

## **Council Tax Variation Charge Report –2020/21**

This report sets out the statutory position for council tax on unoccupied and empty properties and provides information on how councils are currently applying powers to vary council tax on these types of property in 2020/21.

The first section of the paper sets out the statutory position for what can be charged and when discounts can or cannot be removed. All information in this section is taken from statutory instruments, and sources quoted throughout.

The second section then looks at councils using variation powers. All information in this section is taken from the websites of the councils referred to, and relevant pages are listed in the source section at the end of the paper.

The information is limited to what is publicly stated on council websites and does not include any unpublished discretionary exemptions or discounts that councils may be offering. Similarly, it states where we cannot find any information on council websites about disapplication of the discounts or application of the levy.

### **Section 1: The statutory position**

#### **What is the statutory starting point for council tax on empty properties?**

'The amount of council tax payable in respect of a chargeable dwelling and any day is subject to a discount of 50% of that amount if on that day there is no resident of the dwelling' in accordance with The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 (Regulation 3).

Under Regulation 4, councils have three options for varying the 50% discount in respect of unoccupied dwellings. These are; 1) a discount of a percentage other than 50%; 2) no discount applies; or 3) an increased amount of council tax.

However, there are some instances where councils are limited in their power to vary council tax from the starting point of 50% discount, and other instances where no council tax is payable. These instances generally derive from Regulations 5 and 6. They take effect because the powers in Regulation 4 do not extend to any circumstances covered by these two regulations.

The limitations and exemptions are either based on length of time the property has been empty for, or specific circumstances why property is empty. The following examples are the limitations and exemptions most likely to apply in empty homes work.

#### **Time based exemption determined by when property became unoccupied and unfurnished**

This applies to properties that are both unoccupied and unfurnished. In the first six months after the last period where a property was continually occupied for more than three months comes to an end, it is exempt from council tax. This is because these properties fall within the list of Exempt dwellings set out in Schedule 1 of *The Council Tax (Exempt Dwellings) (Scotland) Order 1997* as amended by *The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2012*.

Para 6.1 of the 21 May 2013 'Guidance on Local Authority Discretion to: Reduce Council Tax Discount on long term unoccupied homes; and apply an increase to long term unoccupied homes' confirms that these exemptions continue to apply.

### **Time based exemption for property that is unoccupied and undergoing major repair or structural alterations**

Under para 2 of Schedule 1 of *The Council Tax (Exempt Dwellings) (Scotland) Order 1997* as amended by *The Council Tax (Exempt Dwellings) (Scotland) Amendment (No. 2) Order 1999* a property which is incapable of being lived in and is not being lived in because it is being structurally repaired, improved or reconstructed, is exempt from council tax for up to twelve months since it was last occupied, provided that it is no longer than six months since the work was substantially completed.

For empty homes purposes, there are several points to note about this exemption.

The first is that the exemption runs from the date a property was last occupied. It does not run from the date other exemptions expire.

What this means in practice is that if the property is also unfurnished, it will be exempt irrespective of whether it is undergoing major repair work or structural alteration. From months 6 to 12, it will be exempt because it is undergoing major repair work or structural alteration (or no more than six months have passed since the work was completed). However, from month 13 it will no longer be entitled to the exemption, as it will have been more than 12 months since it was last occupied.

Therefore, for the full twelve months exemption for major repair work or structural alteration to be claimable, the property must have been uninhabitable on the day the last period of occupation ended or have become uninhabitable on the same day that the occupation ended. Otherwise the 12 month time limit on the exemption will have ceased before it has been uninhabitable for a year.

By its very definition, a property that is occupied is unlikely to be classified as uninhabitable, as someone is inhabiting it by living there.

On this basis the only instances where someone may be likely to receive the full 12 months exemption would be where;

- the person occupant moved out but did not claim any exemption they may have been entitled to (for example, if they were placed in a care home, but continued to pay council tax on the property)
- the property became uninhabitable as a result of an event that meant the previous/current occupant had to leave the property (for example, if the property was subject to a fire where major structural damage occurred), or
- it can be shown that the person was living in the home in spite of it being uninhabitable (for example, the property was rented to someone but had deteriorated to the point where it required major repair work during the course of the tenancy).

The next thing to note is how the six month time and twelve month time limits in the exemption itself work in practice. The exemption can be claimed where 'no more than 12 months have elapsed since the last occupation day; and no more than 6 months have elapsed since the major repair work or structural alteration in question was substantially completed.'

Three examples are given below to show what this may mean for property owners. In the first, the work is substantially completed within four months of the date the property was last occupied. In the second, the work is substantially completed within nine months of the date the property was last occupied. In the final example, the work is completed over one year after the property was last occupied.

In all the examples, the date the property becomes uninhabitable, and the need for the work arises, should be assumed to be any time prior to the date the work is completed.

**Example 1:**

The property becomes unoccupied on 1 January 2020. All work is completed by 1 May 2020.

The exemption will end on 1 November, six months from when the work was completed and ten months from the date the property was last occupied. No major repair/structural renovation exemption can be claimed between months 10 and 12, as at that time it will be more than 6 months since the work was substantially completed. For the twelve month exemption to apply, it must be 6 months or less since the work was substantially completed.

Between months 10 and 12, the property will however be eligible for a discount of between 10% and 50% in accordance with the time based discounts set out below.

**Example 2:**

The property becomes unoccupied on 1 January 2020. All work is completed by 1 September 2020.

The exemption will end on 1 January 2021, as the property will then have been unoccupied for a year. It does not matter that it is less than six months since the work was substantially completed, as the exemption expires when the earliest of the two dates (12 months since last occupied, 6 months since work substantially completed) comes to an end.

After month 12, if the property is being marketed for sale or for let, it will be eligible for a discount of between 10% and 50%.

If it is not being marketed for sale or let, council tax may be charged at the same rate as for other long-term empty properties in that council area. Councils may, at their discretion, postpone imposition of the council tax levy and/or continue to charge council tax at a discounted rate. In practice, this may depend on whether there is still minor or other repair works, conversions or structural alterations, being carried out on the property, prior to either moving in, selling, or renting out the property.

### **Example 3:**

The property becomes unoccupied on 1 January 2020. All work is completed by 1 March 2021.

The exemption will end on 1 January 2021, as the property will then have been unoccupied for a year. It does not matter that the work will still be ongoing at this date, as the exemption expires when the earliest of the two dates (12 months since last occupied, 6 months since work substantially completed) comes to an end.

As with example 2, after month 12, if the property is being marketed for sale or for let, it will be eligible for a discount of between 10% and 50%.

If it is not being marketed for sale or let, council tax may be charged at the same rate as for other long-term empty properties in that council area. Councils may, at their discretion, postpone imposition of the council tax levy and/or continue to charge council tax at a discounted rate.

In practice, this may initially be granted while the substantive work is completed (i.e until 1 March 2021 in this example) and beyond that, if there is still minor or other repair works, conversions or structural alterations, that need to be carried out on the property, prior to either moving in, selling, or renting out the property.

If the property is sold at a point where it still requires further major repair work or structural alteration in order to make it habitable, the new owner will be automatically

eligible for a council tax discount of 50% for six months. This discount is explained in greater detail below.

### **Time based discounts determined by when property became empty**

After six months of a property becoming **unoccupied and unfurnished**, council tax can be charged. However, it must be charged at a discounted rate until the property has been empty for at least twelve months. This is because, during this period, empty properties are covered by 6(1)(a) and (b) of the 2013 Regulations and this regulation does not allow for the discounted rate of council tax to be withdrawn completely, or for council tax to be increased.

The statutory starting point of 50% can however be reduced down to as low 10%.

For properties that are **unoccupied and furnished** the amount of discount can be reduced as soon as the property becomes unoccupied – effectively meaning that it may never receive a 50% discount.

After twelve months, unoccupied properties are covered by Regulation 6(2)(a)(b) and (c). These powers are similar to those in Regulation 4. The largest difference is that they impose a maximum increase of 100% (double council tax).

However, the ability to either reduce the amount of discount, remove the discount, or increase council tax after month 12 will still be restricted if other exemptions or limitations apply as set out below.

### **Time based discounts determined by date of purchase of property**

Where a dwelling which is undergoing or requires major repair work to render it habitable, or is undergoing structural alteration, is sold to a new owner, the 50% council tax discount cannot be reduced or withdrawn during the period of 6 months beginning with the day on which that dwelling was purchased by the person who is liable to pay council tax in respect of that dwelling.

This is because these properties are included in the categories of property covered by Regulation 5, meaning that Regulation 4 powers do not apply to them.

### **Circumstance where 50% discount can be reduced but not withdrawn after twelve months**

Where a property is being marketed for sale or for let in accordance with Schedule 2 of the 2013 Regulations, then, even where it has been unoccupied for more than 12 months, councils will not be able to either a) remove the council tax discount entirely or b) increase the council tax on the property. This is because these properties fall within 6(1)(a)

and (b) of the 2013 Regulations, and so the only options are to give a discount of between 10% and 50%.

This limitation runs for properties that have been continuously unoccupied for less than two years. It does not run from the date the property was put on the market.

What this means in practice is, for example, if a property is put on sale nine months after it was last occupied, it would only be exempt from having discounts removed fully and/or council tax increased for a further 15 months. Beyond that date, whilst it would not have been on sale for two years, it would have been unoccupied for two years.

If the property had been repossessed and not out on sale more than two years later however, it would appear to remain exempt from council tax beyond the two-year period and for however long it is on the market for after it is advertised for sale or let.

### **Circumstance where 50% discount cannot be reduced or withdrawn after twelve months**

Where a property is purchased that requires major repair work to render it habitable, or which is undergoing structural alteration, then, in accordance with Regulations 4 and 5(c) of the 2017 regulations, the 50% discount cannot be reduced or withdrawn, and council tax cannot be increased for a period of six months beginning with the day of purchase.

This is because Regulation 5 withdraws the right of local authorities to modify the 50% discount provided for by Regulation 3.

This provision is carried forward from the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005, and the 2-year limitation referred to in Schedule 2 does not apply to these properties as the properties are not being marketed for sale or for let. Additionally, the regulation applies specifically to the date of purchase and not the date the property became empty.

What this means in practice is that if a property has been sold whilst still needing major repair or structural alteration, there is a right to six months discount at 50% from the date of purchase irrespective of whether any previous discount period has expired.

### **Other circumstance-based exemptions from council tax**

In addition to the exemptions set out above for unoccupied and unfurnished properties, and properties that are incapable of being lived in and are being structurally repaired, improved or reconstructed, there are some other exemptions that may arise frequently in empty homes work. These are;

**Repossession** - Under para 13 of Schedule 1 to the 1997 Order, property that has been repossessed by a lender and is not the sole or main residence of any person is also exempt from council tax. This exemption applies irrespective of how long the property has been empty for, and only ceases when the property changes hands.

The owner of the property prior to repossession has to apply for this exemption, and while procedures will vary between councils, they will normally require a letter from the bank or building society confirming the date of repossession.

If the person does not have such a letter, it is likely that formal repossession proceedings have not been concluded, and they are still liable for council tax on the property once any statutory exemption periods have come to an end.

**Death** - The list of Exempt dwellings set out in Schedule 1 of *The Council Tax (Exempt Dwellings) (Scotland) Order 1997* includes at para 6, a dwelling where the owner has died, and either no grant of confirmation has been made, or no more than six months have passed since a grant was made.

Given that a grant of confirmation cannot be applied for, let alone made, on the date of death, in practice this means that the length of time that an unsold property, where the owner has died, will be exempt from council tax will be longer than six months.

Three practical examples are outlined below. The first explains what exemptions apply when a grant is issued within six months of date of death. The second sets out what happens when the date a grant is issued is after six months have passed since the time of death. In both of these examples, it is assumed that the property owner was living in the property at the time of death.

In the third example, the property owner was not living in the property at the time of death and was instead living in a care home. This example explains how that scenario changes what happens after any periods of exemption from council; tax come to an end.

#### **Example 1:**

The property owner dies on 1 January 2020. The grant of confirmation is issued on 1 May 2020.

The exemption will end on 1 November, six months from when the grant was made and eleven months from the date of death. Assuming the property was occupied by the owner at the date of death, by the time that six months have passed from when the grant was issued the property will only have been unoccupied for 10 months (from 1 Jan to 1 November).

This means that it will still be covered by 6(1)(a) and (b) of the 2013 Regulations, and so, while it will become liable for council tax, it cannot be charged full council tax. It must instead be charged at the standard discounted rate in that local authority.

Once a year has passed since the death of the owner and the date when the property became unoccupied, then, as the grant of confirmation will have been issued over 6 months ago, the property will be treated for council tax in the same way as any other long-term empty property. So, if it is not being actively marketed for sale or rent it will become liable for full council tax and/or a council tax levy.

If it is being actively marketed for sale or rent, it remains eligible for the discounted rate of council tax for up to two years from when it first became unoccupied.

### **Example 2:**

The property owner dies on 1 January 2020. The grant of confirmation is issued on 1 September 2020.

The exemption will end on 1 March 2021 as that is the latter of six months from the date of death or six months from the date when the grant was issued.

At that point, as it has been unoccupied for a year, it will fall within Regulation 6(2)(a)(b) and (c), meaning that it may be charged full council tax and/or a council tax levy depending on the policy of the council in respect of long term empty properties.

However, if it is being actively marketed for sale or rent, it remains eligible for the discounted rate of council tax for up to two years from when it first became unoccupied, and council tax cannot be charged at a full, or increased, rate until the end of that period.

### **Example 3:**

The property owner went into a care home on 1 January 2020 and the property remained unoccupied after that date. They died on 1 April 2020. The grant of confirmation is issued on 1 August 2020.

The exemption will end on 1 February 2021, six months from when the grant was made and ten months from the date of death.

At this time the property will have been unoccupied for 13 months (from 1 Jan, the previous year). This means that statutory right to discount based on a property being unoccupied for twelve months or less will have ceased to apply, and it will fall within Regulation 6(2)(a)(b) and (c), meaning that it may be charged full council tax and/or a council tax levy depending on the policy of the council in respect of long term empty properties.



However, if it is being actively marketed for sale or rent, it remains eligible for the discounted rate of council tax for up to two years from when it first became unoccupied, and council tax cannot be charged at a full, or increased, rate until the end of that period.

Where the length of time the owner spent in care before they died is longer than in this scenario, there is, of course, the risk that the property will have deteriorated and may even require major structural works or alterations before it becomes habitable once again. However, this does not alter the liability for council tax.

The reason for this, is that the exemption for properties undergoing major repair or structural alteration, runs for a year from when the property became empty. So, at the time the grant is issued, it is over a year since it became empty and the exemption period has ended. While some councils may apply discretion and give discounts at this time, if they are satisfied that work is being carried out on the property, they are under no obligation to do so.

It is worth noting, however, that if the property is sold while still requiring these repairs, the new owners are entitled to a discount of 50% for six months from the date of purchase, and that this discount is not determined by the day the property became empty.

## **Section 2: Use of variation powers**

### **How many councils are using variation powers?**

All councils are using variation powers to some extent, and most are now using powers to increase council tax beyond 100%.

The only ones not doing this with effect from 1 April 2020 are; East Renfrewshire and Shetland.

The current position in relation to discounts, variation of discounts, removal of discounts and increases of council tax for all 32 councils are set out below.

All information is taken from information that can be found on council's websites only, and therefore is what members of the public could be reasonably expected to be able to find ahead of getting a council tax bill.

The information is correct to the best of our knowledge as at 13 March 2020.

### **Councils reducing the discount- Unoccupied but furnished – first year**

In the first six months after becoming empty, discounts can be reduced from 50% to 10% for properties that are furnished and unoccupied.

**West Lothian** is the only council that we know of that retains the 50% discount in the first year.

**Fife** also appear to offer a 50% discount. The Sole or Main Residence section on the Council Tax Discounts and Exemptions page of their website states 'If you own a furnished property but live in another we need to establish your main residence. We call this 'Sole or Main Residence'. There is no discount on the water and sewerage charges. You may get a discount of 50% depending on the circumstances and the time the property has been empty.' There is no separate section that covers unoccupied furnished empty properties and the Long Term Empty Properties section refers solely to unfurnished properties.

The following 25 council websites confirm that these councils immediately reduce the discount from 50% to 10% on properties that are furnished and unoccupied;

- Aberdeenshire,
- Aberdeen City,
- Argyll and Bute,
- Borders,
- Clackmannanshire,
- Dundee,
- Dumfries & Galloway,
- East Dunbartonshire,
- East Lothian,
- East Renfrewshire (see note below),
- Edinburgh,
- Highland,
- Glasgow,
- Inverclyde (see note below),
- Midlothian,
- Moray,
- North Ayrshire,
- North Lanarkshire,
- Orkney,
- Perth & Kinross,
- South Ayrshire (see note below)
- South Lanarkshire,
- Shetland,
- Stirling,

- West Dunbartonshire.

Notes:

**East Renfrewshire's** SECOND HOME/ UNOCCUPIED PROPERTY DISCOUNT form states that a 10% discount applies if 'You have moved and are unable to sell your old home', and 'A gap between tenants of a furnished let.' It makes no reference to a property where owners have moved and have not yet attempted to sell or rent the property.

**Inverclyde's** website is also potentially misleading, because of its definitions of long-term empty property and second home. The website states that an 'empty dwelling' is defined as a dwelling, which is both unoccupied and unfurnished. A 'long term empty dwelling' is a property that has been unoccupied and unfurnished for more than 12 months. A 'second home' is defined as a dwelling, which is no one's sole or main residence and is not an empty dwelling.

The reference to unoccupied and furnished properties says that 'Prior to 1st April 2005, where a dwelling was unoccupied but furnished and was no one's sole or main residence, a 50% discount applied. From 1st April 2005, the discount reduced to 10%. This charge will apply to periods between tenants for private furnished lets'. This may be read as implying that this is the only instance where this discount would apply.

**Shetland** website notes that 'Since 1 April 2005, the discount is 10% off the Council tax charge. There is no reduction in the water and sewerage charges. A discount of 50% may apply depending on the circumstances and the length of time the property has been empty.'

**South Ayrshire's** website states that there is a discount of 10% for unoccupied properties on its 'Discount for Unoccupied Properties' application form. This discount is not stated anywhere else on its website and the section on its council tax discounts page that links to this form is headed up 'Second Homes' and makes no reference to unoccupied properties in the text, although the form is referred to as 2nd Home - Unoccupied Discount Application.

Elsewhere the site also notes 'If you are marketing your property for sale or rent within the first year of it becoming unoccupied you can apply for relief from the levy at any point. Once you provide the required proof, your Council Tax account will be updated to reflect a 10% discount if the property is still for sale or rent after the first 12 months. We will contact you during this period to confirm that the property continues to be marketed for sale or rent.'

Of the remaining 5 council websites, the position on their websites are as follows;

**Angus** council's website makes no reference to furnished and unoccupied properties on any of its discounts or exemptions pages.

**East Ayrshire** council's website makes no reference to furnished and unoccupied properties on either the discounts or exemptions page. Discount page states 'A Council Tax discount of 25% is available for properties occupied by one liable person aged 18 years or over. The discount is variable and is between 10-50% where the property is not the sole or main residence of any person. Water and Sewerage charges do not attract a variable discount'. There is also a link to 'council tax variable discount application form' in left hand column. The form itself gives no indication of what discount to expect.

**Falkirk** Council's website makes no reference to furnished and unoccupied properties on the Council tax discount/exemptions/additional charges page. There is a link at the bottom of the page which is worded 'More than one property -Council tax exemption claim form - Unoccupied property' This takes you through to a form headed 'COUNCIL TAX DISCOUNT APPLICATION FORM Unoccupied Property'.

**Renfrewshire** council's unoccupied property page refers only to unfurnished and unoccupied properties. There is no reference on their website to furnished and unoccupied properties there.

**Western Isles** makes no reference to furnished and unoccupied properties on the discounts and exemptions page or elsewhere on their website. There does not appear to be any discount application forms for this on the site either.

Again, in all instances, the legislation is clear. These properties should receive at least a 10% discount in year one. The websites are therefore misleading.

### **Councils reducing the discount- Unfurnished and Unoccupied - between months 6 and 12**

Between months 6 and 12, discounts can be reduced from 50% to 10% for properties that are unfurnished and unoccupied. Prior to this, they are exempt from council tax as empty properties.

The following 15 council websites confirm that these councils immediately reduce the discount from 50% to 10% on properties that are unfurnished and unoccupied as soon as they have been empty for six months;

- Aberdeenshire,
- Aberdeen City,
- Argyll and Bute,
- Dundee,
- East Renfrewshire (see note below)

- Edinburgh City,
- Glasgow,
- Highland,
- Orkney,
- Perth & Kinross,
- Renfrewshire,
- South Ayrshire (see note below)
- Stirling
- Shetland
- West Dunbartonshire.

**East Renfrewshire's** Council Tax Discounts and Exemptions page lists 'people with a second home or an unoccupied property' as people who 'aren't counted when working out the number of adults who live in a property.' Its Second Home/Unoccupied Property discount form lists categories of property entitled to a 10% discount. These include where 'You have moved and are unable to sell your old home' and where there is 'A gap between tenants of a furnished let' and 'A void property after the six month exemption period'. The latter category may cover unoccupied and unfurnished property.

**Shetland** website notes that 'Since 1 April 2005, the discount is 10% off the Council tax charge. There is no reduction in the water and sewerage charges. A discount of 50% may apply depending on the circumstances and the length of time the property has been empty.'

**South Ayrshire's** website states that there is a discount of 10% for unoccupied properties that are for sale or rent in the first year after becoming unoccupied. It does not state what discount is applied if the property is unoccupied but not for sale or rent. However, this is included in the 'Discount for Unoccupied Properties' application' form on their site

The following 14 council websites confirm that these councils do not reduce the discount and it remains as 50% on properties that are unfurnished and unoccupied and have been empty for six months;

- Angus,
- Borders
- Dumfries and Galloway,
- East Dunbartonshire,
- East Lothian,
- Falkirk, (information given on their COUNCIL TAX DISCOUNT APPLICATION FORM Unoccupied Property form)
- Fife,
- Inverclyde,
- Midlothian Council,

- Moray
- North Ayrshire,
- North Lanarkshire
- South Lanarkshire
- West Lothian

Of the remaining three council websites;

**Clackmannanshire** website contains contradictory information. On its Discounts and Reductions page it gives the following information under the heading Long Term Empty Properties;

'An exemption will still apply to an empty and unfurnished property for up to 6 months from the date it was last occupied. After this, a 50% discount will be awarded for a further 6 months.'

On its exemptions page it states 'If the property is unoccupied and unfurnished, a 100% exemption may be awarded against your Council Tax, water and sewerage charges. The exemption is for up to 6 months from the date the property was last occupied for 3 months or more.'

**East Ayrshire** council's website makes no reference to unfurnished and unoccupied properties on the discounts page of its website. On the exemptions page of the site it notes that 'Exemption from payment of Council Tax can apply: where a dwelling is unoccupied and unfurnished' An application form states that the exemption lasts for six months, but gives no detail of the discounted period that follows.

**Western Isles** lists the exemption for unfurnished and unoccupied for six months (although it classes this as a 'maximum' exemption) but makes no reference to the statutory discount for unoccupied properties as a whole (both unfurnished or furnished) in the first year.

### **Councils removing the discount and/or applying the council tax levy.**

From month 12 onwards, or from month 24 where properties are being actively marketed for sale or rent, a council may remove any discounts so that council tax is payable at 100% or increase council tax to anything up to 200%. Increases are generally referred to as the 'Council Tax Levy' although this term does not appear in the legislation itself.

This section covers what each council does in relation to the discount and levy from month 12 onwards.

The following councils do not remove the discount at month 12;

**East Renfrewshire** make no change to the discounts they offer at this stage (but please see earlier note about what property types are listed on their website as eligible for discounts)

**Shetland** continue to offer a 10% discount to unoccupied properties.

The following councils remove the discount at month 12 but do not increase council tax beyond 100% at that time;

**Aberdeenshire** remove the discount for unoccupied properties after 1 year, but do not apply the 100% levy until a property has been unoccupied for 24 months without occupation. Both of these time periods are extended by a further 12 months for properties that are for sale or let or have been sold but are undergoing or requiring major structural works.

**East Lothian**, remove the council tax discount but do not increase council tax after a property has been empty for twelve months. They then charge 150% on properties unoccupied for two years and 200% on properties unoccupied for three years with the exception of properties marketed for sale or let. In these instances, the dates are pushed back by 1 year (i.e 150% for 3 years empty, 200% for 4 years).

**Inverclyde** increase council tax by 50% after a property has been empty for more than a year. There are no subsequent increases. This information is included on the Exemptions page of their website and is stated to apply to unfurnished and unoccupied properties. However, on the Property Discounts page of their website, it says that the increase is 30%. This increase was replaced by the 50% increase in 2018. There are no references to furnished and unoccupied properties on either of the two pages in relation to the levy or ending of the 10% discount.

The following councils increase council tax to 200% once properties have been empty for 12 months, or 24 months where properties are being actively marketed for sale or rent, except where noted;

- Angus council (see note below),
- Aberdeen City,
- Argyll and Bute (see note below),
- Borders council,
- Clackmannanshire Council,
- Dumfries and Galloway,
- Dundee,
- East Ayrshire,
- East Dunbartonshire
- Falkirk,

- Fife,
- Glasgow (see note below),
- Highland (see note below),
- Midlothian,
- Moray (see note below),
- North Ayrshire,
- North Lanarkshire (see note below),
- Orkney (see note below)
- Perth & Kinross,
- Renfrewshire (see note below)
- South Ayrshire,
- South Lanarkshire,
- Stirling,
- West Dunbartonshire (see note below)
- Western Isles
- West Lothian

**Angus** website only gives details of the levy on a page headed up 'Council Tax Empty Property Discount'. The page also refers to unfurnished and unoccupied only. It does not refer to furnished and unoccupied properties.

**Argyll and Bute**, the increase is postponed for up to twelve months where property is undergoing major repairs. This only applies whilst these works are being actively carried out and provided that building warrants and planning permission where necessary have been obtained and there is a schedule of works.

**East Dunbartonshire** for unoccupied properties that have been continuously unoccupied for more than 1 year and have been bought by a new owner on or after 1st October 2018 who intend to bring the property back in to use, the 200% charge *will* not be applied until once 1 year has passed since the transfer of ownership. At that time the charge will take effect even if the property is not ready to be occupied, let, or sold.

To benefit from the additional twelve months without the levy, the new owner must be able to demonstrate that they are progressing and finishing renovations prior to moving in to, letting, or selling the property.

It is noted that their Changes to Long Term Empty Properties and Second Homes page that contains this information makes no reference to the statutory 50% discount that also applies to these properties.

**Glasgow**; Properties which are in one of the Council's Transformational Regeneration areas are exempted from the additional 100% Council Tax charge and continue to receive a discount of 10% of the Council Tax charge.



**Highland**'s Long term Empty Property Discretion application notes that 'We have discretion to delay the 200 per cent charge for up to a year if the property meets certain criteria: The property is taking a long time to sell or let in a stagnant market; The owner has agreed with our empty homes officer to take positive steps to re-occupy the property; The owner is finishing renovations prior to moving in or selling or letting and can demonstrate that these works are progressing.

**Moray** website notes that they reduce the discount on properties being actively marketed for sale or let to 10% after 12 months, but delay the increase on these properties until they have been empty for three years. Additionally, the website notes that where a property requires major work or structural alteration but has been unoccupied for more than 12 months, there is a 50% discount for 6 months followed by a 10% discount for an additional six months. This is likely to arise where the person liable to pay council tax changes.

**North Lanarkshire** applies a 10% discount for new owners of empty properties for up to six months following purchase. At the end of this period, the levy applies. Their website notes; The council has approved a discretionary exemption from the Council Tax levy for 'unoccupied dwellings' purchased by new owners for a maximum period of up to six months, from the date of purchase. The discretionary exemption applies to any properties where the date of transfer/ownership of the property is on or after 14 September 2016. A 10% discount is applicable for such properties for a maximum period of up to six months from the date of transfer/ownership of the property.' No reference is made to the statutory 50% discount that should apply where the property requires major work or structural alteration.

**Orkney** delay the imposition of the surcharge until 3 years from the property becoming unoccupied if the property is situated in the North or South Isles (excluding Burray and South Ronaldsay) and is being genuinely marketed for sale or let at a realistic market price. Additionally, they set out other circumstances where they have discretion to delay the 100% surcharge at [http://www.orkney.gov.uk/Files/Housing/Council\\_Tax/Ctax%20Additional%20Information/Ctax-charges-on-empty-properties-and-second-homes-leaflet.pdf](http://www.orkney.gov.uk/Files/Housing/Council_Tax/Ctax%20Additional%20Information/Ctax-charges-on-empty-properties-and-second-homes-leaflet.pdf) although we note that in some of the circumstances the delay may be mandatory not discretionary.

**Renfrewshire** website refer only to unfurnished and unoccupied properties in relation to the 200% charge. There are no references at all to furnished and unoccupied. It is assumed that levy will be charged on furnished and unoccupied in the same way as for unfurnished.

**West Dunbartonshire** do not apply the increase where the property remains actively marketed for sale or let.

In addition to the above mandatory and discretionary limitations on when council tax discounts can be removed and/or the levy imposed, there is also a statutory right to a 50% discount for six months from the date of purchase where a new owner purchases a property that is undergoing, or requiring, major repair or structural alteration, irrespective of whether the property has been empty for 12 months or more. The next section of the report covers council's published statements regarding this discount and any subsequent discount that follows the conclusion of the six month period.

### **Unoccupied and undergoing (or requiring) major repair or structural alteration – new owners**

This section covers councils that specifically refer to the six month statutory discount for new owners of properties that are undergoing, or requiring, major repair or structural alteration.

The following 19 councils confirm that this discount is available on their websites;

- Aberdeen City
- Aberdeenshire
- Argyll and Bute
- Borders
- Dumfries & Galloway
- Dundee;
- East Dunbartonshire (see note below)
- East Renfrewshire
- East Lothian
- Edinburgh City
- Fife
- Highland
- Inverclyde
- Moray (see note below)
- North Ayrshire
- North Lanarkshire (see note below)
- Perth & Kinross
- Stirling
- Western Isles
- West Lothian

**East Dunbartonshire** information is included only on the Council Tax Discount - Unoccupied Property.pdf form accessible through their discounts and reductions page. Elsewhere on their website it states that 'unoccupied properties that have been continuously unoccupied for more than 1 year and have been bought by a new owner on

or after 1st October 2018 who intend to bring the property back in to use, the 200% charge will not be applied until once 1 year has passed since the transfer of ownership' but does not refer to the statutory discount.

**Moray's** website's Council tax levy – what you'll Pay page states that 'Unoccupied (property) which requires major work or structural alteration but has been unoccupied for more than 12 months (receives) a 50% discount for a maximum period 6 months; followed by 10% discount for a maximum period 6 months;' however the Council Tax Levy page states that: 'if the person due to pay Council Tax changes, the new liable person will be entitled to a maximum period of 12 months relief from the levy. The relief award will be a 10% discount' It does not mention the 6 month 50% discount if the property requires major repair or structural alteration.

**North Lanarkshire** website is misleading and confusing. Its Changes to Empty Property Discount page states that 'The council has approved a discretionary exemption from the Council Tax levy for 'unoccupied dwellings' purchased by new owners for a maximum period of up to six months, from the date of purchase. The discretionary exemption applies to any properties where the date of transfer/ownership of the property is on or after 14 September 2016. A 10% discount is applicable for such properties for a maximum period of up to six months from the date of transfer/ownership of the property.'

Although the 50% discount is included on the Empty Property Discount form accessible from that page, it is unlikely that anyone would be aware of this from the wording on the website. It is also noted that there is no option elsewhere to apply for the discretionary 10% discount, and nothing to suggest if this is an alternative discount for properties that aren't eligible for the full 50% discount. The use of the word 'exemption' is also potentially misleading as it is to an exemption from the levy, not to council tax as a whole.

Of the remaining 15 councils, the following 8 also have information that may be misleading or confusing to users.

**Angus'** website states that 'If you are the new owner of an empty property which requires or is undergoing repairs you may be entitled to a further period of discount' however there is no reference to how long the discount runs for, or that it is mandatory where the property is undergoing major repairs or structural alteration.

**Clackmannanshire's** website exemptions page states that 'A previous owner or occupier's use of the property may affect how much discount you get and for how long. A discount may be applied with time limits.' The section goes on to say 'If your property is uninhabitable, you may be awarded a 100% exemption against your Council Tax, water and sewerage charges. This is for up to 12 months from the date the property was last occupied.' No specific reference is made to new owners, and the six-month discount that is not determined by date of last occupation.

**Orkney's** website says: 'An empty property that has been unoccupied for more than 1 year and has been purchased or inherited by a new owner and requires major repair work (this does not apply to routine decoration) to bring the property back into use – delay of up to 1 year before applying surcharge of up to 100%, but also allow extension of a further year if there have been delays in the process, for example in obtaining Planning Permission or Building Warrants.'

While the delay in adding the surcharge is a discretionary policy that goes beyond what is required by legislation, the website does not mention the statutory 50% discount on the discounts page of the site. This may mean that people are unaware that the discount exists.

**South Ayrshire's** website includes the following: I have just bought a property that has been empty for more than 12 months. Do I have to pay the levy? The empty period is calculated from the date the property was last occupied regardless of ownership. As a new owner you can apply for a 50% discount for 6 months followed by a 10% discount for 6 Months (or up to 24 months if specific criteria apply) before the levy will apply.' There is no reference to the property needing to be undergoing (or requiring) major repair or structural alteration, and the 'regardless of ownership' is confusing as 6 months rule is an exception to ownership requirements. The answer as worded suggests that they may not be applying the legislation correctly.

**South Lanarkshire** website's Property undergoing major repair/awaiting demolition/occupation prohibited by law page says; 'If the property is unoccupied because major repair work is being carried out you may be able to reduce your Council Tax bill by 10%, 50% or 100%. Please note this reduction applies to the property, not to an individual household. This means that if the property has been lying empty or a reduction has been awarded on the property previously, the level and duration of the reduction you are entitled to may be affected'

This is misleading as it does not mention that the 50% statutory 6 month discount for new owners exists, and does not apply to the property in that it can be claimed after a previous 12 month exemption period has ended.

**West Dunbartonshire's** website notes that: 'Following a review of the Empty Property Discount Policy, some discretionary elements have been agreed. Discretionary element for a maximum of 3 months for new owners that have purchased a property and where the property has exhausted all previous exemptions and discounts. This option provides a safeguard for new owners who have purchased empty properties that require work to be completed, that is not structural or major, to bring the property up to a suitable standard for habitation. A further discretionary period of up to 9 months will be considered to bring the property back into use if the owner has agreed with the Council to; Take positive steps to occupy their property; Agree to an 8 weekly inspection to review progress.'

The 6 month mandatory discount for properties that require major repair work to render it habitable, or which are undergoing structural alteration is not mentioned on the website.

The remaining 6 councils have no information about the statutory 6 month discretion;

- East Ayrshire
- Falkirk
- Glasgow
- Midlothian
- Renfrewshire
- Shetland

Of the 17 councils that do state that they offer the discount, the following also offer additional discounts

**Aberdeenshire** offer a further discount of 10% for six months.

**Argyll and Bute** reduce discount to 10% for six months after the expiry of the mandatory 50% discount period. They then offer an additional 12 months 10% discount to where the Planning and Building Control process has taken a significant period of time and there is clear evidence that building works have started.

**Inverclyde** offer a further discount of 10% after the six months 50% discount expires. No end date is given for the end of the 10% discount.

**Moray** after 50% discount expires, it is followed by 10% discount for a maximum period 6 months

**North Ayrshire's** website notes that 'you may be entitled to claim a 50% discount for any period up to 12 months from the date you became the owner.'

**Western Isles** website says that the 50% discount can be extended up to two years in some cases.'

It is also noted that while Orkney and South Ayrshire may contain incomplete or inaccurate information regarding the initial 50% discount, both sites confirm that discounts may be extended beyond six months.

**Orkney's** Council Tax charges on empty properties and second homes leaflet available on its website has a list of circumstances where there is Council discretion to delay 100% surcharge on an empty property. This includes

'An empty property that has been unoccupied for more than 1 year and has been purchased or inherited by a new owner and requires major repair work (this does not

apply to routine decoration) to bring the property back into use – delay of up to 1 year before applying surcharge of up to 100%, but also allow extension of a further year if there have been delays in the process, for example in obtaining Planning Permission or Building Warrants.’

**South Ayrshire** site notes that: ‘As a new owner you can apply for a 50% discount for 6 months followed by a 10% discount for 6 Months before the levy will apply’ although elsewhere it has contradictory information for the first six months following purchase.

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