

Guidance on discretionary exceptions to Council Tax premiums for long-term empty and second homes 2025/26

1. Introduction

West Devon Borough Council recognises that there may be certain circumstances where it may be inappropriate for council tax premiums to apply. This may be because the dwelling unsuitable for use as a main residence or there may be circumstances which make the dwelling difficult to sell or let.

In addition to the mandatory exceptions to the long-term empty and second homes premiums, the Council has also determined that the discretionary exceptions set out in the guidance will apply for the period 1 April 2025 to 31 March 2026.

The guidance sets out the circumstances in which the Council will consider a discretionary exception to a long-term empty or second homes premium. Full details of the qualifying criteria and evidence required can be found on the Council's website.

2. Discretionary exceptions to Council Tax premiums

Application	Definition
Long-term empty homes and second homes	Dwelling with an agricultural occupancy condition
Long-term empty homes and second homes	Dwelling with an age-related occupancy restriction which is being actively marketed for sale
Long-term empty homes and second homes	Dwelling with an age-related occupancy restriction which is being actively marketed for let
Long-term empty homes and second homes	Dwelling without a separate entrance which can only be accessed through existing business premises
Second homes only	Dwelling used as overnight staff accommodation to facilitate the running of a retail, hospitality or leisure business
Second homes only	Dwelling which is essential to provide better personal care to a close relative
Second homes only	Dwelling owned by a charity which is being used wholly or mainly as accommodation for charitable purposes
Second homes only	Dwelling which is required as party of a contract of employment

2.1 Dwelling with an agricultural occupancy condition

An exception will apply where a planning condition restricts the occupation of a dwelling to someone who is principally employed locally in agriculture or was last employed in agriculture.

This exception will apply for twelve months or until the planning condition is removed.

2.2 Dwelling with an age-related occupancy restriction which is being actively marketed for sale.

In recognition of the fact that some dwellings can be more difficult to sell, the Council will extend the mandatory **Class G exception (Dwellings being actively marketed for sale – 12 months)** for up to a further six months.

To qualify for this exception, there must be an age-related occupancy restriction which means the dwelling must be occupied by someone aged 55 or over. Further, the current owner must be unable to occupy the property due to an age restriction.

2.3 Dwelling with an age-related occupancy restriction which is being actively marketed for let.

In recognition of the fact that some dwellings can be more difficult to sell, the Council will extend the mandatory **Class H exception (Dwellings being actively marketed for let) - 12 months)** for up to a further six months.

To qualify for this exception, there must be an age-related occupancy restriction which means the dwelling must be occupied by someone aged 55 or over. Further, the current owner must be unable to occupy the property due to an age restriction.

2.4 Dwelling used as overnight staff accommodation to facilitate the running of a business.

Recognising the importance of the tourism industry in West Devon, a discretionary exception will apply for twelve months where the dwelling is being used as domestic overnight staff accommodation and is essential to help facilitate the day to day running of a Retail, Hospitality or Leisure business.

To qualify, the business must meet the criteria for the Retail, Hospitality and Leisure scheme 2025/26. The business will be deemed to be eligible for the exception even if it is unable to receive the relief due to the cash cap limit of £110,000 relief per business.

2.5 Dwelling without a separate entrance which can only be accessed through existing business premises.

A discretionary exception will apply where a dwelling does not have a separate entrance and can only be accessed through existing business premises.

To qualify for the exception, it must not be reasonably practicable to create a separate entrance, for example by constructing a new or unblocking an existing doorway.

This exception **will not apply** if the dwelling is being let on a periodic basis, for example as Airbnb accommodation.

This exception **will not apply** if the building is altered to remove or block up an existing separate entrance.

The exception will last for twelve months or until a separate entrance is created.

Before awarding this exception a physical inspection of the property will be required.

2.6 Dwelling which is essential to better provide personal care to a close relative.

A twelve-month discretionary exception will apply where a second home is essential to better provide personal care to a close relative due to old age, disability, terminal illness, past or present alcohol or drug dependence or a past or present mental disorder.

A close relative is defined as a spouse, civil partner, parent, child or sibling of the person requiring care.

The person receiving care must be receiving one of the following benefits:

- Attendance Allowance
- Disability Living Allowance
- Personal Independence Payment (PIP)

For the purpose of this exception old age is defined as 75 years or above.

This exception will last for twelve months or until the person receiving care no longer lives in the dwelling as their main residence.

2.7 Dwelling owned by a charity (including those 'excepted' from charity registration) which is being used wholly or mainly as accommodation for charitable purposes.

A twelve-month discretionary exception will apply where the dwelling is being used wholly or mainly as accommodation for charitable purposes in furtherance of the charity's charitable objects.

2.8 Dwelling which is required as part of a contract of employment.

A dwelling would be classed as a job-related dwelling where it is a dwelling provided by a person's employer for the purposes of performing their work. The definition of a job-related dwelling for the purposes of the mandatory exception is set out in the Council Tax (Prescribed Classes of Dwellings (England) Regulations 2003. Examples include headteachers for boarding schools who are required to live in school accommodation, or certain care workers who need to live on site to carry out their role.

Recognising there are other circumstances where a job-related dwelling is required, the Council will provide a discretionary exception from the council tax second homes

premium where a second home is contractually required by an employer for the furtherance of an employee's job.

It must be a condition of the employee's contract of employment that they occupy a dwelling, which is not their main residence, in the area covered by West Devon Borough Council and only where the employer's main business premises are physically located within the Borough.

The exception will last for twelve months or will end on the termination of the contract of employment, if sooner.

3. Application process

3.1 Applications for a discretionary exception to a long-term empty or second homes premium must be made using the Council's online form. Full details of the qualifying criteria and evidence required for each exception can be found on the Council's website.

3.2 Applications must be submitted with all relevant supporting evidence required to assess entitlement to a discretionary exception. If the applicant fails to do so the application will be refused.

4. Appeals process

4.1 Appeals against the decision to charge a long-term empty or second homes premium may be made in accordance with Section 16 of the Local Government Finance Act 1992.

4.2 The taxpayer must in the first instance write to the Council outlining their reasons for the appeal. A request for review must be received within 28 days of the notification of the decision to charge a second homes premium.

4.3 This will be reviewed by an independent decision maker who will consider whether any additional information has been received which would justify a change to the original decision and notify the taxpayer accordingly. This decision is at the ultimate discretion of the Council.

4.4 Where the taxpayer remains aggrieved, an appeal can be made to the Valuation Tribunal. The appeal must be made within 2 months of the decision of the Council to charge a premium. Full details can be found <https://valuationtribunal.gov.uk/council-tax-appeals/>

5. Fraud

5.1 The Council is committed to protecting funds and ensuring that premiums are correctly charged.

5.2 Any taxpayer who tries to reduce their Council Tax liability by falsely declaring their circumstances or providing a false statement or evidence in support of their application may have committed an offence under The Fraud Act 2006.

5.3 Where the Council suspects that fraud may have been committed it will be investigated and may lead to criminal proceedings being instigated.

6. Complaints

6.1 The Council's complaints procedure (available on the Council's website) will be applied in the event of any complaint received about this guidance.

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