

**Report to:** Cabinet

**Date:** 11th December 2008

**Subject:** Section 215 Town and Country Planning Act 1990

**Report of:** Executive Director – Environmental Services

**Contact officer:** Ian Harrison 827915

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**Purpose / summary:** To inform Cabinet of the process in place to use the powers provided by section 215 Town and Country Planning Act

**Alternative options considered and reason for selecting the one recommended:** Not to inform Cabinet – Cabinet have requested this report following a council motion.

**Recommendation / decision:** That Cabinet note the report and agree the process in place is both comprehensive and fit for purpose

**Key Decision:** This report does not involve a key decision.

**Risks / Implications:**

Financial:	None
Staffing:	None
Policy:	
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	Not necessary in relation to this specific process. A diversity impact assessment has been carried out in relation to the Councils over arching Enforcement Policy
Wards affected:	all

**Property Implications – Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?**

No

**If yes, have the property implications been agreed with the Corporate Property Officer?**

**Does this proposal have significant implications for the Council and the local population?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

**Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

Has the Service Director - Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **No \***

Has the Service Director - Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **No \***

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No \***

\* delete which applicable

**For Cabinet reports only:**

Categorisation of the report:	<b>X</b>
Discussion leading to a decision	
Monitoring	
Sharing for corporate understanding	

	<b>X</b>
Discussion	
Decision	<b>X</b>
Information	

**Tracking/Process:**

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
		11 December 2008	

There are no Background Papers to this Report within the meaning of Section 100D of the Local Government Act 1972.

Proper Officer M. Kimber

Date 24 November 2008

## **1. Introduction**

- 1.1 At its September meeting Council referred the following motion to Cabinet for consideration and report back:-

This Council will seek to adopt its powers under Section 215 of the Town and Country Planning Act to improve derelict areas. It has worked in other Councils, so why not Wigan? S. 215 works could be developed into a key element in the Boroughs ongoing regeneration programme and form an integral part of that process.

- 1.2 Cabinet subsequently resolved to defer the motion pending the receipt of a further report prior to any decision being taken.

## **2. Legislation**

- 2.1 Under the provisions of the Town and Country Planning Act 1990 if the Local Planning Authority (LPA) considers that the amenity of a part of their area is adversely affected by the condition of land they may serve a Notice under Section 215 of the Act. For the avoidance of doubt, "land" is defined in Section 336(1) as including a building.

- 2.2 The Notice may require certain steps to be undertaken by the owner of the land to remedy its condition. Failure to comply with a Section 215 Notice is an offence that could be the subject of a prosecution. If considered necessary, the LPA have the power to enter the land, carry out the work and charge the cost of such work to the liable person, which may also involve a financial charge on the land. There is the right of appeal to the courts against such notices, with one of the grounds being that the condition of land does not adversely affect the amenities of the area.

- 2.3 Research commissioned by National Government into the use of s215 suggests the legislation can be both highly effective and simple to use. Key conclusions and observations from that research are:-

- Powers are effective as a threat or informal mechanism for cleaning up sites, 20% of notices approved were not served, and implying action was taken by the landowners in the face of the 'threat'.
- Notices are effective in terms of securing compliance - 80% of notices served in resulted in compliance, only 6% appealed.
- Only 6-8% of notices resulted in works in default by the authority.
- Authorities that interpret the scope of s215 widely tend to be more proactive and successful at using the powers to achieve wider regeneration objectives.
- Successful use of s215 for regeneration purposes also coincides with close working arrangements with partner organisations, for example urban regeneration bodies.

- Section 215 powers have a role to play in LPAs' response to the Government's sustainable regeneration agenda.
- S215 action can be used as an integral part of regeneration and built environment improvement programmes.
- LPAs should not sit back and wait for complaints, they should be proactive in identifying and taking action against buildings and land, the condition of which are regarded as unsatisfactory.
- It is also important that LPAs share information and work in co-operation with regeneration, economic development, housing departments and other regeneration agencies as part of a wider strategy of local environment improvement and regeneration.

### **3. Scope of Power**

- 3.1 Section 215 has been effectively used on large vacant industrial sites, town centre street frontages, rural sites, derelict buildings, and semi-complete development as well as the more typical rundown residential properties and overgrown gardens.
- 3.2 In certain circumstances, early consideration of the use of section 215 could prevent a need for use of other more onerous legislation such as s54 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (Urgent Works Notice).
- 3.3 Another context in which section 215 notices may be used is in relation to listed buildings and their setting, and in the enhancement of conservation areas. In one LPA, for instance, section 215 action has resulted in improvements being carried out to 41 listed buildings and 104 premises in conservation areas.
- 3.4 The scope of works that can be required in section 215 notices is wide and includes planting, clearance, tidying, enclosure, demolition, re-building, external repairs and repainting.
- 3.5 Potential sites can sometimes go beyond the remit of a section 215 notice so there may be other more appropriate powers that an LPA can rely upon in order to affect a remedy.

### **4. Local Process**

- 4.1 Although section 215 of the Town & Country Planning Act 1990 has been available to the Council for a number of years its use has been restricted to the Planning Enforcement role. Their finite resources have limited the number of actions that have resulted the use of the power.
- 4.2 With a view to increasing the effective use of this piece of legislation a simple and easy to use process was established at the beginning of 2008 which developed a standard approach to using the legislation.

A survey methodology including an objective scoring system was developed and a pilot was conducted by a small group of officers from Environmental Services with varying degrees of skills and knowledge of the built environment, one officer in particular had no knowledge or experience of survey methodology.

- 4.3 This resulted in the development of a toolkit (APP. 1 ) dealing with each stage of the process which is available to a wide range of officers across Environmental Services. The aim being to assist the department in meeting some of it's key objectives such as improving the personal safety of residents and assisting in creation of safer, cleaner neighbourhoods with officers who respond to local needs and making a major contribution to the regeneration agenda.
- 4.4 A simple training input is required for officers using the process which can be delivered in house.
- 4.5 Since the pilot phase was completed the initial stages of the process have been used in a number of cases with positive outcomes.

## **5. Conclusion**

- 5.1 It is concluded that the Council has in place a clear and robust process for utilising the powers available under section 215 of the Town and Country Planning Act 1990 to support the delivery of a range of key objectives including the regeneration agenda.

## **Appendix 1**

### **SECTION 215 PROCESS**

#### **SECTION 215 TOWN AND COUNTRY PLANNING ACT PROCESS**

When a site is identified as a potential site for assessment for action under sc215 by an officer, community, Councillors PACT etc the following process should be undertaken (Appendix A for buildings or Appendix B land)

The most appropriate officer should undertake the survey for example if original complaint involved fly-tipping an officer from that section would use this toolkit to assess for action, if it involved rubbish on premises an officer from Public Health would undertake the process. Sc215 should be seen as a tool not a remit or responsibility and is designed to be used by all officers across the Council.

If the owner or occupier is on site the officer should introduce themselves and explain that they are carrying out a survey as the site is causing some concern. It is important that at this stage the officer is supportive and gives the owner or occupier an opportunity to provide any relevant information such as if he/she is considering applying for change of use, or is about to renovate the site, or if he/she is already in contact with Private Sector Housing or the area is part of a regeneration scheme.

It is important that the Council is seen to be joined up, basic checks with the all or some of the following sections (as appropriate) should be made before any formal communication is taken;

Planning  
Building Control  
Economic Regeneration  
Legal  
Private Sector Housing  
Public Health  
Neighbourhood Teams  
Town Centre Manager  
Township Manager

### **First Stage Letter**

Ownership should be confirmed via;

- land registry
- if property is unregistered and property is occupied, consider using sc330 notice
- companies house search
- internet search
- Legal & Property department records

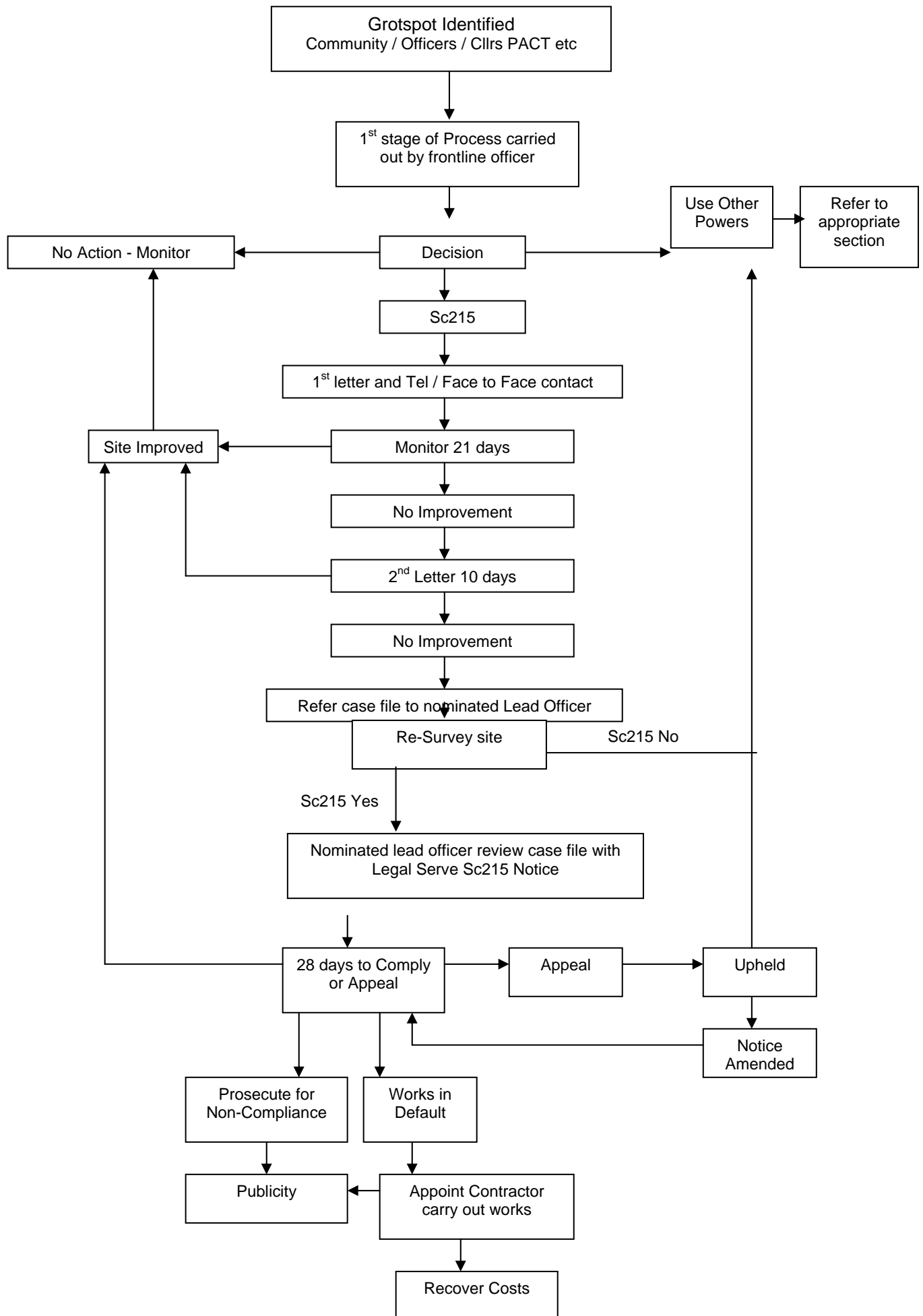
Efforts should be made by the officer to contact the owner either by telephone or face to face so that advice including an explanation of sc215 can be offered. This type of informal contact at an early stage should provide an opportunity if appropriate to negotiate reasonable improvements. Confirm discussion in writing 1<sup>st</sup> letter Appendix C, a copy to site and to registered owner address. Monitor for 21 days, if the site is improved no further action will be required.

Should there be no improvements, no contact by the owner or contact and owner refuses to improve site. Send 2<sup>nd</sup> letter Appendix D requiring action including contact within 10 working days, again one letter should be sent to the registered owner and one to the site.

Monitor for 10 working days if no improvements, no contact by the owner or contact and owner refuses to improve site. In order to maintain a degree of common standard the case file should be referred to the sc215 Appointed Officer, at this stage the officer will re-survey the site if he/she feels sc215 is appropriate a review together with Legal will be undertaken and a Notice served. If the site is not considered appropriate for prosecution the case will be referred to the originating officer with recommendations of other powers or monitor.

The owner/occupier has 28 days to comply or appeal the Notice, should the appeal be upheld the officer may choose to explore using other powers or amend the Notice and re-serve, this decision will be lead by Legal officer.

Should there be no appeal and no improvements the officer will prepare a case file for prosecution and or appoint a contractor to carry out works in default, in line with Council standing Orders. Greater Manchester Police should be informed if there is any perceived risk of breach of peace when the works are carried out. Appendix I for land or Appendix J for buildings will be sent to the owner/occupier and the case file be sent to Legal for consideration of prosecution. Costs for works in default should be recovered, this can be done either by placing a charge on the property with the Land Registry or recovery through the County Court, Legal Officer to advise.



Date

Officer Name(s)

Job Title(s)

Officer Signature(s)

Site				
	Details	Comments	Guide for scoring	Score out of 10 (1 worst 10 no issue)
Address				
Any Grade listing			Check with Conservation Officer ext 4253	
Site location			Brief description ie is it in a residential or commercial area	
Ward				
Description of Property Approx build date			i.e. Victorian red brick built, slate roofed vacant shop 20ft frontage on main shopping parade or site of former petrol station 60ft by 100ft concrete surface 2 vehicle access onto B road	
Type of amenities			Residential Schools	

<b>near by</b>			<i>Care homes</i> <i>Retail</i> <i>Leisure</i> <i>Commercial</i> <i>Industrial</i>	
<b>Is site secured</b>			<i>No access = 9-10</i> <i>5ft barrier surrounding site = 6-8</i> <i>High barrier with small gaps = 4-6</i> <i>Barrier with open access = 2-4</i> <i>Open access= 1-2</i>	
<b>Roof</b>			<i>Fully roofed =9-10</i> <i>Majority of roof intact some gaps =6-8</i> <i>Some roof intact but larger gaps = 4-6</i> <i>Roof supports visible from ground =2-4</i> <i>Little or no roof visible =1-2</i>	
<b>Windows</b>			<i>Good external finish and fully glazed = 9-10</i> <i>Window frames good condition 2 or 3 windows with cracked glass = 6-8</i> <i>Windows boarded with fly posting = 4-6</i> <i>Majority of window openings glazing missing or broken = 2-4</i> <i>No window frames or glazing =1-2</i>	

<b>Doors</b>			<i>External doors painted and secured = 9-10</i> <i>External doors secured in poor decorative state =6-8</i> <i>External doors boarded, fly posting = 4-6</i> <i>External doors insecure =2-4</i> <i>No external door frames or doors =1-2</i>	
<b>Exterior Paint work Render Brick work etc</b>			<i>Excellent decorative order =9-10</i> <i>In need of painting = 6-8</i> <i>Some peeling paint =4-6</i> <i>Visible timber = 2-4</i> <i>No paint and visible rotten timbers = 1-2</i>	
<b>Does the Structure look unsafe</b>			<i>No damage to external walls and roof = 9-10</i> <i>No Doors and window frames = 6-8</i> <i>Roof open to elements = 4-6</i> <i>Some fire damage in less than ¼ of building = 2-4</i> <i>Extensive fire damage to supporting structure ie roof or floor joists= 1-2</i>	
<b>Curtilage grounds</b>			<i>Landscaped and maintained = 9-10</i> <i>Maintained in last 2 months =6-8</i> <i>Some overgrown grass/shrubs</i>	

			<p>= 4-6  <i>Grass/shrubs/plants above 2ft = 2-4</i>  <i>Grass/shrubs/plants above 5-6ft no access =1-2</i></p>	
<b>Fly tipping</b>			<p><i>None =9-10</i>  <i>One bin bag of waste = 6-8</i>  <i>Less than van load waste = 4-6</i>  <i>More than van load waste = 2-4</i>  <i>site full of waste =1-2</i>  <i>include description of waste</i></p>	
<b>Other waste</b>			<p><i>Clean no debris = 9-10</i>  <i>Small amount of wind blown litter = 6-8</i>  <i>Some litter/debris less than a van load = 4-6</i>  <i>More than van load litter/debris =2-4</i>  <i>Site full of litter/debris = 1-2</i>  <i>Include description of debris ie fire damage timbers from building</i></p>	
<b>Evidence of Drug use</b>			<p><i>No evidence of drug use= 9-10</i>  <i>1 needle or bong not recent=6-8</i>  <i>Recently used 2-3 needles = 4-6</i>  <i>5-10 needles =2-4</i>  <i>20 or more visible needles or equipment unsafe to access = 1-2</i></p>	

<b>Graffiti or fly posting</b>			<i>None =9-10  One tag or poster =6-8  Small area of defacement not visible to passer-by = 4-6  Large area defaced visible to passer by = 2-4  Extensive graffiti or fly posting or offensive graffiti = 1-2</i>	
<b>GMP incidents (prev 12 mths)</b>			<i>Details of incidents times and dates</i>	
<b>GMF&amp;RS incidents (prev 12 mths)</b>			<i>Details of incidents times and dates</i>	
<b>Fly tipping incidents (prev 12 mths)</b>			<i>Details of incidents times and dates</i>	
<b>ASB incidents</b>			<i>Details of incidents times and dates</i>	

<b>(prev 12 mths)</b>				
<b>Other Issues including hazardous materials (Asbestos)</b>			<i>Eg Broken glass Chemical drums Asbestos Rough sleepers Prostitutes Travellers</i>	
<b>Evidence Type</b>			<i>Time and dated Photographs should be taken including external facades and close ups of defects, immediate area, barriers, hazards, etc. copies of any complaints, statistics etc</i>	
<b>Score</b>			<i>0-110 Scores below 60 to be considered for advice and or enforcement action</i>	

Planning & Regeneration			
		Comments	
Any outline proposals for site			<i>Development Control East – ext 4258 West – ext 8047</i>
Has Planning Permission or application been submitted			<i>Development Control East – ext 4258 West – ext 8047</i>
Proposal/Development Details			
Timescales			
Other regeneration initiatives Housing renewal/SRB etc			<i>Private Sector Housing 6835</i>
Alternative Action or information			

Other Departments/Sections/Organisation involved		
	Details	Comments
Section/Organisation		
Lead Officer		
Type of Action		
Reported		
	Details	Comments
How was site reported		
Date		
Who reported		
Previous Involvement of Others		

Owner/Occupier Details		
	Details	Comments
Owner		
Contact		
Address		
Occupier if diff from above		
Address		
Officer Recommendations		
1 month		
1-3 month		
3-6 month		
6-12 month		

Date

Officer Name

Job Title

Officer Signature(s)

	Details	Comments	Guide for scoring	Score out of 10 (1 worst 10 no issue)
<b>Address</b>				
<b>Site location</b>			<i>Brief description ie is it in a residential or commercial area</i>	
<b>Ward</b>				
<b>Description of Site</b>			<i>Housing clearance site, site of former petrol station 60ft by 100ft concrete surface 2 vehicle access onto B road,</i>	
<b>Type of amenities near by</b>			<i>Residential Schools Care homes Retail Leisure Commercial Industrial</i>	
<b>Is site secured</b>			<i>No access = 9-10 5ft barrier surrounding site = 6-8 High barrier with small gaps =</i>	

			<p>4-6  <i>Barrier with open access = 2-4</i>  <i>Open access= 1-2</i></p>	
<b>Condition of site</b>			<p><i>Landscaped and maintained = 9-10</i>  <i>Maintained in last 2 months =6-8</i>  <i>Some overgrown grass/shrubs = 4-6</i>  <i>Grass/shrubs/plants above 2ft = 2-4</i>  <i>Grass/shrubs/plants above 5-6ft no access =1-2</i></p>	
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<b>GMF&amp;RS incidents (prev 12 mths)</b>			<i>Details of incidents times and dates</i>	
<b>Fly tipping</b>			<i>Details of incidents times and</i>	

<b>incidents (prev 12 mths)</b>			<i>dates</i>	
<b>ASB incidents (prev 12 mths)</b>			<i>Details of incidents times and dates</i>	
<b>Other Issues including hazardous materials (Asbestos)</b>			<i>Eg Broken glass Chemical drums Asbestos Rough sleepers Prostitutes Travellers</i>	
<b>Evidence Type</b>			<i>Time and dated Photographs should be taken including external facades and close ups of defects, immediate area, barriers, hazards, etc. copies of any complaints, statistics etc</i>	
<b>Score</b>			<i>0-60 Scores below 40 to be considered for advice and or enforcement action</i>	

Planning / Regeneration		
		Comments
Any outline proposals for site		
Has Planning Permission been Sought		
Proposal/Development Details		
Timescales		
Other regeneration initiatives Housing renewal/SRB etc		
Alternative Action		

Other Departments/Sections/Organisations involved		
	Details	Comments
Section/Organisation		
Lead Officer		
Type of Action		
Reported		
	Details	Comments
How was site reported		
Date		
Who reported		
Previous Involvement of Others		

Owner/Occupier Details		
	Details	Comments
Owner		
Contact		
Address		
Occupier if diff from above		
Address		
Recommendations		
1 month		
1-3 month		
3-6 month		
6-12 month		

**Wigan Council**  
**Environmental Services Department**  
Director: Martin Kimber

**Neighbourhood Services Division**

**Our reference:**  
**Your reference:**  
**Please ask for:**  
**Extension:**  
**Direct line:**  
**Date:**

Dear

**Property Adversely Affecting Amenity of Neighbourhood**

Wigan Council is committed to ensuring that improvements are carried out to buildings and land in Wigan whose external condition has deteriorated. Improving such buildings and land has been identified by local people as a key priority for the Council and as a result of this a number of buildings and land across the Wigan area are being improved to a satisfactory condition.

The external appearance of the above premises is a source of concern primarily because of the condition of (*brickwork, external metalwork, paintwork, windows, doors and the tiled roof of both the front and rear elevations as appropriate*). The Council is writing to you today as the owner of the above premises, identified by the Land Registry. Its purpose is to request that works be carried out to remedy the poor external condition of the premises in the near future, and to ascertain whether you have any plans in this regard. I would emphasise that your property is not being treated in isolation.

I advise that if prompt progress is not made in terms of remedying the poor external condition of the premises and a guarantee given to the Council by you that such works will be undertaken, the Council has the option to take enforcement action under Section 215 of the Town and Country Planning Act 1990. This is a course that the Council would wish to avoid if at all possible. It is hoped, therefore, that your co-operation can be relied upon in terms of improving the building in the near future and giving a guarantee to that effect.

It is my hope that this matter can be resolved in a spirit of mutual co-operation, please contact ..... on 01942 ..... so that we can provide you with advice and assistance.

Yours sincerely

**Ian Harrison**  
**Head of Neighbourhood Services**

**Wigan Council**  
**Environmental Services Department**

Director: Martin Kimber

**Neighbourhood Services Division**

**Our reference:**  
**Your reference:**  
**Please ask for:**  
**Extension:**  
**Direct line:**  
**Date:**

Dear

**Property Adversely Affecting Amenity of Neighbourhood**

The Council last wrote to you about this matter on ..... A copy of that letter is attached for your information, we have not received a response from you.

I advise you that, unless the Council hears from you within the next 10 working days of the date of this letter, outlining the steps you are going to undertake to remedy the external condition of the premises, the Council will take enforcement action under Section 215 of the Town and Country Planning Act 1990, this enforcement action will require specific improvements to be carried out.

Failure to comply with a Section 215 notice may lead to a prosecution in the Magistrates Court, which could result in a substantial fine. It is my hope that this matter can be resolved in a spirit of mutual co-operation, please contact ..... on 01942 ..... within the next 10 working days so that we can discuss this matter further.

Yours sincerely

**Ian Harrison**  
**Head of Neighbourhood Services**

