

Council Tax

Long Term Empty Property & Second Homes Policy

Inverclyde Council - Finance Revenues and Customer Services

Document Control

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Approved by:

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Policy & Resources Committee

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Change Control Table

Version	Version Date	Revised By	Reason for Change
2.0	March 2018	L Brown	Levy increased to 50% from 1 st April 2018
3.0	December 2018	L Brown	Levy increased to 100% from 1 st April 2019
			Additional discretionary exemption categories introduced
			Second Homes Policy added to document
4.0	February 2019	L Brown	Policy updated to include exemption agreed by Policy & Resources Committee on 5 th February 2019

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1.0 Introduction

This document details Inverclyde Council's Policy on a Council Tax Increase (Levy) on Long Term Empty (LTE) properties.

2.0 Background

2.1 The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 provides local authorities with a discretionary power to remove the empty property discount or set a council tax increase of up to 100% on certain properties which have been empty for 1 year or more. Previously, local authorities were only able to vary the level of discounts, with a minimum discount of 10% for empty and second homes.

2.2 The provision only applies to long-term unoccupied properties, not second homes.

2.3 This greater flexibility is intended as an additional tool to help local authorities encourage owners to bring empty properties back into use, both to increase the supply of housing for those who need homes and to reduce the blight on communities caused by houses being left empty and allowed to fall into disrepair. The council tax increase could be used as part of a wider approach to tackle long-term empty homes including support and guidance to owners and provision of loans or grants if available.

2.4 For eligible unoccupied properties, local authorities can set a discount of between 0% and 50% or an increase of up to 100%. The provision also gives local authorities discretion to vary the council tax charged for different circumstances, and to apply discounts or increases in all or part of their areas. This can be done by using postcode boundaries, council wards or data zones. This could include charging different rates for a variety of different reasons as a local authority considers appropriate, and is intended to recognise that different pressures and factors will affect different areas.

2.5 Guidance has been issued by the Scottish Government in relation to the allowable flexibility available to ensure that authorities do not unfairly penalise owners who are justified in leaving their dwelling unoccupied or where there are reasons why the dwelling could not be lived in, sold or let.

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3.0 Unoccupied Dwellings

3.1 The council tax increase can be applied to homes which have been unoccupied for 1 year or more. An unoccupied dwelling is any dwelling which is not someone's sole or main residence, but does not fall within the definition of a second home. An unoccupied dwelling may be either furnished or unfurnished but is either not lived in at all or is lived in for less than 25 days in any twelve month period.

3.2 The council tax increase does not apply to water and sewerage charges.

4.0 Second Homes

4.1 The council tax increase will not apply to second-homes. In general, second-homes are maintained well and are occupied for periods of the year when their owners contribute to the local economy.

4.2 Under the new legislation, a second home is defined as being furnished and lived in for at least 25 days in any twelve month period, but not as someone's sole or main residence. This aims to ensure that only homes which are likely to be reasonably well maintained and which the owner is likely to visit regularly (and therefore make some contribution to the local economy) can qualify as a second home.

4.3 The Council will not be able to charge a council tax increase for second homes but will, as was previously the case, have flexibility to set a discount level of between 0% and 50%. The second home discount level set by Inverclyde Council from 1st April 2017 is 0%, prior to 1st April 2017 the level was set at 10%.

4.4 It will be for owners to prove that their property is a genuine second home and need to provide evidence to substantiate their claim. Evidence provided may be in the form of utility bills, TV license and anything else deemed appropriate. Visiting officers may be utilised to follow up on individual properties.

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5.0 Exclusions from the Increase

5.1 Existing Mandatory Discounts and Exemptions

The new flexibility will not affect an owner's eligibility to claim council tax exemptions under the Council Tax (Exempt Dwellings) (Scotland) Order 1997.

As long as an owner is eligible for an exemption, they would not be charged any council tax, regardless of how long the dwelling has been unoccupied. However, where a dwelling becomes no longer eligible for the exemption, but remains unoccupied, it will become eligible for the council tax increase after the property has been empty for 1 year.

Properties classed as purpose built holiday homes or occupied as job related dwellings will continue to receive 50% discount.

The legislation defines a purpose built holiday home as a dwelling which is used for holiday purposes and is either, in accordance with any license or planning permission regulating the use of the site, or for any other reason, not allowed to be used for human habitation throughout the whole year or, by reason of its construction or facilities which it does, or does not, provide, is unfit so to be used.

5.2 Homes actively being marketed for sale or let

Homes being marketed for sale or let will be exempt from the council tax increase until they have been unoccupied for 2 years, these homes will continue to attract a discount of 10%. New build properties can also qualify for this exemption from the increase. This exemption is conditional on the home being genuinely marketed for sale or let at a realistic market price. In considering whether a home is genuinely being marketed for sale or let, the council can have regard to any unduly restrictive conditions being attached to the sale or let as well as the sales price/ rent level. In coming to their decision on whether or not the property is being genuinely marketed for sale or let, the council can request and take into account evidence including:

- Home Report - If the property is being marketed for sale, does it have a valid home report? Most houses for sale in Scotland require a home report which also includes a valuation of the property. If the home report valuation is significantly below the advertised price, it may be that the owner is not making a genuine attempt to sell their property.
- Marketing - Is the owner's marketing efforts providing adequate exposure to the market? Is the property being actively marketed by an agent and/or property sale/letting website?

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5.3. Additional flexibility to vary discount/increase

Regulation 4 of the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 includes provision for local authorities to apply additional exemption from the increase, or to charge a reduced level of increase. This could include charging different rates according to, for example, the area the dwelling is in; the length of time that the dwelling has been unoccupied and other circumstances as a local authority considers appropriate.

This additional flexibility is included so that local authorities can modify provision by

- not charging a council tax increase,
- charging a reduced level of increase,
- offering a higher level of discount.

The legislation provides adequate flexibility to ensure that individual owners are not unfairly penalised. The circumstances of individual owners should be taken into account when applying the increase. This allows a local authority to avoid charging a council tax increase, or to charge a lower level of council tax than for other unoccupied dwellings, where it considers there are reasons why the owner is justified in leaving the dwelling unoccupied and/or reasons why the dwelling could not be lived in, sold or let.

Scottish Government guidance states that the following circumstances would merit flexibility in terms of not charging the council tax increase where the property has been empty for over a year and:

- The owner is finishing renovations prior to moving in/selling/letting and can demonstrate that these works are progressing.
- A long-term second home where the owner was unable to meet the 25 day occupancy criteria in the previous 12 months due to personal circumstances but where a history of 25 day occupancy can be shown in previous years.
- A property that is taking a long time to sell/let in a stagnant market despite being priced appropriately.
- Any other circumstances where the owner has agreed with an Empty Homes Officer to take positive steps to re-occupy their property and it is in the view of the Empty Homes Officer that a time-limited council tax increase “holiday” would encourage the property to be brought back into use sooner.

For all cases, the maximum discount of 50% and a maximum increase of 100% as set in the legislation must not be exceeded. Under the legislation, local authorities are prevented from using their discretion to vary council tax charges in a way that gives more favourable treatment to unoccupied social rented dwellings just because they are owned by a social landlord.

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It is important that all owners take steps to bring unoccupied homes back into use as soon as possible, rather than leaving them empty.

6.0 Information Requests

6.1 The Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 2012 require the council to take reasonable steps to ascertain whether a taxpayer is entitled to a discount or liable to an increased amount before calculating the council tax liability, with the default position being that there is no variation unless a reason for variation is identified. The council is also required to ensure that the taxpayer is notified of assumptions made and of their responsibilities to advise of changes in their circumstances or of an erroneous assumption.

6.2 The regulations also place an obligation on specific persons to provide information which is sought by the council for the purposes of ascertaining whether a discount or increase in council tax liability applies as a result of non-occupation of the dwelling.

7.0 Council Tax Levy Policy

7.1 Under this policy the council tax increase to be applied by Inverclyde Council is:

- From 1st April 2016 the increase is set at 30% of the annual council tax charge for the property.
- From 1st April 2018 the increase is set at 50% of the annual council tax charge for the property.
- From 1st April 2019 the increase is set at 100% of the annual council tax charge for the property.

7.2 There is no council tax increase on the water and sewerage charge.

7.3 The increase applies to all parts of the Council area, there is no variation at ward or post code level.

7.4 In order to ascertain whether a vacant property is eligible for the council tax increase, a review form will be issued once a property has been unoccupied for 12 months.

7.5 Once the review form is returned a decision will be made on whether the property is entitled to a discount or should be subject to an increased amount.

7.6 Any additional information or evidence required will be requested from the owner.

7.7 Visiting officers may also be utilised to follow up on individual properties.

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7.8 Officers will carry out checks to verify claims and any decision made is final subject to appeal.

7.9 Once the review form has been processed the owner will be notified in writing of the decision.

7.10 Owners will be advised of the mandatory and discretionary exemptions that can be applied for, their right to appeal any decision and also of their responsibility to advise of any change in circumstances or of any erroneous assumptions by the council.

7.11 An application for a mandatory or discretionary exemption from the council tax increase must be made in writing by completion of an application form.

7.12 Exemption for the full implementation of LTE Council Tax levy would be considered for a defined housing area provided an intervention plan led by an RSL has been agreed with the Council. The Plan's delivery must be resourced and be time limited to a reasonable period which reflects the level of intervention required. The exemption will be for 12 months initially. Intervention plans lasting longer than 12 months will require further application(s) for additional exemption. These further applications will be considered favourably if the interventions are making adequate progress against the agreed plan. Other owners within the defined area will also be eligible for exemption also subject to an agreed intervention plan.

7.13 The following discretionary exemptions that can be applied for under this policy are introduced from 1st April 2019. These are in addition to the existing discretionary exemption category noted below which will continue under this policy.

Additional Discretionary Exemptions from 1st April 2019

Discretionary Category	Purpose	Maximum Exemption Period
New Owner or Tenant	The new owner or tenant of a long term empty property requires a short period of time to make the property fit for occupation or to move in.	3 Months
Owner is working with Empty Homes Officer	Owner has agreed with the Empty Homes Officer to take positive steps to re-occupy their property and it	6 Months

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	is the view of the Empty Homes Officer that a time-limited council tax increase “holiday” would encourage the property to be brought back into use sooner.	
Property undergoing repair/renovation	Property is undergoing major repair to make it habitable, the liable person can demonstrate work is progressing	12 Months

Existing Discretionary Exemption

Exceptional Circumstances	The owner considers that their property is empty due to exceptional circumstances not covered by the discretionary exemption categories	6 Months
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8.0 Second Homes Policy

8.1 Under this policy the council tax discount on second homes to be applied by Inverclyde Council is:

- From 1st April 2017 the discount is set at 0% of the annual council tax charge for the property.
- Prior to 1st April 2017 the discount was set at 10% of the annual council tax charge for the property.

8.2 Although the discount on second homes is set at 0% from 1st April 2017, it is in the interest of owners of second homes to apply to the council for their property to be classed as a second home in order to avoid the council tax increase on unoccupied properties.

8.3 A second home is defined as being furnished and lived in for at least 25 days in any twelve month period, but not as someone’s sole or main residence. This aims to ensure that only homes which are likely to be reasonably well maintained and which the

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owner is likely to visit regularly (and therefore make some contribution to the local economy) can qualify as a second home.

8.4 Under this policy properties that are undergoing renovation or repair will not be considered as second homes.

8.5 It will be for owners to prove that their property is a genuine second home and they need to provide evidence to substantiate their claim. Evidence provided may be in the form of photographs of the interior of the property, utility bills, TV license, second home insurance schedule and anything else deemed appropriate. In addition proof of travel to the property such as train or airline tickets may be requested.

8.6 Visiting officers may be utilised to follow up on individual properties.

8.7 Officers will carry out checks to verify claims and any decision made is final subject to appeal.

8.8 If the owner of a long-term second home was unable to meet the 25 day occupancy criteria in the previous 12 months due to personal circumstances but a history of 25 day occupancy can be shown in previous years, the property can continue to be classed as a second home for a further 12 months.

8.9 A newly purchased property that is intended to be occupied as a second home will not be classed as a second home until it has been occupied for 25 days in a rolling 12 month period.

8.10 Second Homes will be reviewed annually to ensure they continue to meet the 25 days occupancy per rolling 12 month period.

9.0 Appeals

9.1 Appeals can be made in writing to the Revenues and Customer Services Manager; the appellant will be notified of the outcome of their appeal within 2 months.

9.2 If, following the appeal to the Revenues and Customer Services Manager, the customer remains dissatisfied with the decision they have a further right of appeal to the Valuation Appeal Committee. Any appeals to the Valuation Appeal Committee must be within four months of the date of their original appeal.