

## Annex 1C

| <b>Enforcement Toolkit</b>  |                     |  |   |  |
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| <b>Legislation</b>  | <b>Lead Service</b> | <b>Description of Enforcement Action</b>   | <b>Pros</b>   | <b>Cons</b>  |
| <b>Housing Act 2004</b><br><br><b>Part 1 – Housing Conditions</b> | EHHS                | Section 28 or 29 Hazard Awareness Notice   | Raises owner's awareness of deficiencies in the property contributing to hazards.   | No requirement to undertake works.<br><br>Not registered as a local land charge.<br><br>May not bring the property back into occupation.         |
|   | EHHS                | Section 11 or 12 Improvement Notice – an enforcement notice requiring the owner to undertake works to improve the condition of the property. | Improves the condition of the property.<br><br>If owner fails to undertake works, works may be undertaken in default (WID) by the Council.<br><br>Work in default costs can be charged as a land charge against the property, which takes priority over other charges. If there is a land charge on the property the Law of property Act 1925 allows the Council to recover the money they are owed using the Enforced Sales Procedure.<br><br>Council can seek Capital funding through the KCC funded 'Kent Empty Property Initiative' on first come, first served basis until 2013. | May not bring property back into occupation.<br><br><b>Council funding required for works in default up front utilising capital expenditure.</b> |
|   | EHHS                | Section 20 or 21 Prohibition Order or  | Prohibits use of building or part of the  | Does not improve the condition of the  |

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|  |      | Section 43 Emergency Prohibition Order  | building by certain persons.   | property or potentially allow it to be bought back into occupation. In fact, may legally prohibit the property being used.  |
|  | EHHS | Section 40 Emergency remedial action  | <p>The Council may undertake works to reduce the imminent risk of harm to persons e.g. by the fixing of a tarpaulin over a leaking roof.</p> <p>Cost of works charged as a local land charge, which takes priority over other charges.</p> | <p><b>Works funded up front by the Council using capital expenditure.</b></p> <p>Council can seek capital funding through the KCC funded 'Kent Empty Property Initiative' on first come, first served basis until 2013.</p> <p>Only works to reduce the imminent risk are undertaken and may be a short term solution. The Emergency remedial action may be followed by service of an Improvement Notice to bring about long term improvements in the condition of the property.</p> <p>Does not necessarily bring property back into occupation.</p> |
|  | EHHS | Section 46 Demolition Order or Section 47 Clearance where Category 1 type hazards have been identified at the property. | Removes potential eye sore property.   | <p>Does not bring property back into use but actually removes a housing resource.</p> <p>High land/property value in the borough.</p> <p>Under Land Compensation Act, owner would be compensated for the loss of value of property.</p>   |
|  | EHHS | Section 133 an interim EDMO followed by a Section 136 final EDMO allows the Council to carry out renovation and         | Improves the condition of the property and brings it back into use.  | Only suitable for long term empty properties i.e. empty for 6 or more months.   |

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| <p><b>Part 4 – Empty Dwelling Management Orders (EDMOs)</b></p> |  | <p>maintenance work on the property and collect rent and other payment from the occupant to meet relevant expenses.</p> |  | <p>This is an extreme measure requiring significant resources due to the Council assuming full responsibility for managing a dwelling.</p> <p>Property may be exempt under the Act from an EDMO, for example the owner is absent so they can be cared for elsewhere, the property is occupied occasionally by the homeowner or guests as a second home, the homeowner normally occupies the properties but is temporarily residing elsewhere.</p> <p>Cannot use an EDMO until other voluntary options have been explored with the owner, to return the property to occupation.</p> <p><b>Expenses incurred by the Council may exceed the income if the property is in a poor condition.</b></p> <p>During the period of an interim EDMO, for up to a year, the Council is not able to let the property without permission of the owner. The Council usually pursues the EDMO option because the owner is reluctant to voluntarily let the property therefore unlikely to be able to let during the interim EDMO.</p> <p><b>The EDMO will require a management scheme and someone to manage it, which will incur costs and resources on setting up etc.</b></p> |
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|   |                 |   |   | <p><b>Up front funding (capital expenditure) is required to renovate the property to a condition to be able to let.</b></p> <p>The Council needs to ensure the quality of the work and demonstrate value for money to the owner for any works undertaken.</p>  |
| <p><b>Town and Country Planning Act 1990 Section 215</b></p>                  | <p>Planning</p> | <p>Where the condition of the land and property is found to be significantly detrimental to the visual amenity of the neighbouring properties or area – allows LA to deal with unsightly land or the external appearance of the property.</p> | <p>A notice can be served on the owner of land and buildings, and used to put pressure on the owner to improve the visual appearance.</p> <p>Opens dialogue with the owner as a first step to improving the condition of the whole property.</p> <p>If the notice is not complied with works in default (WID) can be undertaken by the Council. Alternatively prosecution maybe initiated.</p> <p>The Council may recover expenses in carrying out WID or place a charge on the property.</p> | <p>Does not allow charge on property to take priority i.e. mortgage company has the first call.</p> <p>Does not necessarily bring the property back into occupation.</p> <p>The external appearance may be improved but does not make it habitable necessarily.</p> <p>Has been most effective on derelict land rather than buildings but can be effective on buildings when allied to grant assistance or other motivation.</p> <p><b>Up front funding (capital expenditure) is required for WID.</b></p> |
| <p><b>Local Government (Miscellaneous Provisions) Act 1982 Section 29</b></p> | <p>EHHS</p>     | <p>Where a property is empty and is not effectively secured against unauthorised entry, or it is likely to become a danger to public health.</p>  | <p>The Council can undertake works to make the property secure and remove any danger to public health.</p> <p>The Council can recover costs.</p>  | <p>Does not necessarily bring property back into occupation.</p> <p>Legislation does not allow for a land charge to be placed on the property to recover the debt.</p>   |
| <p><b>Prevention of Damage by Pests Act</b></p>                               |                 | <p>Where the property is infested by vermin</p>   | <p>A Notice can require the owner to</p>  | <p>Does not necessarily bring property back</p>  |

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| <p><b>1949 Section 4</b></p>                                  | <p>EHHS</p>             | <p>can be used to ensure land is kept free from rats and mice</p>   | <p>treat the infestation, undertake structural works to prevent access by vermin to/from the property and tidy the land.</p> <p>Can open dialogue with the owner to improve the general condition of the property.</p> <p>The Council can undertake works in default if the owner fails to comply with the Notice.</p> <p>A land charge may be registered to allow recovery of debt, which takes priority over other charges.</p> | <p>into occupation.</p> <p><b>Up front funding, capital expenditure, required to undertake WID.</b></p> <p>Does not necessarily make the property habitable.</p>  |
| <p><b>Environmental Protection Act 1990 Section 79-81</b></p> | <p>EHHS</p>             | <p>Allows local authority to require abatement of statutory nuisances following a complaint e.g. accumulations of refuse at the property or dampness affecting neighbouring properties.</p>   | <p>Abatement Notice served requiring owner to undertake works to abate the nuisance.</p> <p>WID may be undertaken if the notice is not complied with and a land charge placed on the property, which takes priority over other charges.</p> <p>Opens dialogue with the owner.</p>   | <p>Does not necessarily bring the property back into occupation.</p> <p>The works required to abate the nuisance may not make the property habitable.</p>   |
| <p><b>Building Act 1984 Section 77-79</b></p>                 | <p>Building Control</p> | <p>S77- enables local authority to deal with buildings that are dangerous requiring the owner to make safe or demolish.*<br/>S78- where buildings pose an immediate danger the local authority can carry our remedial works to remove the danger.*<br/>S79 -Where the condition of a building is dilapidated and detrimental to the</p> | <p>Can be used in the short term to improve the outside of property.</p> <p>Opens dialogue with the owner.</p> <p>Council may undertake WID for non compliance.</p> <p>WID costs recoverable and allows a</p>   | <p>Does not necessarily bring property back into occupation.</p> <p>Only works to remove the danger or make safe are required therefore the property may still not be habitable.</p> <p><b>Up front funding (capital expenditure) required for WID.</b></p> |

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|   |                     | amenities of the neighbourhood the Council may serve notice.<br>(* Failure to comply with magistrate's court order is a criminal offence.)  | charge on property, which takes priority over other charges.  |   |
| <b>Enforced Sale section 103 Law of Property Act 1925</b>                   | Legal               | Enables Council to force the sale of a property where a local land charge on it to recover a debt.  | Established and tested procedure.<br><br>Debts recovered and take priority.<br><br>Usually brings property back into use on sale.<br><br>At no point in the process does the Council own the property therefore it is not liable for it.<br><br>Quicker than Compulsory Purchase Order process.<br><br>Property asset becomes a liability to owner. | Stops if debt paid.<br><br>Can only be used for debts that are up to 12 years old.<br><br>Not practical for small debts as they are likely to be repaid and the Council may appear to be acting heavy handed. |
| <b>Enforced Sale for other debt i.e. Council Tax</b>                        | Council Tax + Legal | Enables Council to force the sale of a property where a charging order awarded by the County Court to the Council to recover a debt.        | Established and tested procedure.<br><br>Usually brings property back into use on sale.<br><br>Recovers debt.<br><br>At no point in the process does the Council own the property therefore it is not liable for it.  | Stops if debt paid.<br><br>Not practical for small debts as they are likely to be repaid and the Council may appear to be acting heavy handed.  |
| <b>Planning(Listed Building and Conservation Areas) Act 1990 Section 54</b> | Planning            | Enables local authorities to require owners to carry out works to prevent deterioration and restore listed buildings in conservation areas. | Improves the condition of the property.<br><br>If owner fails to undertake works,   | Does not necessarily bring the property back into occupation.<br><br>The works may not return the property to a   |

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|   |                     |   | <p>works may be undertaken in default by the Council.</p> <p>Work in default costs can be charged as a land charge against the property.</p> <p>Opens dialogue with the owner.</p> <p>Council can recover costs for works done.</p> | <p>habitable condition.</p>  |
| <p><b>Compulsory Purchase - Housing Act 1985 Section 17</b></p> | <p>EHHS + Legal</p> | <p>Enables local authority to acquire under-used or ineffectively used property/land for residential purposes by compulsory purchase where the owner is not willing to sell by agreement, if there is a general housing need in the area.</p> | <p>Established and tested procedure.</p> <p>Recovers WID cost.</p> <p>Can be used to resolve a single property issue.</p> <p>Brings the property back into use.</p> <p>Can continue to negotiate with the owner.</p>                | <p>Compulsory Purchase Order has to be made by the Secretary of State.</p> <p>The Council need to show clear intentions for the use of the property/land.</p> <p>The Council will need to demonstrate that it is a compelling case and in the public interest to compulsory purchase.</p> <p>Can only be used as a last resort and other methods of returning the property back into use must be shown to have been tried and failed.</p> <p>Must achieve a measurable/qualitative gain.</p> <p>Open to public enquiry.</p> <p><b>Can be costly if enquiry follows and may be relocation issues.</b></p> <p><b>Owners have to be compensated by the Council for the loss of their property, the open market value.</b></p> |

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|  | Property<br>& Estates |  |  | <p><b>Some Council costs may not be recoverable following sale of the property e.g. legal costs if it goes to appeal.</b></p> <p>The Council becomes the owner and has the responsibilities that come with this.</p> |
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