



# Council Tax- Policy for Second Homes, Long Term Empty Properties and determining discounts and premiums. 2024-25

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## **1. Introduction and background**

- 1.1 The following policy outlines the Council's approach to the levying of Council Tax on empty homes and second homes.
- 1.2 The Levelling Up and Regeneration Act 2023 and the Local Government Finance Act 2012 amended the Local Government Finance Act 1992 allowing local discretion over the implementation of certain discounts in place of statutory exemptions and also allows for the use of premiums for certain long term empty premises and second homes.
- 1.3 The intention of Central Government is to allow Councils the flexibility in raising additional Council Tax. In addition, Government is keen to ensure that premises do not remain unoccupied or unused for extensive periods and to encourage the maximum use of all available premises within Council areas.
- 1.4 The following policy details the current approach taken by the Council and also details the proposed changes with effect from 1<sup>st</sup> April 2024.

## **2. Discounts**

### **Second Homes**

- 2.1 Within the Council Tax legislation, a second home is defined as a dwelling, which is no one's sole or main residence but which is furnished. The Council, under this policy, has determined that a charge of 100% will be applied for second homes (a discount of 0%). The charge applies to all cases except where the legislation determines otherwise and, in those cases (as follows), a charge of 50% will apply (rather than the 100%) as required by legislation:
  - Dwellings which are furnished but unoccupied because the owner is liable to a Council Tax elsewhere in job-related accommodation;
  - Empty but furnished dwellings of service personnel resident in accommodation provided by the Ministry of Defence;
  - If the dwelling is a caravan or houseboat; or
  - Where members of the clergy are required to live in accommodation provided by their employer to perform the duties of their office

### **Definition of Job Related dwelling**

- 2.2 The definition of job related dwellings is determined by the Council Tax (Prescribed Class of Dwellings Regulations) 2003 as follows:
  - A dwelling is job-related for a person if it is provided for him by reason of his employment or for his spouse by reason of the spouse's employment, in any of the following cases:
    - (a) Where it is necessary for the proper performance of the duties of the employment that the employee should reside in that dwelling;
    - (b) Where the dwelling is provided for the better performance of the duties

of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings to employees;

(c) Where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the dwelling as part of those arrangements.

- If the dwelling is provided by a company and the employee is a director of that or an associated company, the definition shall not apply unless:
  - (a) The employment is as a full-time working director;
  - (b) The company is non-profit making, that is to say, it does not carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property, or
  - (c) The company is established for charitable purposes only.

2.3 A dwelling is job-related for a person if he or his spouse is required, under a contract to live in that dwelling. This does not apply if the dwelling concerned is in whole or in part provided by any other person or persons together with whom the person or spouse carries on a trade or business in partnership.

2.4 For the purposes of the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 as amended by the Council Tax (Prescribed Classes of Dwellings)(England)(Amendment) Regulations 2012 the Council is required to determine the classes under which a discount will be granted. For the purposes of this policy the classes and discounts granted by the Council are as follows:

Class	Description	Discount
A	A dwelling; (a) Which is not the sole or main residence of an individual; (b) Which is furnished; and (c) The occupation of which is restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year	0%
B	A dwelling; (a) Which is not the sole or main residence of an individual; (b) Which is furnished; and (c) The occupation of which is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year;	0%

### Empty dwellings

2.5 For Council Tax purposes, the legislation determines that an empty dwelling is one which is unoccupied and substantially unfurnished dwellings. The Council has resolved that in accordance with Class C of the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 as amended by the Council Tax (Prescribed

Classes of Dwellings)(England)(Amendment)Regulations 2012, **no** Class C discount will be given and a full charge (100%) is payable. The 100% charge will then continue until such time as it becomes re-occupied.

**Empty dwelling, requiring, or undergoing structural alterations or major repair works to make it habitable.**

- 2.6 The rules for this are based on the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 as amended by the Council Tax (Prescribed Classes of Dwellings)(England)(Amendment) Regulations 2012. During this time the Council can determine (in accordance with Class D of the regulations) the level of discount between 0% and 100%. Class D is defined as every chargeable dwelling:
- (a) Which satisfies the requirement set out in paragraph (b) unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;
  - (b) The requirement referred to in paragraph (a) is that the dwelling is vacant and:
    - (i) Requires or is undergoing major repair work to render it habitable, or
    - (ii) Is undergoing structural alteration; or
    - (iii) Has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date;
  - (c) For the purposes of paragraph (b). above ‘major repair work’ includes structural repair work;
  - (d) For the purposes of Class D, a dwelling is vacant on any day if on the day;
    - (i) In the case of a dwelling consisting of a pitch occupied by a caravan or a mooring occupied by a boat, the caravan or boat is unoccupied;
    - (ii) In any other case, the dwelling is unoccupied and substantially unfurnished; and
    - (iii) In considering whether a dwelling has been vacant for any period, any one period, not exceeding six weeks, during which it was not vacant shall be disregarded.
- 2.7 The Council has resolved that no discount is to be given in respect of Class D and that a full charge (100%) would be payable for any premises falling within the category.

### **3. Council Tax Premiums**

- 3.1 Premiums were introduced by government from 1 April 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term.
- 3.2 The legislation which introduced premiums is S11B of the Local Government Finance Act 1992 (inserted by the Local Government Finance Act 2012). Premiums could only be charged on long-term empty dwellings. An empty dwelling is one

which is 'unoccupied' and 'substantially unfurnished'. The definition of 'long-term' is where the dwelling has been empty for a continuous period of at least 1 year.

- 3.3 Initially the maximum level of premium was set by government at 50% of the amount of Council Tax chargeable. Each Council could determine the level of premium up to the maximum and this is charged in addition to the amount determined by the Council as payable for an empty dwelling<sup>1</sup>
- 3.4 Certain classes of dwellings cannot be charged a premium namely:
- a dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment i.e., service personnel posted away from home<sup>2</sup>; or
  - dwellings which form annexes in a property which are being used as part of the main residence or dwelling in that property<sup>3</sup>.
- 3.5 In 2018 the Rating of Property in Common Occupation and Council Tax (Empty Dwellings) Act allowed authorities to increase the level of premiums on empty dwellings with effect from 1 April 2019 as follows;
- Dwellings left unoccupied and substantially unfurnished for 2 years or more, - from 1 April 2019 a premium can be levied up to 100%;
  - Dwellings left unoccupied and substantially unfurnished for 5 years or more, - from 1 April 2020 a premium can be levied up to 200%; and
  - Dwellings left unoccupied and substantially unfurnished for 10 years or more, - from 1 April 2021 a premium can be levied up to 300%.
- 3.6 It should be noted that premiums are charged in addition to the 100% Council Tax payable on empty premises.
- 3.7 Government, together with local authorities (including the Council) has unfortunately seen a rise in the number of empty homes together with a growth in second homes.
- 3.8 Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer merely furnishing an empty premises, when it would become a 'second home' which currently has a maximum charge of 100% with no premium.
- 3.9 In order to address these inconsistencies, and also to bring more dwellings into use, government has introduced sections within the Levelling Up and Regeneration Act 2023 (the Act).

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<sup>1</sup> Under the Council Tax (Prescribed Classes of Dwelling)(England) Regulations 2003 and amended by the Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes C & D.

<sup>2</sup> Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes E

<sup>3</sup> Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes F

- 3.10 This policy details the Council's approach in the charging of premiums as allowed within the new legislation.
- 3.11 The continued pressure on local authority finances (both the Council and the Major Preceptors) together with the need to encourage all owners of domestic premises to bring them back into use, makes it essential that the Council changes its approach to empty homes. The new legislation for second home premiums will encourage the use of dwellings as primary residences.

### **Empty homes premiums (From 1 April 2024)**

- 3.12 Section 79 (1) (b) of the Levelling Up and Regeneration Act 2023 permits the Council to impose an empty homes premium after one year instead of two years. Section 80 of the Act provides that from 1 April 2024, a property can be charged an empty homes premium at 100% after one year, even if it became empty before 1 April 2024.
- 3.13 The Council has resolved to implement the change with effect from 1 April 2024.
- 3.14 The legislation requires the Council to be mindful of any guidance or further regulation in relation to the implementation of the premiums and this is detailed in Section 4 of this policy.

### **Introduction of premiums for second homes (From 1 April 2025)**

- 3.15 The definition of a second home for Council Tax purposes is a dwelling which has "no one resident" but is "substantially furnished".
- 3.16 Section 80 (2) of the Act inserts a new section 11C into the Local Government Finance Act 1992. This permits the Council to apply a premium on second homes. The maximum Council Tax charge in these cases would be a standard 100% charge plus a premium of 100% making a total Council Tax charge of 200%.
- 3.17 Unlike empty dwellings, there is no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 3.18 As with other changes introduced by the Act, section 11C (3) requires that the first decision to impose this class of premium must be taken at least 12 months before the financial year to which it would apply. In effect this means that premiums for second homes will not take effect until the 2025-26 financial year at the earliest.
- 3.19 The Council has resolved to charge second home premiums and has given the required notice.
- 3.20 The Act provides that a dwelling cannot be subject to both a second homes premium and an empty homes premium imposed under section 11B of the 1992

Act, and that an existing empty homes premium would cease to apply to a property which became subject to a second homes premium.

### **Exceptions from the empty homes premiums.**

3.21 Government has stated that regulations providing exceptions to the premiums will be laid in 2025. In the meantime, the Council has decided to allow the following exceptions:

- **Properties undergoing probate:** the Council will allow a 12-month exception from the empty homes premium. The dwelling will be liable for the 100% of council tax once the class F exemption has ended; but a premium will not be levied for a further 12-month period;
- **Properties that are being actively marketed for sale or rent** - the Council will apply an exception for up to a **maximum of 12 months** from the date that active marketing commenced, or until the property has been sold or rented, whichever is the sooner. The Council, in determining whether this exemption applies will require the following evidence:
  - (a) evidence that the dwelling is being **actively** marketed for sale or rent through a recognised agent (evidence can include contracts with agents, advertisements in recognised newspapers or marketing websites);
  - (b) where the premises are being self-marketed by the owner or landlord, evidence that the premises is being **actively** marketed (evidence can include advertisements in recognised newspapers or letting websites);
  - (c) where for sale, evidence that the premises are being sold at a true market level for the size and type of dwelling within the area in which it is situated. Where the dwelling is for let, that the rent requested is at a true market level for the size and type of dwelling within the area in which it is situated.

The above list is not exhaustive and the Council reserves the right to request further evidence to support any claim for exceptions. The exception will only apply **once** to that dwelling for any taxpayer or taxpayers if they are jointly and severally liable;

- **Empty properties undergoing major repairs** - this exception is time limited to 12 months. The Council has decided that empty dwellings undergoing major repair works or structural alternations should be an exception to the premium for up to 12 months once the exception has been applied or when the work has been completed, whichever is the sooner. The exception will be applied at any time after the dwelling has been empty for at least 12 months, so long as the Council is satisfied that the necessary repair work is being undertaken. As with all other exceptions to the premiums, the Council will require the taxpayer to provide such evidence as is required to support their application;

## **4. Outcome expected and 'safety net'.**

4.1 The expected outcomes of this policy are as follows:



- (a) Taxpayers will be encouraged, through the implementation of the premiums, to bring empty properties into use and to revert the use of second homes to primary residences;
  - (b) The reduction of empty homes and second homes within the Council's area in line with the Council's Empty Property Strategy; and
  - (c) Increased Council Tax income from empty homes and second homes.
- 4.2 There may be circumstances where the implementation of these changes may cause exceptional hardship to a taxpayer. In such cases, the Council will consider applications for a reduction in liability under its Section 13A (1)(C) of the Local Government Finance Act 1992 - Reduction in Council Tax liability policy.
- 4.3 Where such an application is received, it will be considered on an individual case basis taking into account the circumstances of the taxpayer and the situation regarding the level of Council Tax charged. Should the taxpayer be aggrieved by any decision of the Council a further right of appeal will be with the independent Valuation Tribunal.

## **5. Legislation**

- 5.1 The legislation that covers this policy and the recommendations made is as follows:
- S11A & S11B of the Local Government Finance Act 1992;
  - S11C of the Local Government Finance Act 1992 (as introduced by the Levelling Up and Regeneration Act 2023);
  - Local Government Finance Act 2012;
  - Prescribed Classes of Dwellings) (England) Regulations 2003 as amended by the Council Tax (Prescribed Classes of Dwellings)(England)(Amendment) Regulations 2012;
  - The Levelling Up and Regeneration Act 2023; and
  - S13A(1)(C) Local Government Finance Act 1992 (reduction in liability).
- 5.2 Due to changes in the legislation, the Council will be required to amend this policy, at any time, in line with statute.

## **6. Finance**

- 6.1 Any amounts received will be part of the Council's Collection Fund and will be shared between the Council and Major Precepting authorities in line with their share of the Council Tax.
- 6.2 Any reduction granted under S13A(1)(c) will be financed through the Council's general fund and do not form part of the Collection Fund.

## **7. Appeals**

- 7.1 Appeals against the Council’s decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 7.2 **The taxpayer must in the first instance write to the Council outlining the reason for their appeal. Once received the council will then consider whether any additional information has been received which would justify a change to the original decision and notify the tax payer accordingly.**
- 7.3 Where the taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the Council’s website or from the Valuation Tribunal Service website.

## **8. Delegated Powers**

- 8.1 This policy for the Council Tax discounts and premiums has been approved by the Council. However, the Council's Section 151 officer is authorised to make technical amendments to ensure it meets the criteria set by government and the Council.

## **9. Fraud**

- 9.1 The Council is committed to protecting public funds and ensuring that Council Tax is correctly charged.
- 9.2 A taxpayer who tries to reduce their Council Tax liability by incorrectly or falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 9.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **10. Complaints**

- 10.1 The Council’s complaints procedure (available on the Council’s website) will be applied in the event of any complaint received about this policy.