
APPENDIX 2

Isle of Wight Council Council Tax

Policy for Second Homes, Long Term Empty Properties and determining discounts for certain dwellings from 1st April 2017

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1.0 Definitions

Interpretation – an explanation of the terms used within this policy

- 1.1 In this policy
- ‘**Caravan**’ shall be construed in accordance with Part I of the Caravan Sites and Control of Development Act 1960;
 - ‘**Class A exemption**’ shall be construed in accordance with the Council Tax (Exempt Dwellings) Order 1992;
 - ‘**Class C exemption**’ shall be construed in accordance with the Council Tax (Exempt Dwellings) Order 1992
 - ‘**Class C discount**’ shall be construed in accordance with The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003;
 - ‘**Class D discount**’ shall be construed in accordance with The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003;
 - ‘**Empty Homes Premium**’ shall be construed in accordance with Section 11b Local Government Finance Act 1992;
 - ‘**Job-related accommodation**’ shall be construed in accordance with the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003;
 - ‘**Long term empty premises**’ means all dwellings, which remain unoccupied and substantially unfurnished for a period in excess of six months;
 - ‘**Second Homes**’ shall be construed in accordance with The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003;
 - ‘**Substantially unfurnished**’ means premises where it has been decided by the Council that it has insufficient items to be considered as furnished – each case is determined on an individual basis;
 - ‘**Technical Reforms**’ means the changes applied to the Council Tax regime by Central Government effective from 1st April 2013;

1.0 Introduction

- 1.1 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. 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.
- 1.2 The following policy details the proposed changes with effect from 1st April 2017.

Legislation

- 1.3 The relevant legislation is as follows:
- Section 11a Local Government Finance Act 1992 - **Power to determine further discounts for certain dwellings;**
 - Section 11b Local Government Finance Act 1992 - **Higher amount for long-term empty dwellings: England;**
 - The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 as amended by **The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012;** and
 - **The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012**
- 1.4 In addition to the amended legislation, Central Government has provided a number of documents to assist local authorities in the implementation of the new powers. These are:
- Technical Reforms of Council Tax - A consultation
 - Technical Reform for Council Tax – A summary of responses;
 - Council Tax Information Letter: Council Tax – Definitions of Empty Homes and Second Homes;
 - Council Tax - Empty homes premium - Guidance for properties for sale and letting.
- 1.5 In effect the changes can be summarised as follows:
- a. The ability for the Council to charge up to 100% for all second homes (premises which are furnished but have no ones sole or main residence). Previously powers allowed Councils to charge up to 90% only;
 - b. The removal of Class A exemption (unoccupied, substantially unfurnished and subject to major repair) and replacement by a locally determined discount for a 12 month period;
 - c. The removal of Class C exemption (unoccupied and substantially unfurnished) and replacement by a locally determined discount;
 - d. Introduce a locally set empty homes premium of up to 50% of the charge, which can be charged in addition to the 100% already chargeable for long-term empty premises. This applies to premises that have been unoccupied and substantially unfurnished for more than two years.

2.0 The Proposed position

- 2.1 Since 1st April 2013, the Council has adopted a number of the technical changes available to and these are detailed below together with proposed alterations to the policy, which will be effective from 1st April 2017:

Second Homes – Policy effective from 1st April 2017

- 2.2 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 from 1st April 2013, a charge for second homes of 100% (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-related¹ 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
- 2.3 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 from 1st April 2013 are as follows:

Classes	Description	Discount from 1 st April 2013 until 31 st March 2017	Discount from 1 st April 2017
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%	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%	0%

Empty dwellings – Policy effective from 1st April 2017

- 2.4 For Council Tax purposes, the legislation determines that an empty dwelling is one which is unoccupied and substantially unfurnished dwellings. Up until 31st March 2013, where premises fell into this category, an exemption (Class C) would be granted from Council Tax,

¹ 'Job related' is defined within paragraph 2.12

which would allow a period of up to six months free. The exemption could only be re-granted if the premises became re-occupied for a period of six weeks or more.

- 2.5 From the 1st April 2013, the exemption was abolished and Councils have been given the discretion to introduce a discount of between 0% and 100%. 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 C of the regulations) the level of discount between 0% and 100%.
- 2.6 Up to 31st March 2017, a discount of 100% was granted for a three-month period.
- 2.7 **From 1st April 2017 the Council has resolved that, if a dwelling becomes unoccupied and substantially unfurnished, no discount is to 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 - Policy effective from 1st April 2017

- 2.8 Up until 31st March 2013, any premises falling within the above category would be granted an exemption (Class A) for a maximum period of 12 months so long as the conditions applied. As with Class C exemption, a further exemption could not be granted unless the premises were reoccupied for a period of six weeks or more.
- 2.9 From 1st April 2013, the exemption was abolished and Councils were given the discretion to introduce a discount of between 0% and 100% for a period of 12 months. 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
- 2.10 Up to 31st March 2017 the Council granted a Class D discount of 75%. **From 1st April 2017 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.

Long Term Empty premises – Empty Homes Premium – Policy effective from 1st April 2017

- 2.11 The amendments to the legislation from April 2013, allowed Councils the discretion to introduce an Empty Homes Premium which would, in effect, allow for a further 50% to be charged (in addition to the 100% charge already levied in respect of empty premises). In its consultation document '*Technical Reforms of Council Tax – A consultation*' the policy aim was to encourage owners to bring empty properties back into use more quickly. Central Government stated in the document that '*it remains the case that a distressing number of*

dwellings are being left empty, at a time when there is an overall housing shortage. There are over 300,000 long-term empty homes across England. As well as being an unused resource when 1.7 million people are on social housing waiting lists, long-term empty properties attract squatters, vandalism and anti-social behaviour, and are a blight on the local community'.

- 2.12 Legislation allowing for the premium was introduced in 2012, which inserted **Section 11b Local Government Finance Act 1992 - Higher amount for long-term empty dwellings**. Liability for the Empty Homes Premium is determined by the length of time that the property has been empty. An individual who purchases a property, which has already been empty for two-years, may be required to pay the premium as soon as they take ownership. A period of occupation of over six weeks qualifies as a break in the empty period, 'resetting the clock' for the purposes of the Empty Homes Premium.
- 2.13 The consultation examined a number of potential exceptions from the premium including where premises were being offered for sale or let **but only** the following exemptions were applied in the legislation (Council Tax (Prescribed Class of Dwellings) Regulations 2003 as amended by the Council Tax (Prescribed Classes of Dwellings)(England)(Amendment) Regulations 2012:

Armed Forces Accommodation or Job related accommodation (Class E)

- Is the sole or main residence of an individual where that individual is a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related; or
- Would be the sole or main residence of an individual if that individual were not a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related

Annexes (Class F)

Every chargeable dwelling:

- Which forms part of a single property which includes at least one other dwelling; and
- Which is being used by a resident of that other dwelling, or as the case may be, one of those other dwellings, as part of their sole or main residence

Definition of Job Related dwelling

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.
- 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.

2.14 **The Council has resolved that from 1st April 2017, an Empty Homes Premium of 50% will be applied, in addition to the full (100%) charge, for all premises which has been unoccupied and substantially unfurnished (empty) for a period of two years or more on or after 1st April 2017.**

2.15 In deciding whether to implement the premium, consideration has been given to both the legislation and also the guidance given by Central Government in *Council Tax – Empty Homes Premium – Guidance for properties for sale and letting*. The Council has also considered the case law arising from the legislation in particular *K v. Wolverhampton City Council*, *F v. Wychavon District Council*, *J v. South Staffordshire Council*. Taking all of the guidance into account, the Council feels that there is need to bring empty premises into use in the area and that all taxpayers should be encouraged to bring premises back into use. The Council has decided that only the statutory exemptions should apply and therefore from 1st April 2017 the Empty Homes Premium set at 50%, will apply to all premises, which have been unoccupied for a period of two years or more.

3.0 Publication of the changes

3.1 The Council, in accordance with the legislation, will publish the changes to the Council Tax regime within 21 days of making such a resolution.