue with owners. Once the Council is in a positive dialogue with empty property owners, there is a range of advice and assistance that can be offered to encourage and enable them to bring their property back into use. Advice can range from providing information and signposting to partners for the Houses into Homes loan scheme; Registered Social Landlord lease and repair schemes; advice on letting a property; advice on selling a property via estate agents or auction; access to a list of private developers; advice on the Council's 'Buy Back' scheme; and other bespoke advice depending on the individual circumstances.

### **Enforcement:**

Whilst informal action will help to resolve a significant number of cases, it is necessary in some instances to resort to formal enforcement action. There are a number of legislative provisions which the Council can use legally require owners to carry out works where properties are causing a nuisance, are dangerous and/or are contributing to wider community issues such as anti-social behaviour. Legislation also exists to enable the Council to compulsorily purchase empty properties or carry

out Enforced Sale in certain circumstances. The enforcement options available to the Council are outlined in Appendix 3

## Aims and objectives

The Council sets out to meet the aims and objectives below by the various methods described in this policy, building on previous work in order to raise the profile of the issue of empty properties to maximise the number brought back into use.

Aims	Objectives
<b>Identify and prioritise empty properties</b>	In line with the proactive and reactive work summarised earlier, the Council will maintain a database of empty properties and continue to monitor and prioritise work.
<b>Provide advice and assistance to owners</b>	<p>Proactively provide advice and invite owners to engage via periodic mailshot.</p> <p>Periodically review the help available and update advice as appropriate.</p> <p>Maximise the possibility of owners effecting their aspirations for their property by providing sound, practical advice and signposting.</p>
<b>Publicity of policy</b>	<p>Ensure this policy is available on the Council and Shared Regulatory Services websites.</p> <p>Ensure maintenance of the online reporting facility for empty properties.</p>
<b>Develop partnership working</b>	<p>Further develop links with internal and external partners to promote effective communication and information sharing.</p> <p>Take a lead in collating with internal partners by developing a Working Group to meet on a quarterly basis, to ensure a corporate approach to empty properties.</p>
<b>Effective use of enforcement</b>	<p>Consider use of the various legislative powers available to limit the impact of empty properties on communities.</p> <p>Consider the use of Compulsory Purchase Orders and Enforced Sale where appropriate and in the public interest.</p>



## Monitoring

Within the Council itself, this policy will be monitored and updated on an annual basis in order that it is based on the most up to date information and recognises any legislative changes in addition to newly identified aims and objectives.

The Council also reports on the numbers of properties brought back into use by following the Welsh Local Government Association (WLGA) Public Accountability Measures (PAMs), specifically:

- **PAM/013** – The percentage of empty private sector properties brought back into use during the financial year through direct action by the local authority.
- **PAM/045** – The number of new dwellings created as a result of bringing empty properties back into use.

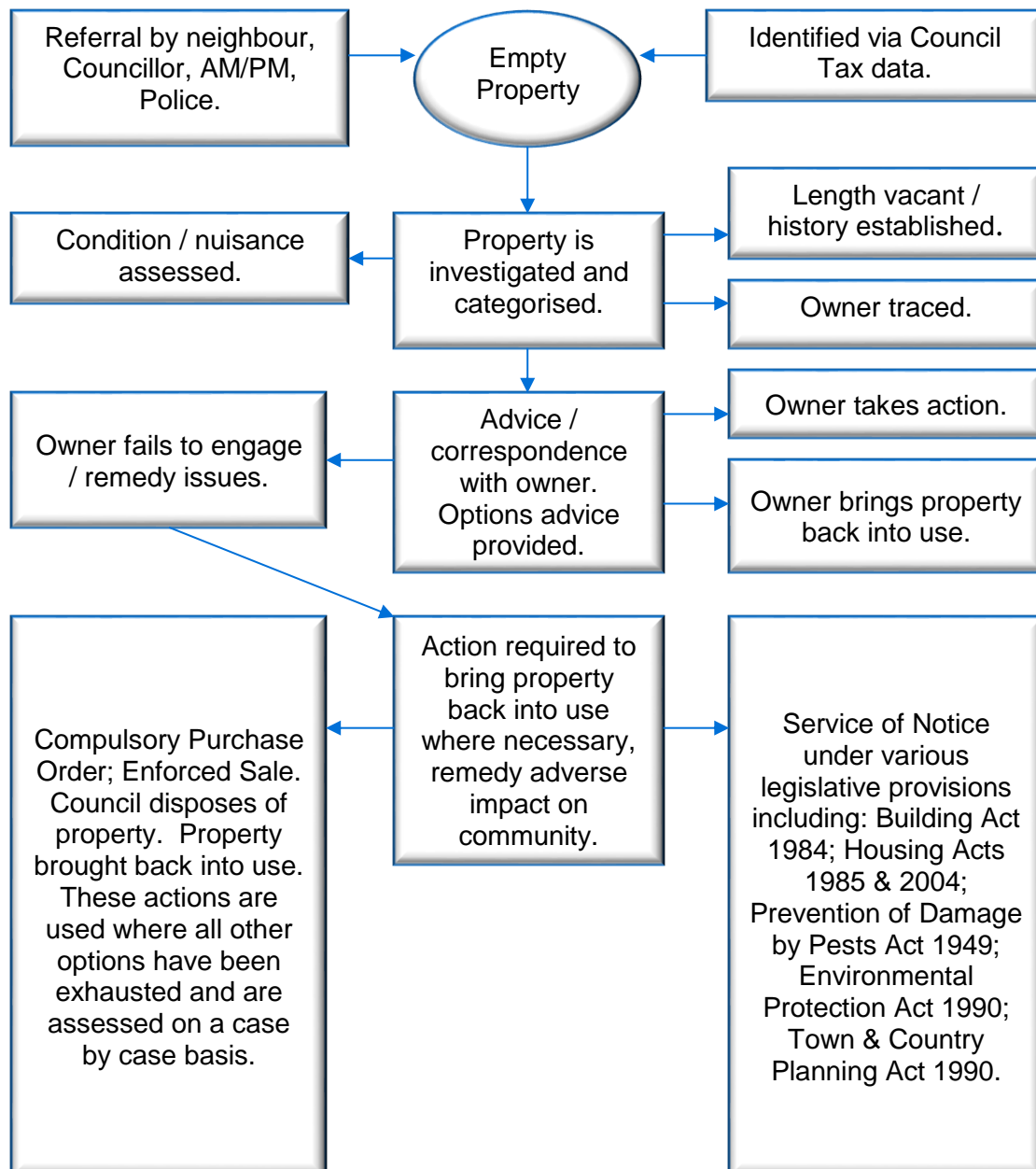
Results from empty property work is recorded by the Empty Property Officer and is published on a quarterly basis, with performance being reported to Welsh Government on an annual basis. The local authority is required to evidence engagement and enforcement which has led to the return to use of empty properties.

# Appendix 1

## Empty Property procedure

Although the Council will have a significant number of empty properties on record from Council Tax data, which are subject to an annual mailshot, additional empty properties will come to the Council's attention as a result of empty property complaints.

Properties for which complaints are received and which do not already appear on the database are generally properties that have been taken out of rating by the Valuation Office or have not been reported to Council Tax as being an empty property. In all cases however, the procedure is the same:



## Appendix 2

### Empty Property Risk Assessment

Properties are categorised into bands A – C; with A being the worst. The criteria for categorisation of an empty property are as follows:-

			Score
<b><u>Length of time vacant</u></b>			
6 months – 1 year			1
1 – 2 years			3
3 – 5 years			5
5 – 10 years			10
Over 10 years			20
<b><u>Property condition</u></b>			
No disrepair			0
Minor disrepair			2
Major disrepair			5
<b><u>Social impact</u></b>			
Front and/or rear garden overgrown			3
Vandalism to property			3
Incidents of arson/fire at property			5
Fly tipping occurring/occurred at property			5
Property provides cover for criminal activity			5
<b><u>No. of complaints received</u></b>			
Low number (1 – 3)			1
Medium number (4 – 8)			3
Substantial number (9 and over)			5
<b><u>Notices served/to be served</u></b>	<b>No.</b>	<b>Weighting</b>	
EPA Section 80 (nuisance)		x5	
TCPA Section 215 (detrimental to amenities/gardens)		x5	
PDPA Section 4 (rubbish and pests)		x3	
BA Section 59 (drainage)		x3	
BA Section 78/79 (dangerous structure)		x5	
MPA Section 29 (securing property)		x3	
<b><u>Works in default undertaken</u></b>			
Yes		x5	
No			0
<b><u>Debt history</u></b>			
None			0
Up to £500			2
£500 - £1000			3
£1000 - £5000			4
Over £5000			5
			<b>Total</b>
<b>TOTAL</b>	<b>0 - 10</b>	<b>11 - 25</b>	<b>OVER 25</b>
<b>CATEGORY</b>	<b>C</b>	<b>B</b>	<b>A</b>

## **Guidance Note to assist with completing Risk Assessment**

### **Length of time vacant:**

To be assessed on the best information available i.e case history, information from neighbours.

### **Property condition:**

**No disrepair** – no work required to property;

**Minor disrepair** – repair work to roof, windows, brickwork and rainwater goods;

**Major disrepair** – renewal of roof, windows, rainwater goods.

### **Social Impact:**

**Front/rear garden overgrown** – garden is overgrown i.e passage through garden is impacted;

**Vandalism** – smashed windows, graffiti etc;

**Arson/fire** – score if incident has occurred;

**Fly tipping** – evidence of rubbish left in property/garden, inert or domestic;

**Provides cover for criminal activity** – overgrowth, property open to access etc to allow people cover to take drugs, deal drugs, prostitution etc.

### **No. of complaints**

Total number of complaints received relating to its vacant status.

### **Notices served:**

Multiply the number of notices served by its weighting i.e:

2 Section 80 notices served: -  $2 \times 5 = 10$     Score = 10

### **Works in default:**

IF WID is undertaken, multiply the number of times by its weighting i.e:

WID has occurred 3 times: -  $3 \times 5 = 15$     Score = 15

### **Debt history:**

The amount of debt outstanding against the property i.e debt resulting from notices served by the Council / cost of WID unpaid / Council Tax charges.

## Appendix 3

### Enforcement Options

There are various legislative provision available to the Council in order to deal with issues caused by empty properties and also to secure their return to use. The most commonly used are detailed below:

#### Statutory Notices

##### **Building Act 1984 – Section 76**

Section 76 of the Act provides the Council with the power to serve notice where: -

- Premises are in a defective state as to be prejudicial to health or a nuisance; and
- There would be an unreasonable delay in remedying the defective state by following the procedure set out in Section 80 of the Environmental Protection Act 1990.

The notice is served on the person on whom would be appropriate to serve an abatement notice under the Environmental Protection Act 1990 and will state that the Council intends to remedy the defective state and specify the defects it intends to remedy.

The person on whom notice is served, is entitled to serve a counter-notice on the Council stating they intend to remedy the defects specified in the notice. If the person serving that notice fails to take the action in a reasonable time, the Council may then complete the works.

Costs incurred by the Council in serving notice and carrying out the work are recoverable by applying to the Court. The Court must be satisfied that the action was justified and that the notice was served correctly.

##### **Building Act 1984 – Section 79**

This section of the Act can be served on the owner of a building or structure which the Council considers to be seriously detrimental to the local amenity because of its ruinous or dilapidated condition. The notice can require the owner to execute repair or restoration works or the owner may choose to demolish and remove any rubbish or other materials resulting from or exposed by the demolition as necessary in the interests of the local amenity.

Section 99 of the Act provides the Council with power to carry out the works itself and recover reasonably incurred expenses. The owner may also be prosecuted.

### **Prevention of Damage by Pests Act 1949 – Section 4**

This section of the Act provides the Council with the power to serve notice on an owner or occupier requiring them to carry out such works which may include applying a treatment to the specified land or premises to remove and keep free of vermin. The notice may also require structural repairs to be carried out for the same purpose.

If the person on whom the notice is served fails to carry out the specified works, the Council may carry out those works in default and charge the notice recipient. If the person on whom the notice is served, fails to pay the charge, the Council can force the sale of the property under the power of The Law of Property Act 1925, Section 103 provided the Council gives notice of its intention to do so, should the charge not be paid.

### **Environmental Protection Act 1990 – Section 80**

If the Council is satisfied of the existence, recurrence or likely occurrence of a statutory nuisance, it can serve an abatement notice requiring: -

- Abatement of the nuisance and / or prohibit or restrict its occurrence or recurrence;
- Execute works and take other necessary steps for any of those purposes.

The notice is served on the person responsible for the nuisance unless it relates to a structural defect, in which case it is served on the owner of the premises. The person on whom the notice was served may appeal the notice at the Magistrate's Court. Failure to comply with the notice may lead to prosecution.

### **Housing Act 2004**

Under the Housing Act 2004, the Council must take the appropriate enforcement action in accordance with enforcement guidance where it considers that either a Category 1 or 2 Hazard exists on residential premises. Such action can include: -

- Service of an improvement notice;
- Making of a prohibition order;
- Service of a hazard awareness notice;
- Emergency remedial action.

### **Enforced Sale**

Where costs have been incurred by the Council following inspection, service of notice/s and carrying out works in default as a result of a failure of the notice recipient to comply with the requirement, certain legislative provisions allow the Council to place a charge on the property in order that it may recover its costs.

Once charges are registered against the property. The local authority can force the sale in order to recover the debts owed to it. This power is used when all other attempts to address the empty property have been exhausted.

### **Compulsory Purchase Orders (CPO)**

Section 17 of the Housing Act 1985 gives the Council the power for the purposes of Part II of that Act to acquire: -

- Land to build houses;
- Houses or buildings which may be made suitable as houses together with any occupied land;
- Land proposed to be used for any purpose authorised by legislation (facilities to be provided in connection with housing accommodation; and
- Land to carry out works on it for the purpose of or in connection with the alteration, enlarging, repair or improvement of an adjoining house.

The Council may acquire land either by agreement or compulsorily by way of authorisation from the Welsh Government. The Council must justify the making of a compulsory purchase order by assembling a compelling case in the public interest for the acquisition. This will take into account many factors including the length of time the property has remained vacant; history of engagement / lack of with the owner; impact of the property on the local amenity; and the level of housing need in the local area.

As with enforced sale, the making of a compulsory purchase order is reserved as a last resort enforcement option in appropriate cases where all other attempts to return the property to use have been exhausted.