



# Department for Communities and Local Government

13 March 2015

English Local Authorities

Dear colleague

## **COUNCIL TAX INFORMATION LETTER ON CLASS B EXEMPTIONS**

I am writing to draw your attention to a recent High Court judgment which sets out some useful guidance on the appropriate process for checking eligibility for a Class B empty homes exemption.

The Class B council tax exemption lasts for up to six months, and applies to empty dwellings owned by 'bodies established for charitable purposes only', which were last occupied 'in furtherance of the objects of the charity'.<sup>1</sup>

There are four requirements which must be met in order for a property to be eligible for the exemption:

- i. the dwelling must be owned by the body in question; and
- ii. the body must be established for charitable purposes only; and
- iii. the dwelling must have been unoccupied for a period of less than six months; and
- iv. the last occupation must have been in furtherance of the objects of the charity

In his judgment<sup>2</sup>, Mr Justice Mostyn considers the extent to which an applicant for a Class B exemption is required to provide proof of eligibility. He rejects arguments that there is a presumption that conditions (ii) and (iv) are satisfied where the applicant is a charitable social housing provider, but states that:

'In my judgment, a short written representation by the applicant (which might usefully be done on some kind of standard form) which addresses all four conditions directly and which states (a) that based on the material held by the

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<sup>1</sup> The Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558), article 3, as amended by The Council Tax (Exempt Dwellings) (Amendment) Order 1994 (SI 1994 No. 539), article 4a.

<sup>2</sup> [http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2015/161.html&query="housing+and+association"&method=boolean](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2015/161.html&query=)

applicant the conditions are met and (b) that the statement is true to the belief of the representor, should normally be enough.'

(paragraph 19)

He further points out that 'if such a representation turned out to be knowingly false that would be a serious business indeed as it would likely amount to an offence under section 2 of the Fraud Act 2006' (paragraph 20).

Given the simple and practical solution which Mr Justice Mostyn outlines, we do not consider that it is necessary to amend legislation to introduce the presumption set out above. A suggested form of wording which those applying for this exemption may wish to use in straightforward cases is set out in the annex to this letter. Applicants and local authorities will need to ensure that more complex cases, where this approach may not be appropriate, are dealt with in an appropriate level of detail.

Yours faithfully,



**Hülya Mustafa**  
**Deputy Director, Council Tax**  
**Local Government Finance**

**Annex A Suggested wording for a straightforward application for a Class B exemption**

The Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558), article 3, as amended by The Council Tax (Exempt Dwellings) (Amendment) Order 1994 (SI 1994 No. 539), article 4a, sets out four requirements which must be met in order for a property to be eligible for a Class B exemption:

- i. the dwelling must be owned by the body in question; and
- ii. the body must be established for charitable purposes only; and
- iii. the dwelling must have been unoccupied<sup>3</sup> for a period of less than six months; and
- iv. the last occupation must have been in furtherance of the objects of the charity

This application for a Class B exemption is in respect of

*[property address]*:.....

which was unoccupied from

*[date following day of last occupation]*.....

until

*[date preceding day of first new occupation]*.....

I declare that based on material held by

*[name and address of organisation]*.....

each of these four requirements is met in respect of this property and these dates. This statement is true to the best of my belief, and I understand that making a false statement could be an offence under the Fraud Act 2006.

*[name]*.....

*[position in organisation]*.....

*[signature]*.....

*[date]*.....

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<sup>3</sup> 'unoccupied' means that no one was living in the property (see definition of an 'unoccupied dwelling' in regulation 2(1) and (3) of The Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558), as amended by The Council Tax (Exempt Dwellings) (Amendment) Order 1994 (SI 1994 No. 539), article 4a). Any one period of not more than six weeks during which the dwelling was occupied is to be disregarded.