

**Braintree District Council
Council Tax**

**Policy for Second Homes, Long Term Empty Properties
and determining discounts for certain dwellings
from 1st April 2019**

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;

‘Unoccupied Dwelling’ shall be construed in accordance with The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012

2.0 Introduction

- 2.1 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.
- 2.2 The following policy details the current approach taken by the Council and also details the agreed changes with effect from 1st April 2019.

Legislation

- 2.3 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** as amended by **The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018;**
 - 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**
- 2.4 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:
- 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.
- 2.5 The changes are in respect of increases to the maximum level of the locally set empty homes premium 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.

3.0 The Current and Proposed position

- 3.1 Since 1st April 2013, the Council has adopted a number of the technical changes available and these are detailed below together with alterations

made to the policy, effective from 1st April 2016 and alterations effective from 1st April 2019:

Second Homes – Policy effective from 1st April 2013

- 3.2 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 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-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
- 3.3 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:

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%

¹ 'Job related' is defined within paragraph 2.12

Empty dwellings – Policy effective from 1st April 2013

- 3.4 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, 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.
- 3.5 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%.
- 3.6 The Council has resolved that, from 1st April 2013, if a dwelling becomes unoccupied and substantially unfurnished no discount is 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 2013

- 3.7 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.
- 3.8 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;
- 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

3.9 The Council has resolved that from 1st April 2013 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 2016

3.10 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*'.

3.11 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.

3.12 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.

3.13 **From 1st April 2016**, 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 2016.

3.14 **The Council has resolved that:**

From 1st April 2019, an Empty Homes Premium of 100% 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 2019.

From 1st April 2020, Empty Homes Premiums of: 100% 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 less than 5 years: and 200% if the period is at least 5 years on or after 1st April 2020.

From 1st April 2021, Empty Homes Premiums of: 100% 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 less than 5 years; 200% if the period is at least 5 years but less than 10 years; and 300% if the period is at least 10 years on or after 1st April 2021.

As an incentive when a property is brought back into use and occupied a refund of the new premium charged (i.e. the amount above 50%) for the previous 12 months will be made.

3.15 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.