

# **Council Tax Reduction Policy under Section 13A(1)(c) of the Local Government Finance Act 1992**

**Cyngor Gwynedd**

## **1. Purpose of the Policy**

This policy sets out the criteria and process for awarding a discretionary reduction to Council Tax under Section 13A(1)(c) of the Local Government Finance Act 1992. Its aim is to offer support to residents who are facing exceptional financial hardship or unusual circumstances.

## **2. Scope**

The policy applies to:

- Individuals experiencing temporary financial hardship.
- Vulnerable groups (e.g. care leavers, victims of domestic abuse).
- Cases where the liability to pay Council Tax arises due to unforeseen or exceptional events.
- Any other groups defined by the Council's Cabinet in order to facilitate the realisation of the authority's objectives.
- Certain cases where there is an exemption from the Council Tax Premium, but not basic Council Tax, in addition to the statutory exemptions that have been outlined in legislation.

## **3. Background**

Section 13A(1)(c) of the Local Government Finance Act 1992, gives the Council additional discretionary powers to reduce the amount of Council Tax payable for individuals, or for classes of taxpayers. This includes the power to reduce the amount payable to nothing.

This is separate and distinct from the Council Tax Reduction Scheme, which has replaced Council Tax Benefit since 2013. The Council Tax Reduction Scheme is decided annually by the full Council, usually at its meeting in December, and in accordance with statute before 31 January.

Whilst the Council Tax Reduction Scheme exists to provide support for those liable to pay the tax, some provision is needed for those residents who find themselves in 'exceptional' circumstances and need short-term support to meet their Council Tax obligation.

It is important to define what could be considered exceptional and in this case it would be a situation that was not typical, completely unusual and only likely to occur very rarely. Exceptional

situations for the purposes of this scheme are likely to be things outside the taxpayer's control, such as flooding of properties as an example.

Cyngor Gwynedd must bear the full cost of awarding any reductions to basic Council Tax under Section 13A. The Council must therefore balance the need of the individual council payers who need support against the interests of council tax payers in general.

An exemption from the Premium (in part or in full) will result in fewer resources being collected to realise the purpose of the Premium.

#### **4. Eligibility Criteria**

##### ***Basic Council Tax Reduction***

Applicants must:

- Be liable for Council Tax on properties within the Cyngor Gwynedd area.
- Have explored all other forms of support (e.g. Council Tax Reduction Scheme, exemptions, discounts).
- Show evidence of financial hardship or exceptional circumstances.
- Show that the situation is not the result of negligence or deliberate failure to pay.

##### ***Reducing or eliminating Council Tax Premium on Second Homes or Long-Term Empty Properties***

- In cases where an application is made for an exemption from the Council Tax Premium, an effort must be made to bring a vacant property back into use or evidence to be able to carry out a fair assessment to determine that the circumstances are truly exceptional.

#### **5. General Principles:**

It must be recognised that any decision to reduce or eliminate Council Tax for a taxpayer is funded by other taxpayers, so all applications must be considered in terms of benefit to the community and the County taxpayers. Similarly, lowering the level of the Premium results in fewer resources available to meet its intent.

- All applications must be considered in accordance with this procedure, fully and fairly.
- Those considering an application are required to be objective.
- Requests should be dealt with in a timely manner.
- Clear and simple guidelines need to be set and followed.
- This Policy will be reviewed regularly, taking into account any guidance from the Welsh Government and neighbouring council arrangements.
- Although each application is considered individually, consistency between applications should be ensured.

#### **6. The Application Process**

Applications must:

- Be submitted in writing by the responsible person or authorised representative.
- Contain:
  - The amount and period for which a reduction is requested.
  - Reasons for the request.
  - Evidence of income, expenditure, debt, and mitigation measures.
  - Where only a reduction in the Premium is applied, evidence showing that the exemption applies in accordance with this Policy.

## **7. Decision Making**

Each application will be assessed according to its individual merit. The Council will consider:

- Financial circumstances of the applicant.
- The effect of not awarding the discount.
- Cost to the public purse.
- Whether the applicant has taken reasonable steps to resolve the situation.

The decision procedure will be as follows:

- All applications must be in writing and clearly state that an application under Part 13A and this policy is being made.
- An application can relate to a financial year, part of a financial year or a time range (up to 6 years) – the relevant period must be stated in the application.
- Unless the decision to reduce the tax or premium has been made for a specified period, no reduction will extend beyond the end of the current financial year.
- All applicants are required to provide full and clear relevant details to enable those assessing the application to arrive at an accurate, timely and in accordance with the rules.
- A full outline of finances and personal savings associated with the application must be provided.
- A summary of the individual/household's personal finances should be provided detailing any other significant debts, assets of size (financial – savings/pension scheme, housing material/cars).
- Details of any vulnerability – which applies to the taxpayer or someone who is dependent on the taxpayer.

- It should be ensured that all other reasonable and lawful avenues have been followed to reduce the amount (including some bankruptcy arrangements) and that the last option is the Part 13A application.
- That reasonable action has been put in place to prevent a similar application in the future (application for exemption, relief, statutory discount, affordable arrangements approved by a qualified body – CAB or Money Helper)
- Where there are financial difficulties by an individual/family it will be necessary to demonstrate that an effort has been made to receive advice from one of the bodies named above.
- A statement of relevant circumstances is welcome from the candidate or representatives on her behalf.

**If the Council's Cabinet has not identified and defined a specific cohort of taxpayers or property eligible to receive a reduction in Council Tax (or Premium) in accordance with this Policy (see Part 10 below), a Panel consisting of the Cabinet Member for Finance, the Head of Finance / Assistant Head of Finance and the Tax Manager will consider individual applications for reductions under Section 13A.**

If further details are required the person considering the application may request further details/evidence by letter/email.

### **Informing decisions**

The Council will aim to consider the application and inform the customer of the outcome within 28 days of receipt of the claim and all supporting documents.

If the claim for relief is successful, the award will be made directly by discount applied to the Council Tax bill. This will be confirmed in writing and the Council's decision will include the following:

- The reason for the ruling
- Amount awarded
- Period of award
- Applicant's duty to report any changes in circumstances
- Any conditions attached to the award
- Details of the right to review

If a claim is unsuccessful, this will be confirmed in writing and the Council's decision will include an explanation of how the decision was reached and details of the right to request a review.

### **Appeal against a decision**

There is no statutory right of appeal but if a taxpayer believes there is an unfairness or a deficiency where the internal procedure has not been followed a statement of dissatisfaction can be submitted in writing to the attention of the Head of Finance.

The outcome of this further application will be communicated in writing to the applicant within three months.

## **8. Duration and Review Period**

- Discounts can be awarded for a fixed period or until the end of the financial year.
- Re-applications may be made if circumstances persist.
- Decisions are final, but a review can be requested if new evidence is presented.

## **9. Funding**

All awards to reduce basic Council Tax under Section 13A(1)(c) are funded by the Council and, ultimately, by local taxpayers. The Council will monitor the budget set aside for discretionary discounts.

The cost of an exemption from the Premium (in part or in full) is the loss of an opportunity to raise resources towards the purposes of the Premium.

## **10. Specific Groups**

Previous Cabinet decisions, allow the following reductions in accordance with Section 13A:

- Scheme 3e in the Housing Action Plan which extends the exemption period from paying Council tax on empty properties (main or sole dwelling) giving first time buyers an extra year to carry out essential restoration work before the house can be occupied including cases where the exemption period has already been claimed by the former owners.
- Allow a 50% reduction (25% for a short break Foster Carer) in the Council Tax bills of the main residence of foster carers registered with the Council.

## **11. Council Tax Premium**

This part of the policy outlines the circumstances and criteria in which a property owner can apply for an exemption to the Council Tax premium on long-term empty properties and second homes.

Cyngor Gwynedd's main principles for charging and collecting premiums are to encourage property owners to make use of houses as their main or sole home.

### **11.1 Definitions**

- Long-term vacant property: A dwelling without residents and without furniture for a continuous period of 12 months or more.
- Second home: A dwelling that is substantially furnished but is not the main home for anyone.

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## 11.2. Statutory and local exemptions

### 11.2.1 Statutory Exemptions for Empty Properties and Second Homes

The Council Tax (Higher Amounts Exemptions) (Wales) Regulations 2015 set out seven classes of properties that are exempt from the (statutory) premium.

Classes of Dwellings	Definition	The type of property eligible for the premium exemption
Class 1	Properties that are marketed as for sale – with a time limit of one year	Long Term Empty Homes and Second Homes
Class 2	Properties that are marketed as letting – with a time limit of one year	
Class 3	Annexes forming part of, or being treated as part of, the main dwelling	
Class 4	Property that would be one's sole or main residence if they were not resident in Armed Forces accommodation	
Class 5	Caravan sites and boat moorings.	Second Homes
Class 6	Properties where there is a planning condition: <ul style="list-style-type: none"><li>a. suspend occupation for a continuous period of at least 28 days in any period of one year;</li><li>b. specifies that the dwelling may only be used for short-term holiday accommodation; or</li><li>c. prevents occupation as a person's sole or primary residence.</li></ul>	
Class 7	Work-related properties	

## **Eligibility criteria for the statutory exemptions:**

### ***Class 1 – Property on the market for sale***

- The property must be for sale at a reasonable price (average price and the length of time similar dwellings are on the market in the local area; whether there are excessive restrictive conditions, such as the price, imposed on the property to prevent its sale).
- Evidence of marketing must be provided, e.g. Advertising on advertising websites (such as Rightmove/Zoopla) or other forms of marketing; An agreement with a real estate agent; Energy Performance Certificate;

Exemption period: up to 12 months

### ***Class 2 – Properties on the market for rent***

- The property must be let at a reasonable rent price (average rent and time on the market for a similar property in the local area; whether there are excessive restrictive conditions such as the rent preventing the property from being rented)
- Evidence of marketing must be provided, e.g. Registration Number and landlord's licence (Rent Smart Wales); Agreement with letting agent; Gas safety certificate

Exemption period: up to 12 months

### ***Class 3 – Annexes***

- Annexes forming part of the main dwelling – no additional evidence required.

Exclusion period – until a change in circumstances.

### ***Class 4 – Armed Forces***

- Dwellings that would be someone's only home if they did not live in armed accommodation.
- Evidence of service must be provided by the Ministry of Defence.

Exemption period – until a change in the individual's circumstances.

### ***Class 5 – occupied caravan sites and boat moorings***

***Class 6 - dwellings that are vacant because a planning condition prevents people from occupying them permanently or year-round, or states that the property is to be used as holiday accommodation only or prevents the dwelling from being used as a main residence***

### ***Class 7 – job-related dwellings***

- for an eligible person as set out in Part 1, Class 7 of the guidance.
- the Council may be requesting certain types of evidence (for example an employment agreement, tax returns, pay statement).



### 11.2.3 Second Homes Local Exemptions Only

The terminology used in Section 12B is not "second homes" or "holiday homes", but "dwellings occupied *periodically*". The Act states that the conditions for a property to be subject to a "second home" Council Tax premium are, "***there is no resident of the dwelling, and the dwelling is substantially furnished***". That is, this property is not anyone's main home, but it has been furnished. The Act does not contain any provision to be able to discriminate on the basis of where the owner lives, or if it is used for holiday purposes.

In that regard, the Council does not anticipate that it would be in a position to allow discretionary exemptions from the Premium to a wide cohort of properties without undermining the reason for introducing the Premium in the first place. *(This may lead to a need to consider it under the provisions of the Subsidy Management Act 2023).*

However, the Council is aware that changes in legislation are something that needs to be kept under constant scrutiny and as such this Policy, in terms of allowing local exemptions from the Premium on second homes, will also be reviewed regularly.

In accordance with Section 66 of the Local Government Finance Act 1988, a property which is intended to be let as self-catering holiday accommodation for at least 252 days in the next year, and has been let for 182 days in the previous year, is a non-domestic property for taxation purposes and therefore appears on the non-domestic rates list rather than in a Council Tax band. The threshold for letting was increased due to pressure from a number of public bodies, with Cyngor Gwynedd leading the way.

Any application for an exemption or reduction from this Premium will need to be able to demonstrate why its position is truly exceptional, and that the imposition of the Premium contravenes Government guidance on the setting of the Premium. A transfer of a property from the non-domestic rates list to a Council Tax band will not in itself be sufficient for a case to be exceptional – it will have to be shown what makes that particular situation unique.

This Policy allows officers to take action to grant an optional exemption from the Premium where the taxpayer is a recognised Community Enterprise with clear objectives of supporting the local community. In order to qualify, the Enterprise will need to share its articles / constitution with the Tax Service in order to satisfy Cyngor Gwynedd that the Menter meets the strict conditions in this paragraph. A ruling on this matter will be made by the Panel which consists of the Cabinet Member for Finance, Head of Finance / Assistant Head of Finance and the Tax Manager.

#### **11.2.4 Empty Property Local Exemptions Only**

Local Class A Exemption – Significant renovation of a property (2 Groups)

Group 1 - For the purposes of scheme 3e in the Housing Action Plan this exemption applies to first time buyers only.

First-time buyers will be exempt from council tax and premium for 12 months; after the end of the period of the Class A Council Tax Exemption.

Group 2 – Owners seeking access to their prospective main or sole home.

These owners get up to a further 12 months of exemption to the premium only; after the end of the period of the Class A Council Tax Exemption.

Eligibility criteria:

- The new owner must submit a detailed schedule of work and evidence of structural work (not minor work such as installing a new kitchen)

The exemption ends when:

- The work has been completed
- The property is occupied
- The deadline is coming

#### **12. Fraud**

Any application under Section 13A that is dishonest, or intentionally incomplete will be construed as fraud, with a file being provided and transferred to Cyngor Gwynedd's Legal Department with regard to whether there are grounds for prosecution.

A statement of honesty will be part of all applications under Part 13A.

Should there be a case of fraud and an amount has been deleted/reduced this action will be reversed with the amount becoming back payable.