# **Adrian Chowns**



Team Manager HMO Enforcement Team Oxford City Council







# Enforcement is inevitable...

- 63 successful prosecutions
- £300K in fines
- 43 Formal cautions
- 3 (HB) Rent Repayment Orders (RRO)
- £20k repaid
- 6 Interim Management Orders (IMO)



### Management Orders

- Chapter 1 of Part 4 Housing 2004
- Section 102 Interim Management Orders (IMOs)
- Mandatory duty and discretionary power



# Duty to Make IMO

- s.102 (1) (a) MUST make an IMO where:
- s.102 (2) (a) HMO ought to be licensed, but is not and
- s.102 (2) (b) Consider either
  - No reasonable prospect of an HMO licence
  - Health and safety condition satisfied (s.104)



# Duty to Make IMO

- s.102 (3) (a) HMO required to be licensed and is licensed
- s.102(3) (b) revoked licence but not in force and
- s.102 (3) (c) Either on revocation coming into force
  - No reasonable prospect of an HMO licence
  - Health and safety condition satisfied



## Power to Make IMO

- s.102 (1) (b) MAY make an IMO where
- s.102 (4) (a) It is an HMO that is not required to be licensed; and
- s.102 (4) (b) Authorised by the FTT to make Order
- FTT must be satisfied that the health and safety condition applies



# No reasonable prospect

- No guidance about meaning
- Adopt informal approach to ensure that a licence is issued
- Warning letters, appointment of other persons as licence holder if the landlord is not a 'fit and proper' person.
- Follow enforcement
- In principle, prosecution or simple caution action will precede the making of an IMO.



# Health and Safety Condition

- s.104 (2) Condition satisfied if Order is necessary to protect the health, safety and welfare or;
- Persons occupying or owning property in the vicinity.
- s.104 (3) Avoidance of licensing with threat to evict may constitute threat to welfare
- s.104 (4) Condition is not satisfied if LA required to take action under Part 1 (HHSRS) and;
- Health, safety or welfare would be protected by taking that course of action



# Operation

- s.105 (2) Other than revocation takes immediate effect
- s.105 (3) Order comes into force when revocation effective
- Revocation subject to appeal
- IMO takes effect when appeal determined



### Duties

- s.106 (1) Must comply as soon as practicable after Order takes effect
- s.106 (2) Must first take any immediate steps to protect health, safety and welfare
- s.106 (3) Also take other steps appropriate to manage



# **General Effect**

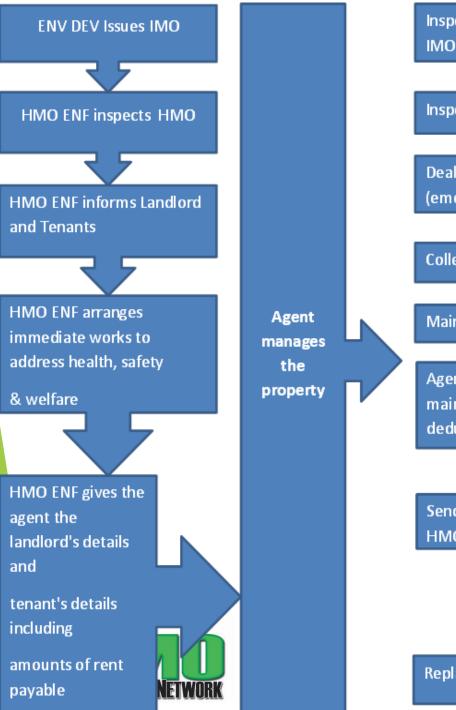
- s.107 (3) (a) LHA right to possession subject to existing rights to occupy
- s.107 (3) (b) Do anything landlord could do
- s.107 (3) (c) Create new tenancies (consent from LL)
- s.109 (2) (a) Collect rent (landlord not entitled to rent)
- s.109 (4) Landlord still responsible for any mortgage or rights under a lease - except those that prevent LA from exercising their power/duties

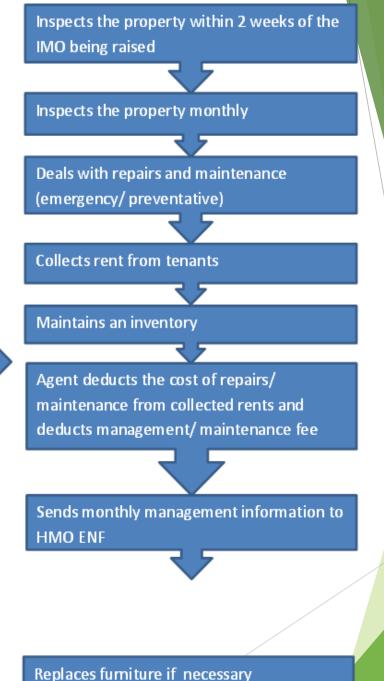


## In practice....

- Following a successful prosecution or acceptance of a formal caution
- Landlord/agent is no longer considered to be a "fit and proper person"
- Licence is revoked (if licensed) or refuse to licence and no licence application made
- Suitable alternative (competent) person required to be licence holder/ manager





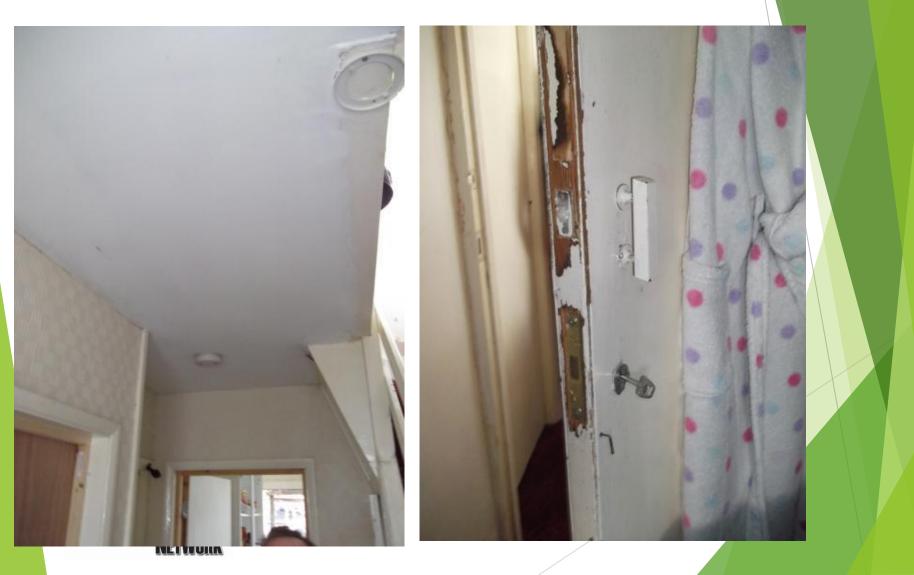


At the end of the IMO ENV DEV inspects the property and issues either a licence or a FMO

# **Case Studies**



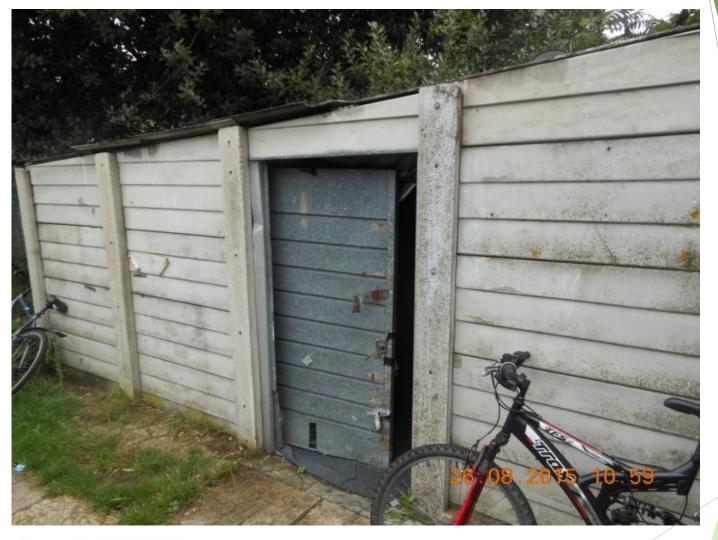
# Fire Safety issues



# Management issues



#### **Bed in Shed**





# Non compliance







# Before

- Problematic landlords incompetent/ fraudulent
- Poor standards of management
- Multiple defects
- Tenants 'ducking and diving'
- Expensive to improve
- Difficult to manage



## After

- Improved
- Managed through accredited agent
- Licensed
- For sale or sold
- Reduced impact
- Sometimes things don`t go to plan...



#### Pro`s

- Quick and simple
- Protect tenants
- Improve conditions
- Focus landlords mind
- Viable option
- OCC retained housing stock
- In house management team
- High rents = cost effective

#### Con`s

- Draconian
- Raise expectations
- Low end of market
- Difficult to create new tenancies
- Unscrupulous landlords
  - Tenants problematic
- That bad no one else will manage
- Limited control

# **Useful Documents**

- Decision to make an IMO
- IMO
- I&DeA Guide to IMOs
- LACORS IMOs

Planning and Regulatory	St Aldate's Chambers
Direct Line: 01865 252010	109 St Aldater's
Fax: 01865 252344	Oxford OX1 1DS
E-mail: achowns/lipsford.pov.uk	
	Central Number, 01865 2486
	Central Number: 01865 24

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the payment of enleware sepandature;
the payment of compensation to third parties whose rights are affected by this Order;
undersking all duises and sepandables exposed of a landball in relation to the management of existing or new tenancies made in respect of the dwelling;

deductions will attract interest at a rate equivalent to the lank of England base rate per annum. Bits the remaining sum and the interest will be paid bi annually in annum by cheque to the netwart incident. A relevant persion may appeal against the making or content of this Chder. Information regarding appeals provident, their final that process for appealing are described in the rates attached

an na Colon. The Chard cased DATE expires at the end of the period of 12 months from that date i.e. DATE Dated this filteenth day of June two thousand and sizeen Achterised Signatory:

#### Promy and headersy promy Description Central Central

Housing Act 2004, Schedule 6, Part 1, Paragraph 7(2)(b). NOTICE

e Oxford City Council hereby notify you that the property known as **ADDRESS**, is bject to an interim Management Order (the Order) under Section 102 (1) (s) of the waing Act 2004.

The effect of the Coder is to transfer the management of ADDRESS is the Council. While the Coder is operative the Council will be negatively the day to day management that the collection of any rents or fees payable in respect of the case of the house or lands: • the payment of relevant expondition: • the payment of compensation to their parties whose rights are affected by this operation.

 the payment of compensation to third parties whose rights are affected by this Order;
undertaking all duties and responsibilies expected of a landlood in relation to the management of existing or new tenancies made in respect of the dealing;
the proper management of the repair and maintenance of the dealing.

The property ADDRESS is an House in Multiple Occupation (HMO) which is required be licensed under Section 61 (1) of the Housing Act 2004, but is not so licensed and Ocurcil consider that there is no reasonable prospect of it being so licensed in the refuture.

The Order detect the DATE expires at the end of the period of 12 months from that or i.e. DATE Dated: 15<sup>th</sup> June 2016

EXECUTIVE DIRECTOR OF REGENERATION AND HOUSING

#### 18.De

Interim and Final Management Ordens (MOS & FMOs) for HMO and Selective Licensing Schemes under the Hausing Act 2004

Consult in 1244 - May 2016

Procurement of management orders under the Housing Act 2004

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