

PICKLES ACTS TO PROTECT THE RIGHTS OF HOMEOWNERS

Communities Secretary Eric Pickles is today bringing an end to heavy handed rules that can mean people who leave their house empty for more than six months risk having it seized by their local authority.

In 2006, the previous Government introduced 'Empty Dwelling Management Orders'. They allow councils to take over properties that have been empty for as little as six months.

The home does not have to be blighted or boarded up to be taken over, just empty for six months – including homes of the deceased.

Councils have the right to seize furniture, fixtures and fittings, when the home is taken over, including where the home has been left empty for a period after the owner has died.

Homes already on the property market can be seized if councils believe the asking price is "unrealistic".

In order to protect civil liberties, Mr Pickles is today introducing powerful safeguards to restrict the use of Empty Dwelling Management Orders.

They will be limited to empty properties that have become magnets for vandalism, squatters and other forms of anti-social behaviour – blighting the local neighbourhood.

A property will have to stand empty for at least two years before an Empty Dwelling Management Order can be obtained, and property owners will have to be given at least three months' notice before the order can be issued.

Mr Pickles is concerned that councils have used the Orders to instigate action against homeowners that is inappropriate, including against people in vulnerable situations. Councils have, for example, attempted to use the powers against a homeowner whilst she was caring for her injured daughter in France; to take over an Order being used against the house of a 96 year old as soon as he passed away in a nursing home; and against a divorcee, who faced action because he only lived in the property at weekends to visit his estranged children.

These new safeguards will ensure that responsible homeowners do not face having their properties seized. Mr Pickles said it is wrong that a bereaved family could face having their loved one's home seized for a period if there is a delay in them deciding what to do with it.

The move comes as the Government prepares to introduce wider plans to bring back into use many of the 300,000 properties in England that have been empty for a long period of time.

From next year, councils will have a new incentive to bring empty properties back into use through a New Homes Bonus, under which the Government will match the council tax raised from any council tax collected from a property that previously stood empty.

Communities and Local Government Secretary, Eric Pickles, said:

"There is a case for action to put boarded-up and blighted properties back into use. But these draconian and heavy-handed state powers have allowed councils to seize private homes in perfect condition, including their fixtures and fittings, just because the homes have been empty for a short while.

"The Coalition Government is standing up for the civil liberties of law-abiding citizens. Fundamental human rights include the right to property. People suffering the loss of a loved one should not have to endure the added indignity of having their home seized because of a delay in them deciding what to do with it."

"That's why the new Government is introducing new safeguards that mean the rights of responsible homeowners will be protected, while allowing action to be taken against genuine derelict buildings which blight neighbourhoods."

Notes to editors 1. The Government will use secondary legislation to introduce safeguards that restrict the use of Empty Dwelling Management Orders 2006, and will be engaging with interested parties on the extent of the changes.

2. In 2006, the previous Government introduced new 'Empty Dwelling Management Orders' (EDMO) that give town halls the power to take over the management of private homes which have been empty for as little as six months.

There are two types of EDMO - an interim EDMO which lasts for a year during which time the local authority must try to work with the owner to get the property back into use. If no agreement is reached the local authority can make a final EDMO which can last for up to 7 years.

0 The home does not have to be run down or uninhabitable to be seized, merely empty for six months.

1 Homes of the deceased can be confiscated for up to 7 years, even if inheritance issues are not yet finalised. The regulations allow for the home of a deceased person to be seized at any point after six months from the 'grant of representation' (the proof of legal authority allowing a personal representative to start administering an estate).

2 The council is not obliged to obtain a market rent, but in most cases can still deduct all their running costs from the rent.

3 Tenants in the home still have contractual and legal rights of occupancy, making it more difficult to return the property to the owner if the Order is revoked.

3. In guidance issued in 2009, the previous Government called for local authorities to make use of these powers. The guidance can be found at:

www.emptyhomes.com/usefulinformation/papers_publications/edmo_guide/edmo_foreword.html.

CASE STUDIES

The rulings of the EDMO tribunals can be found at:

http://www.rpts.gov.uk/Indexes/LON_HA_LEDMO.htm

Case studies:

>> 79 Tunstall Road, Stoke-on-Trent, Staffordshire Moorlands

The state tries to seize the home of an elderly, blind man

para 7: "After the inspection a hearing was convened at the Parkwood Leisure Centre, Biddulph. It was apparent at the inspection that Mr Johnson is completely blind, and additionally, because he had been waiting in extremely cold conditions outside the property, was suffering from other disabilities which made it difficult for him to appreciate or understand what was being said at the Hearing."

>> 1 Felday Road, Lewisham

A couple inherit property from their deceased parents, and wish to house their son there; but the state attempts to seize it.

para 40: "the council's attitude had been aggressive and that he and his family felt intimidated by the various council departments"

para 43: "the council was being overzealous and he had not been given a full and proper explanation about the law or consulted about this action. he pointed out that there had been no complaints from the neighbours or anyone in the community about this property."

para 56: [tribunal] "we are also not satisfied that there is no reasonable prospect of occupation of the property in the near future. We have seen evidence of some building work being carried out at the property and of quotes that have been sought from contractors for building work. Mr Willoughby had put a considerable amount of time and effort in opposing this application and we cannot conclusively find that there is no reasonable prospect of occupation in the near future."

para 59 [tribunal] "the council made allegation that refuse was not being collected and that the fire service were concerned about a risk of arson but no direct evidence in relation to this was produced... [line missing] was not causing a problem and a letter had been written by a neighbour objecting to the action being taken by the council."

para 60: "Mr Andrew Willoughby and Ms Stephanie Hammonds intend to live at this property. Ms Hammonds has a child and the council has taken the view that it has discharged its housing duties towards this family who now live to live at 1 Felday Road once it has been refurbished."

para 54: (explains how homeless application to council withdrawn, as person wishes to live at 1 Felday Road)

EDMO rejected

>> 34 Sutton Road, Watford

A home owner caring for her injured daughter in France finds the state attempt to seize her home.

para 28: [tribunal]: "It also finds that on the balance of probabilities, the respondent owner has been temporarily living in France to care for her injured daughter and is temporarily staying with her mother in Sussex at the moment. Further, that there is now a real prospect of the property becoming occupied in the near future due to the efforts of Ms. Parrish's sister."

para 14: "On the 30th January 2007, the Tribunal received a faxed letter from Josephine Hoskins who said that she was a teacher and is Ms. Parrish's sister. She gave all her contact details and explained the following:-

(a) That she had discovered the Tribunal's identity when she was visiting the property and had gone through the post

(b) That about 3 years ago, her sister's daughter had fallen from a 4th floor balcony in Antibes, France. She had survived but with serious injuries and had been in and out of hospital in Nice

(c) That Monique Parrish had been over there since the accident looking after her daughter and is “staying at the moment with our elderly mother in Sussex”. She has not been able to work and was under great stress. In Ms. Hoskins’ words “she seems to be going through a mental breakdown”.

(d) That Ms. Parrish “has struggled to maintain her financial responsibilities”

(e) That Ms. Parrish had been made aware of this application and was upset by it.

(f) That she had gone to see Mr. Everett on the 29th January to explain matters to him.

(g) That Ms. Parrish wants to return to the property when her daughter “is ready to return home” but in the meantime the family agree that it would be better to let the property and she would be returning to England during the Easter holiday to organise this.”

>> 5 Swain Close, Hounslow

The state tries to seize the house of a 96 year old as soon as he passes away in a nursing home

para 1: “the respondent to the application, which was received by the tribunal on 16 July 2008, is Michael Mees. He was on 30 September 2008 granted administration of the estate of his father Frank Mees, who, until his death, was the freehold owner of the dwelling. According to the death certificate which the solicitors instructed by Michael Mees have put before us, Frank Mees died in a nursing home on 1 March 2008 at the age of 96. His wife, who was formerly the joint owner, with her husband, of the dwelling, pre-deceased him, and the certificate of her death has also been put before us by Michael Mees’s solicitors”

para 3: “shortly before the hearing Vickers & Company, solicitors instructed by Michael Mees, lodged a copy of the grant of administration under cover a letter dated 14 October 2009 in which they said that they been advised that estate agents ‘will be instructed to place the property on the market for sale by the end of the week’.”

>> 28 Willonholt, Peterborough

A divorcee, living in property at weekends to visit his estranged children, having trouble with rogue builder (his former brother in law) faces having his property seized.

para 28-29: “Mr Sahadeven... is now divorced and has been living in Leeds but coming back to Peterborough at weekends. He normally just sleeps at the house, picks up his children and takes them to his parent’s house. Until the divorce in 2007, he was living in the matrimonial home but from then onwards he started sleeping at the Property. It may have been a bit before that. His intention is to have a home for the children to visit.”

(para 31) “he said that he has paid Joe Williams [his former brother in law] for the majority of the work in advance. He had been told that the boiler would be fitted by last Friday. He was always having to chase Mr Williams up... He said that this is the only property that he owns. He has some receipts for amounts paid to Mr Williams. It is all very frustrating for him; he came back last night expecting the boiler to have been fitted. He confirmed that Mr Williams is his former brother-in-law. He accepted that he will probably have to cut his losses, raise more finance and engage another builder in order to get his finished.”

ENDS