



EMPTY HOMES CHARGING POLICY COUNCIL TAX

REVENUES & BENEFITS

LANCASTER CITY COUNCIL

EMPTY HOMES CHARGING POLICY (COUNCIL TAX)

1 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 Levelling-up and Regeneration Act 2023 allows local authorities to charge the empty homes premium after a property has been empty for one year instead of two.

2 Legislation

- 2.1 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**
 - **The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018**
 - **Levelling-up and Regeneration Act 2023**
- 2.2 In addition to the amended legislation, Central Government has provided a number of documents to assist local authorities in the implementation of these additional powers:
- Technical Reforms of Council Tax - A consultation
 - Technical Reforms 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.

3.0 The Charging Policy:

- 3.1 Council approved the following changes to Council Tax exemptions, discounts, long term empty properties and second homes with effect from 1 April 2013 by:
- (i) replacing the exemption of up to twelve months with a discount of 50% for a period up to twelve months for properties where major repairs or structural alterations are required, underway, or recently completed (Class A);

- (ii) replacing the six months exemption for empty homes with a 100% discount for two months, followed by a discount of 50% for the next four consecutive months (Class C – empty and unfurnished);
- (iii) revoking the 50% discount for empty homes after six months and levy a premium of an additional 50% of Council Tax due on properties that have been empty and unfurnished for at least two years, subject to any statutory exemptions and any local discretions;
- (iv) revoking the 10% discount on second homes (now 100% charge);

3.2 Council approved further changes to the Charging Policy with effect from 1 April 2018, by:

- (i) replacing the two months exemption for empty homes with a 100% discount for one month only. (Class C – empty and unfurnished);

3.3 Further changes were then introduced by Council on an incremental scale, with effect from 1 April 2019. The full details of these charges can be seen in the table below, showing how a property is affected from the date it becomes empty:

	First Year		More than 2 Years (from 1.4.19)	More than 5 years (from 1.4.20)	More than 10 years (from 1.4.21)
	Month 1	Months 2-12			
Empty properties – uninhabitable due to major repairs and alterations (Class A)	50% Discount ←————→		200% Charge ←————→	300% Charge ←————→	400% Charge ←————→
New properties and empty & unfurnished (Class C)	100% Discount	100% Charge ←————→	200% Charge ←————→	300% Charge ←————→	400% Charge ←————→
Unoccupied and furnished including second homes	100% Charge ←————→				

3.4 Following the introduction of the Levelling Up and Regeneration Bill in October 2023, the Council has now implemented the premium charge after the property has been empty for more than one year from 1st April 2024.

The full details of these charges can be seen in the table below, showing how a property is affected from the date it becomes empty:

4.2.4 Newly built dwellings fall to be considered in this category should they remain empty after the specified completion date. In these circumstances the discount will apply from the completion date as specified in the completion notice issued by the billing authority.

4.3 Empty Homes Premium – Long Term empty dwellings

4.3.1 A long term empty dwelling is one that has been vacant in excess of one year and as such is liable to an Empty Homes Premium in addition to the 100% charge already levied in respect of empty premises, subject to statutory exemptions and locally determined exceptions (**See Appendix A**).

4.3.2 Effective from:

- **Pre 1 April 2019**
A 50% premium is levied on properties that have been empty and unfurnished for at least two years, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2024**
A 100% premium is levied on properties that have been empty and unfurnished for at least one year, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2020**
A 200% premium is levied on properties that have been empty and unfurnished for at least five years, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2021**
A 300% premium is levied on properties that have been empty and unfurnished for at least ten years, subject to statutory exemptions and locally determined exceptions.

4.3.3 The policy aim is to encourage owners to bring empty properties back into use quicker, at a time when there is an overall housing shortage and social housing waiting lists. The Government considers that long-term empty properties attract squatters, vandalism and anti-social behaviour, and are a blight on the community.

4.3.4 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 one year, may be required to pay the premium as soon as they take ownership, subject to statutory exemptions and local exceptions. 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.

4.3.5 **Statutory Exemptions** - two classes of property are exempt by statute from the Empty Homes Premium as detailed below:

- A dwelling which is the sole or main residence of a member of the armed forces, who is absent from the property as a result of such service. (Class E)
- An annex deemed unoccupied because it is being treated by the occupier of the main dwelling as part of that main building. (Class F)

4.3.6 **Local Exceptions** – Authority is delegated to the Head of Shared Service to use discretion, based upon on the individual merits of each case, not to charge the additional Premium. **(See Appendix A for details)**

4.3.7 In deciding whether to use discretion, consideration should be given to legislation and government guidance together with relevant caselaw arising from the legislation, in particular *K v Wolverhampton City Council*, *F v Wychavon District Council*, *J v. South Staffordshire Council*.

4.3.8 All requests for discretion should be made in writing, enclosing documentary evidence, addressed to:

Revenues Services
PO Box 4
Lancaster Town Hall
Dalton Square
LA1 1QR

Or email direct to: lancasterctax@preston.gov.uk

4.4 **Second Homes**

4.4.1 Defined as a dwelling, which is no one's sole or main residence but which is furnished.

4.4.2 A charge of 100% will be applied for second homes (0% discount). 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%):

- 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.



Council Tax Premium – Policy Guidelines for Determining Local Exceptions

1. Purpose

Lancaster City Council (the Council) has determined to levy an incremental “% premium” on Council Tax, in line with new discretionary powers, on long term empty dwellings that have been empty and unfurnished for over one year, subject to statutory exemptions and locally determined exceptions.

A Council Tax Premium is a (%) increase on the Council Tax set, dependant on how long the property has been empty and unfurnished in line with the following dates:

- **Pre 1 April 2019**
A 50% premium is levied on properties that have been empty and unfurnished for at least two years, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2024**
A 100% premium is levied on properties that have been empty and unfurnished for at least one year, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2020**
A 200% premium is levied on properties that have been empty and unfurnished for at least five years, subject to statutory exemptions and locally determined exceptions.
- **From 1 April 2021**
A 300% premium is levied on properties that have been empty and unfurnished for at least ten years, subject to statutory exemptions and locally determined exceptions.

This document sets out the factors that the Lancaster City Council (the Council) will take into account, when deciding if an exception to payment of the Council Tax Premium can be granted.

Each case will be treated strictly on its merits and all applicants will be treated equally and fairly through administration of the scheme.

2. Statement of objectives

The Council will consider waiving the Council Tax Premium for applicants who meet the qualifying criteria as specified in these guidelines. The Council will treat all applications on their individual merits, and will seek through the operation of these guidelines to grant exceptions to liability for the Council Tax Premium:

- For those owners who are genuinely attempting to sell or let their property which has been vacant for at least one year

- Those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property
- Those owners who are in negotiation with the Council with a genuine view to letting the property under the Council's scheme(s).
- Cases where the dwelling has remained empty beyond a one-year period due to exceptional and /or unforeseen circumstances and / or any other circumstances, proven to be beyond the control of the owner/liable person.
- Cases where imposition of the Council Tax Premium would result in hardship and a reasonable person would regard the imposition as unfair.

3. Claiming a Local Exception to the Council Tax Premium

A claim must be made on an application form provided by the Council and signed by the owner of the vacant property or their representative. The claimant must include any relevant supporting evidence.

A Council Officer may make an appointment to visit any applicant who for whatever reason is unable to complete the application form or to confirm the details provided which may necessitate being given access to the premises.

The Council may request any (reasonable) evidence in support of an application but the applicant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.

The Council reserves the right to verify any information or evidence provided by the Applicant, with third parties where appropriate.

Payment of Council Tax including the premium may not be withheld whilst awaiting the outcome of an application or the review of a previous decision.

4. Period of Exception

In all cases, the Council will decide the length of time for which an exception will be awarded on the basis of the evidence supplied and the facts known.

The start date of an exception is normally the date the application is received by the Council, providing it is satisfied the reasons for the exception existed at that time and the exception will continue for a maximum period of twelve months subject to those circumstances continuing. At this point a further application should be made with up to date circumstances.

The Council reserves the right to make routine inspections of the property at any point during the period of the exception.

The Council will comply with any Regulations issued by the Secretary of State in relation to any application and have regard to any related national policy guidance.

5. Awarding an Exception to liability for the Council Tax Premium

In deciding whether to award an exception to payment of the Council Tax Premium, the Council will take into account the following criteria:

5.1 For those owners who are genuinely attempting to sell or let their property which has been vacant for at least one year:

- Has professional advice and assistance been obtained?
- A professional agent with specialist knowledge of the locality must have been engaged.
- Have any offers to purchase or rent the property been received?
- If Yes – why were those offers refused?
- Written confirmation of the reasons for refusal will be required from a professional agent
- Is the sale price or rental in line with recent sale or rental prices for similar properties in the locality?
- If no, does this property have special features that reasonably warrants a higher value or rent?
- Has the property been put up for sale by public auction?

5.2 For those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property

- Is there a legal difficulty or issue which is preventing the sale or letting of the property?
- A Solicitor's or Legal Conveyancer's letter should be produced in evidence detailing the reasons preventing sale or letting.
- Is a sale or letting being delayed by the actions of a Public Body?
- Full details must be provided

5.3 Those owners who are in negotiation with the Council with a genuine view to letting the property under the Council's Management Scheme(s)

- Has there been a genuine expression of interest in transferring management of a property to the Council with a view to letting the property to local people with housing needs?
- The Council's Empty Homes Officer will be asked to confirm details of the expression.
- The exception would only be applied from the date of signing the approval notice.

5.4 Cases where the dwelling has remained empty beyond a one-year period due to exceptional and /or unforeseen circumstances and / or occasionally any other circumstances, proven to be beyond the control of the owner/liable person.

- Are the circumstances exceptional or unforeseen?
- Decision to be based on evidence, considered on the merits of each individual case.

5.5 Cases where imposition of the Council Tax Premium would result in hardship and a reasonable person would regard the imposition as unfair.

- Will imposition of the Council Tax Premium result in the owner suffering hardship?
- Granting an exception under this criterion is likely to be the exception rather than the rule as it is expected the majority of exceptions will be granted under earlier criteria.

6. Changes of Circumstances

The Council may need to revise the decision to grant an exception to the Premium if it becomes aware that the applicant's circumstances have materially changed. Individuals must advise the Council of any change in circumstances affecting the decision, within 21 days of the change. Failure to do so may result in the exception being revoked in full.

7. Notification

The Council will inform the applicant in writing of the outcome of their application within 28 days of receipt, or as soon as possible after. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review.

8. The right to seek a review

As the exceptions to the Premium in this policy are determined locally any decisions are not subject to a statutory appeals mechanism. The Council will therefore operate its own procedures for dealing with appeals against a refusal to award an exception to the Premium.

Decisions will be determined at management level by the Revenues Manager.

An applicant (or their appointee or agent) who disagrees with a decision not to award an exception may dispute the decision. A request for a review must be made in writing to the Head of Shared Service, Revenues and Benefits within one calendar month of the written decision being issued.

The Head of Shared Service, Revenues and Benefits will review all the evidence held and may ask for further clarification to be provided. A decision will be made within 28 days of the request for a review. The decision will be notified to the claimant in writing, setting out the reasons for the decision.

Policy Guidelines effective from 1 April 2019. To be read in conjunction with the Empty Homes Charging Policy.

LCC Council Decisions – 31 January 2018, 18 December 2018 and 28 February 2023