

**Swale Borough Council**

**Council Tax**

**Empty Property Policy**

## **1. Introduction and background**

The Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012, The Council Tax (Exempt Dwellings) Order 1992, The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 allow for Council Tax discounts and exemptions to be awarded for empty properties. The statutory exemptions are:

- Property owned by charity (maximum 6 months)
- Property where the liable person has died and awaiting probate/transfer to beneficiaries
- Property where occupation is prohibited by law (e.g Planning/Housing/Environmental Health reasons)
- Property that is held empty for a minister of religion to take up residence
- Property that is left unoccupied by a student
- Property where the mortgagee is in possession
- Property that has been left empty by a bankrupt
- Property where the unoccupied annexe cannot be let separately due to planning restrictions
- Property left empty by a person in prison
- Property left empty by a person living in a hospital/care home
- Property left empty by a person who needs personal care elsewhere
- Property left empty by a person who is providing care elsewhere
- An empty caravan pitch or empty boat
- A dwelling left empty because an individual is living in another dwelling provided for the purposes of armed forces accommodation.

## **2. Discretionary Discounts**

In addition to the above exemptions, the Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 amended discretionary discounts for unoccupied properties.

1. Where a property becomes unoccupied and substantially unfurnished
2. Where a property is requiring or undergoing major repairs or structural alterations to render it habitable

In the case of 1, any discount is applicable for a maximum continuous period of 6 months. The billing authority may set the discount of between 100% and 0%.

In the case of 2, any discount is applicable for a maximum continuous period of 12 months. The billing authority may set the discount of between 100% and 0%.

Swale Borough Council has decided the discount for properties in 1 and 2 will be 0% from 1 April 2024.

A property is classed as empty if it is unfurnished. A property is classed as a second home if it is furnished, and it is not lived in as a main home.

### **3. Long Term Empty Premium**

Changes were introduced that allowed authorities to charge a 50% Council Tax premium on properties that have been unoccupied and substantially unfurnished for more than 2 years.

From 1 April 2013, Swale Borough Council adopted this change.

New regulations were passed which allowed councils to charge additional premiums from 1 April 2019 as follows:

1 April 2019 – properties that have been empty for more than 2 years – 100% premium

1 April 2020 – properties that have been empty for more than 5 years – 200% premium

1 April 2021 – properties that have been empty for more than 10 years – 300% premium

Swale Borough Council adopted these changes to take effect from 1 April 2019 and subsequent years.

The legislation changed again under the Local Government Finance Act 1992 as amended through the Levelling-up and Regeneration Act 2023, a premium can

be charged on empty properties after it has been empty for more than 12 months.

This change was approved by Members on 21 February 2024 to commence from 1 April 2024.

From 1 April 2024 premiums on empty properties are as follows:

1 April 2024 – properties that have been empty for more than 1 year – 100% premium

1 April 2020 – properties that have been empty for more than 5 years – 200% premium

1 April 2021 – properties that have been empty for more than 10 years – 300% premium

#### **4. Second Homes**

From 1 April 2025 Under the Local Government Finance Act 1992 as amended through the Levelling-up and Regeneration Act 2023 a premium may be charged on second homes. The decision to charge a premium on a second home must be made at least one financial year before a premium can be charged. This decision was approved on 21 February 2024 and published in at least one newspaper circulating in the Swale Area within 21 days of the date of determination.

#### **5. When premiums are not charged**

Council Tax premiums on long-term empty homes and second homes.

Premiums should not be charged if the property is not occupied and any of the following circumstances are met:

- Where the resident has died for up to 6 months after grant of probate or letters of administration
- Where the resident is in long-term residential care or hospital
- Where the resident is living elsewhere to provide care.

Under Section 11B and 11D of the 1992 Act the government has prescribed dwellings in relation to which councils may not make a determination to apply a premium, this applies to empty properties and second homes. These are classed as follows:

Table 1

Class E	Long-term empty homes and second homes	Dwelling which is or would be someone's sole or main residence if they were not residing in job-related armed forces accommodation
Class F	Long-term empty homes and second homes	Annexes forming part of, or being treated as part of the main dwelling
Class G	Long-term empty homes and second homes	Dwellings being actively marketed for sale (12 months limit)
Class H	Long-term empty homes and second homes	Dwellings being actively marketed for let (12 months limit)
Class I	Long-term empty homes and second homes	Unoccupied dwellings which fell within Class F and where probate has recently been granted (12 months from grant of probate/letters of administration)
Class J	Second homes only	Job-related dwellings
Class K	Second homes only	Occupied caravan pitches and boat moorings.
Class L	Second homes only	Seasonal homes where year-round, permanent occupation is prohibited, specified for use as holiday accommodation or planning condition preventing occupancy for more than 28 days continuously.

Class M	Long-term empty homes only	Empty dwellings requiring or undergoing major repairs or structural alterations (12 months limit)
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**6. Class M - Empty dwellings requiring or undergoing major repairs or structural alterations (12 months limit)**

The premium will only be removed from a property if it is unoccupied and substantially unfurnished and:

- a). In need of major repair work to render it habitable, or
- b). It is having structural alterations.

This can be in place for a maximum of 12 months.

This may last for up to 6 months after the main works or alterations are finished (as long as the property remains unoccupied and substantially unfurnished).

The criteria require proof (photos, invoices, a visit) before being removed. This is based upon what is uninhabitable for Council Tax purposes:

Table 2

Potential Qualifying Works	Non-Qualifying Works
<ul style="list-style-type: none"> <li>• Subsidence</li> <li>• Fire damage</li> <li>• Flood damage</li> <li>• Replacement floorboards and joists</li> <li>• Major repairs to roof structures</li> <li>• Moving or removing internal / supporting walls</li> <li>• Re-constitution of interior of property (e.g. changing from house to flats)</li> </ul>	<ul style="list-style-type: none"> <li>• Decorating work (e.g. wallpapering, painting)</li> <li>• New kitchen fitted</li> <li>• New bathroom fitted</li> <li>• New boiler / radiators</li> <li>• Rewiring</li> <li>• Removal of rubbish from the property</li> <li>• Works to garden / outbuildings</li> <li>• New floor coverings (e.g. carpets or laminate)</li> <li>• Timber / Damp Proof Treatments</li> <li>• Drainage</li> <li>• Repointing, replacing Windows / Doors</li> </ul>

## **7. Appeals**

If a person feels they have not been awarded an exemption or discount to which they should be entitled, there is a right of appeal. Or if a person feels they should not have been charged a premium. In the first instance an appeal should be made to the Council for the decision to be reconsidered. If the original decision is not changed, the Council will advise you of how to appeal to an independent Valuation Tribunal.