

# COUNCIL TAX

## EMPTY PROPERTY POLICY

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## **1. INTRODUCTION**

- 1.1 This policy sets out the criteria for Council Tax charges on properties that are unoccupied and unfurnished agreed by Scottish Borders Council.
- 1.2 In all cases, staff will act in accordance with this policy and treat citizens fairly.

## **2 WHY WE NEED THIS POLICY**

- 2.1 The legislation gives Local Authorities discretion to vary the Council Tax charged for different cases where it considers it appropriate to do so. This could include charging different rates according to the area the property is in or the length of time the property has been unoccupied. This is intended to recognise that different pressures and factors will affect different areas.
- 2.2 It is essential for the Council to demonstrate that it carries out administration of empty properties effectively and fairly, therefore this policy has been produced to record decisions agreed at Council.

## **3. AIMS OF THE POLICY**

- 3.1 The main aim of this policy is to set out how Scottish Borders Council will administer charges on empty properties and:
  - 3.1.1 Ensure that all staff involved in administering charges on empty properties operate in a fair and consistent process;
  - 3.1.2 Demonstrate the Council's commitment to the delivery of quality service to our customers;
  - 3.1.3 Minimise losses to the Council from incorrectly administering empty property charges.

## **4 DEFINITIONS**

- 4.1 A short term empty dwelling is a dwelling which is no-ones sole or main residence, has been empty for a period of less than 12 months and is not a second home.
- 4.2 A long term empty dwelling is a dwelling which is no-ones sole or main residence and has been empty for a period of 12 months or longer and is not a second home.

## **5. EMPTY PROPERTY ADMINISTRATION**

- 5.1 Customer Advice & Support Service staff are responsible for the administration of Council Tax liability on empty properties.
- 5.2. Empty properties will be assessed in respect of all applications/information supplied that meets the criteria in paragraph 6.

- 5.3 Until information or an application is provided for short term empty properties, Council Tax shall be charged at 100%. Where the information or application for short term empty property status has not been received, it is assumed to be unoccupied, and Council Tax shall be charged at 90% for the first 12 months of the property being assumed unoccupied.
- 5.4 Where a property is short term empty and meets the statutory requirements, an exemption can be awarded for the first 6 months of the property being unoccupied. The exemption can be followed by a 10% discount for a further 6 months. This discount was previously 50% until 31 March 2025.
- 5.5 When a property becomes long term empty, Council Tax shall be charged at 200% unless an application for an exemption, discount or discretion is approved.
- 5.6 When determining the date a property was last occupied, any period of occupation of less than 3 months is disregarded.

## **6. EMPTY PROPERTY DISCOUNTS**

- 6.1 Council Tax payers can claim [legislative](#) exemptions under the Council Tax (Exempt dwellings) (Scotland) Order 1997 from the date the property becomes empty.
- 6.2 The Council Tax (Variation for Unoccupied Dwellings) (Scotland) regulations 2013 enhanced discretionary powers to allow Local Authorities to vary the level of discount awarded.
- 6.3 The discount on short term empty properties between month 6 and month 12 will be 10% effective from 1 April 2025. This was previously 50% until 31 March 2025.
- 6.4 Any account with an existing entitlement to 50% discount on 1 April 2025 will reduce to 10% from this date.
- 6.5 No discretion is considered for the short term empty period.
- 6.6 Following the short term empty period, if a property continues to be unoccupied it will become long term empty and a 100% levy will be applied to the account.
- 6.7 Council Tax payers can claim [legislative](#) restrictions from the long term empty charges being applied under The Council Tax (Variation for Unoccupied Dwellings) Scotland) Regulations 2013, as amended.
- 6.8 The Director of Resilient Communities has the discretion to delay the 100% levy effective from 1 April 2025 and charge 100% Council Tax for a period of up to 24 months. (Prior to 1 April 2025, a 10% discount was also awarded). The categories for discretion are detailed in the table below.

<b>Category</b>	<b>Criteria</b>	<b>Maximum period</b>
Re-Occupy/ Renovations/Sale or Rent	The owner has agreed with the Council to take positive steps to bring the property back into use by reoccupation, selling or renovating the property without the need for planning permission and/or building warrant. This could include non-structural improvements, improving energy rating and upgrading of facilities. This would include engagement with the Empty Homes Officer	12 months
Renovations	Where renovations are still underway which required planning permission and/or building warrant. This would include engagement with the Empty Homes Officer	24 months
Legal	There is a legal issue preventing the sale or occupation of the property.	24 months

6.9 Any account that had a long term empty discretionary discount of 10% will have this ended from 31 March 2025 and 100% Council Tax will be charged for the remaining duration of the discretionary period.

6.10 Any application for discretion received from 1 April 2025 will be considered under this policy.

## **7. BACKDATING**

7.1 An assessment of empty property status can be backdated to the date the criteria was met.

7.2 Applications for empty property discount/exemption/discretion can be backdated to the relevant point, provided the Council Tax payer satisfies the requirements. The reduced liability will be based on the policy that was in place at that time.

## **8. RECONSIDERATIONS AND APPEALS**

8.1 Once an assessment has been made, the Council Tax payer will be notified in writing of the decision. If the Council Tax payer disagrees with the decision, they may ask for a reconsideration in the first instance by writing to the Customer Advice and Support Service Manager.

8.2 Reconsiderations must be made in writing within 28 days of the decision being notified.

8.3 If that reconsideration is unsuccessful, the Council Tax payer may then make an appeal to the Local Taxation Chamber under Section 81(1) of the Local Government Finance Act 1992 ('the 1992 Act') in relation to the following decisions

- i) that a dwelling is not exempt; or
- ii) that a discount should not be granted: or
- ii) that you are liable to pay Council Tax in respect of the dwelling; or
- iii) the calculation of the amount of Council Tax payable is correct

When making an appeal the Council Tax payer must detail the decision they feel has not been made correctly in terms of the legislation and the reasons for this.

When discretionary powers are afforded to the Council it is important to note that an appeal will be considered as to whether the Council's Policy has been implemented correctly.

- 8.4 The appeal must be submitted to the Local Taxation Chamber within four months of the Council Tax payers notice to the Local Authority that they are aggrieved by the Local Authorities decision. If the appeal is lodged late an explanation for the delay must be provided.
- 8.5 There is no provision within the legislation which allows for payment to be withheld pending settlement of any outstanding appeal, dispute or enquiry and Council Tax remains due and payable whilst under dispute.