



BRIEFING PAPER

Number 02857, 26 November 2018

Council tax: empty properties

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Contents:

1. Council tax discounts for second homes
2. Empty Homes Premium
3. Impacts and mandatory discounts



Contents

Summary	3
1. Council tax discounts for second homes	4
1.1 England	4
Table: discounts for empty properties - England	4
1.2 Wales	5
1.3 Scotland	6
1.4 Second home discounts in England: 2004-2013	6
2. Empty Homes Premium	8
2.1 Empty homes premium: criteria	8
Table: empty homes premium	8
2.2 Calculating the empty period	9
2.3 Exemption: marketing for sale or rent	9
2.4 Other exemptions	10
3. Impacts and mandatory discounts	11
3.1 Effects of changes	11
3.2 Job-related accommodation	11
3.3 Council tax liability: service personnel posted overseas	12

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Summary

Local authorities in England, Scotland and Wales have considerable discretion over the levels of council tax discount available on unoccupied properties. They may require full council tax payment from the owners of empty second homes, properties undergoing major repair, or properties that are 'unoccupied and substantially unfurnished'.

There are a small number of mandatory exemptions to this power, and occupants of properties benefiting from these exemptions receive a 50% discount.

Local authorities may also set an 'empty homes premium' for properties that have been empty for over a specified period. The terms on which the premium is set vary between England, Scotland and Wales. The premium applies depending on how long the property has been empty, irrespective of the owner.

1. Council tax discounts for second homes

Billing authorities in England and Wales, and levying authorities in Scotland, have a range of discretionary powers over the level of council tax discount available on empty properties in their areas. Recent changes were made in 2013 in England and Scotland, and in 2017 in Wales.

1.1 England

As of 1 April 2013, local authorities have had the discretion to charge no discount on empty properties. The powers available are summarised in the table below. This followed a consultation on [technical reforms of council tax](#), to which the Government responded in May 2012.¹ The changes made are summarised in the table below.²

Table: discounts for empty properties - England

Class A: second homes where continuous occupancy for 28 days or more is prohibited	Discount of 0%-50%
Class B: second homes where continuous occupancy for 28 days or more is not prohibited	Discount of 0%-50%
Class C: properties which are "unoccupied and substantially unfurnished"	Discount of 0%-100%
Class D: vacant properties undergoing "major repair work" or "structural alteration"	Discount of 0%-100% for up to twelve months: not available six months after work completed

A 'second home' is a property which is not the 'sole or main residence' of any individual for council tax purposes. This may include a 'holiday home'. It may also include a property which the owner does regularly occupy, but another property is defined as their 'sole or main residence'.

It is for the billing/levying authority (the district or unitary council in England) to decide in the first instance whether a property is anyone's 'sole or main residence'. There is substantial case law on this matter.

¹ DCLG, [Technical reforms of council tax: summary of responses](#), 2012

² The relevant legislation is the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#). The [Council Tax \(Exempt Dwellings\) \(England\) \(Amendment\) Order 2012](#) (SI 2012/2965) abolished 'Class A and C exemptions', which provided for six months' exemption for empty dwellings and properties undergoing structural repair or alteration. These 'classes' do not relate to the 'classes' set out in the Table.

There is no statutory definition of the term 'unoccupied and substantially unfurnished'. Again, it is for the billing authority to decide whether a property meets this definition, and there is substantial case law in existence. The Department for Communities and Local Government (DCLG) provided some guidance on this point in 2014:

A property which is substantially unfurnished is unlikely to be occupied or be capable of occupation. A property which is capable of occupation can reasonably be expected to contain some, if not all, items from both of the following categories: furniture such as bed, chairs, table, wardrobe or sofa, and white goods such as fridge, freezer or cooker.

Where a property is said to be occupied it will be reasonable for the local authority to cross-check with the electoral roll, or ask for evidence, such as utility bills showing usage of services, driving licence as proof of address, or receipts or other proof of moving costs.³

Residents who disagree with the billing authority regarding whether a property is 'unoccupied and substantially unfurnished' may take their case to the Valuation Tribunal.

The amount of discount to be offered to properties falling into the categories in the table above is entirely at the discretion of the billing authority. Many authorities offer no discount for properties falling into these categories. Others offer a short period of exemption (for instance, one month) followed by full liability; or a short period of exemption, followed by a longer period of discount, followed by full liability.

A mandatory discount of 50% remains in place for caravan pitches; empty boat moorings; and job-related accommodation (see section 3.2 for further detail on the last of these).

1.2 Wales

In Wales, local authorities have discretionary powers to award a 25% or 50% discount on second homes, or to charge full council tax.⁴

Properties undergoing repairs or structural alterations attract exemption until the work is complete, followed by a maximum of six further months if the property remains empty.

A mandatory discount of 50% remains in place for job-related accommodation, caravans and empty boat moorings. This also applies to properties where the occupant has died, extending up to 12 months after the grant of probate, providing that the property is still empty.⁵

From 1 April 2017 billing authorities in Wales also have the ability⁶ to levy a premium of up to an additional 100% on second homes and long-term empty homes unoccupied for at least one year.⁷ They must

³ DCLG, [Council tax information letter: definitions of second homes and empty homes](#), 23 September 2014

⁴ See Sections 11 and 12 of the [Local Government Finance Act 1992](#)

⁵ See the [Council Tax \(Prescribed Classes of Dwellings\) \(Wales\) Regulations 1998](#) (SI 1998/105)

⁶ See section 139 of the [Housing \(Wales\) Act 2014](#)

⁷ Welsh Government, [Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales](#), January 2016

give at least one year's notice of premiums for second homes: for example, an authority wishing to charge a premium from April 2017 must have given notice of this before 1 April 2016.

There are seven exemptions from the second homes premium. Four of these are the same as the empty homes premium (see section 2 below). Additional exemptions cover job-related accommodation, caravans and empty boat moorings and homes where whole year occupation is not permitted.⁸

1.3 Scotland

The standard discount for empty property and second homes in Scotland is 50%.⁹ However, local authorities may reduce this discount to 10% for properties that are not second homes, and reduce this discount to 0% for second homes.¹⁰ To be classified as a second home, a property must be furnished and the taxpayer must demonstrate that it is lived in for at least 25 days a year. If the property has been empty for a year or more, an increase of up to 100% can be imposed unless it is up for sale or up for let.

A mandatory discount of 50% remains in place for:

- holiday homes which are subject to use restrictions (deriving from planning, licensing, or the nature of their construction or services);
- properties empty because the occupant is required to live in job-related accommodation;
- properties undergoing repairs or structural alterations, for a period of six months;
- properties that are unoccupied and substantially unfurnished.¹¹

1.4 Second home discounts in England: 2004-2013

Prior to April 2004, properties in England attracted a 50% council tax discount if no individuals used them as their 'sole or main residence'. This provision covered holiday homes, empty homes, and second homes rented or owned by persons who worked a long way away from the family home. It represented a doubling of the 25% 'single person discount', available to individuals who were the only resident in a property.

A Government white paper of November 2000 proposed that billing authorities should be given discretion to end the discount.¹² Following this, regulations were introduced which permitted billing authorities to reduce council tax discounts for second homes from 50% to 10%; and

⁸ Ibid.

⁹ See the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45)

¹⁰ The relevant legislation is the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Amendment Regulations 2016](#) (SI 2016/369).

¹¹ Ibid.

¹² DTLR, *Council tax: a consultation paper on proposed changes for second homes and long term empty homes*, 20 November 2001

from 50% to 0% for 'unoccupied and substantially unfurnished' properties.¹³ These changes could be applied in all or part of the billing authority's area.

¹³ The relevant legislation is the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) Regulations 2003](#) (SI 2003/3011).

2. Empty Homes Premium

2.1 Empty homes premium: criteria

Billing authorities in England, Scotland and Wales have the power to increase council tax on properties which have been 'unoccupied and substantially unfurnished' for a long period of time. This is known as the 'empty homes premium'. It is for the billing authority to decide whether to levy an empty homes premium.¹⁴

In England, billing authorities can charge up to 150% on properties which have been unoccupied and substantially unfurnished for over two years. This percentage is to increase from 2019-20 onwards (see below). In Scotland, billing authorities can charge up to 200%; the qualifying period is one year. Wales introduced equivalent powers to those in Scotland in 2017, alongside a power to charge up to 200% council tax on holiday homes with no permanent resident (see section 1.2 above).

A period of occupation of over six weeks in England and Wales (over three months in Scotland) qualifies as a break in the empty period, 'resetting the clock' for the purposes of the empty homes premium.¹⁵

The terms of the empty homes premium are shown in the Table below.

Table: empty homes premium

	England	Scotland	Wales
Introduced	2013	2013	2017
Maximum charge as % of standard bill	150%	200%	200%
Property must be empty for	2 years	1 year	1 year
'Reset period'	6 weeks	3 months	6 weeks

At the November 2017 Budget, the Chancellor announced the Government's intention to legislate to bring the maximum in England up to 200%.¹⁶ The [Rating \(Property in Common Occupation\) and Council Tax \(Empty Dwellings\) Act 2018](#) brought in this power with effect from the 2019-20 financial year.

¹⁴ See section 12 (2) of the [Local Government Finance Act 2012](#); for Scotland, see the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45); for Wales, see section 139 of the [Housing \(Wales\) Act 2014](#), which inserts a new section 12A and 12B into the *Local Government Finance Act 1992*.

¹⁵ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964).

¹⁶ HM Treasury, [Budget 2017](#), p64

This Act included additional provisions covering properties that were empty for very long periods. These were introduced via a Government amendment at Third Reading in the Lords, following extensive discussions with other parties. The amendment provided for maximum *additional* rates of:

- 100% extra (for properties empty for 2-5 years)
- 200% extra (for properties empty for 5-10 years) [commencing in 2020]
- 300% extra (for properties empty for 10+ years) [commencing in 2021]

In other words, council tax-payers may be required to pay 200% of the standard bill after two years; 300% of the standard bill after five; and 400% after ten. It remains up to the billing authority to decide what rate of empty homes premium to impose, within these limits.

Further details can be found in [the Library's briefing paper on the 2018 Act](#).

2.2 Calculating the empty period

Liability for the empty homes premium is determined by the length of time that **the property** has been empty. An individual who purchases a property which has **already** been empty for two years in England (or one year in Scotland or Wales) may be required to pay the premium as soon as they take ownership.

Steve McCabe: To ask the Secretary of State for Communities and Local Government for what reason the empty home premium starts when a property first becomes empty rather than when a property is bought with the intention of renovating and occupying it.

Stephen Williams: The empty homes premium aims to reduce the total length of time for which properties are empty, not the length of time for which they are empty under a particular owner.

Since the power came into effect on 1 April 2013, 239 councils in England have introduced the empty homes premium. The number of long-term empty homes fell by 38,009 between October 2012 and October 2013.¹⁷

2.3 Exemption: marketing for sale or rent

In Wales and Scotland, properties which are being marketed for sale or rent are exempt from empty homes premium, if the property has been empty for less than two years.¹⁸ This amounts to one year's additional grace before the premium applies to such properties.

The consultation paper on the English regulations suggested that demonstrable attempts to sell the property could be grounds for exemption from the premium. In the event, in England, no such

¹⁷ HCDeb 12 May 2014 c318W

¹⁸ [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45), schedule 2; [Council Tax \(Exceptions to Higher Amounts\) \(Wales\) Regulations 2015](#) (SI 2015/2068), paragraph 4

requirement was introduced.¹⁹ However, guidance for local authorities in England, published in May 2013, stated:

The government's intention behind the decision to provide billing authorities with the power to charge a premium was not to penalise owners of property that is genuinely on the housing market for sale or rent.

The government expects billing authorities to consider the reasons why properties are unoccupied and unfurnished, including whether they are available for sale or rent, and decide whether they want such properties to be included in their determination.²⁰

2.4 Other exemptions

In England, Scotland and Wales, the empty homes premium cannot apply to homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or to annexes being used as part of a main property.²¹

In Scotland and Wales, further exemptions from the empty homes premium apply to holiday homes with use restrictions and job-related dwellings. Wales also provides exemptions for caravans and boat moorings. Detailed guidance on the Welsh exemptions is available from the Welsh Government.²²

¹⁹ See DCLG, [*Technical Reforms to Council Tax: Determining the circumstances in which dwellings should not be liable to the empty homes premium - Consultation*](#), November 2012

²⁰ DCLG, [*Council Tax empty homes premium: guidance for properties for sale and letting*](#), 2013, p.3

²¹ See the [*Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012*](#) (SI 2012/2964)

²² See Welsh Government, [*Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales*](#), January 2016

3. Impacts and mandatory discounts

3.1 Effects of changes

Some notable effects of the changes in England are as follows. These may also be found in Scotland and Wales.

- Where billing authorities apply discounts for specific lengths of time, they are entitled to do this according to how long the property has been empty, without taking account of a change of ownership. Thus a new owner of a property may find that their predecessor has 'used up' a discount period. A new discount period cannot begin until the property has been occupied for a period of over six weeks;
- A single person who moves out of a property which they own, leaving it furnished but empty, may find that their council tax bill rises. Once their property is empty it does not attract a single-person discount, so that, instead of 75% of the standard liability, they may be paying up to 100%. If the owner of such a property lets the property out, the tenant(s) become liable for council tax.
- Landlords may find that they are liable for council tax on their properties for the period between one tenant leaving and another arriving. Prior to 2013, a six-month exemption would have applied from the date on which the property became empty: thus landlords would only have become liable on properties that lay empty for over six months.
- Individuals buying a property which they then spend several months repairing or rebuilding, which they cannot or do not live in whilst the work is ongoing, may be liable for the full council tax payment throughout the period of repair.²³

3.2 Job-related accommodation

A 50% discount continues to be available to individuals who live in 'job-related dwellings' but who are liable for council tax on another property. This applies in England, Scotland and Wales. The discount is available on their *original* property, which an individual has had to leave empty to live in the job-related dwelling.

A 'job-related dwelling' is defined as one which is:

...provided for him by reason of his employment or for his spouse [or civil partner by reason of that person's] employment, in any of the following cases –

(a) where it is necessary for the proper performance of the duties of the employment that the employee should reside in that dwelling;

²³ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964), which bring in the new discount; and the Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 (SI 2012/2965), which removes class A exemptions

12 Council tax: empty properties

(b) where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings to employees;

(c) where, there being a special threat to the employee's security, special security arrangements are in force and the employee resides in the dwelling as part of those arrangements.²⁴

There is a body of case law around the definition of a 'job-related dwelling', so it is not possible to say definitively whether a particular property falls into this category. This is a decision for the billing authority in the first instance. However, generally, the definition relates to instances where the council tax-payer is *required* to live in the job-related dwelling. It is not likely to apply where an individual has chosen to live in two places (for instance, a main home and a flat occupied for a job elsewhere). It is also unlikely to apply where an individual has been living elsewhere for a long period but retains their original property for their use in the meantime.

Ministers of religion and members of **service personnel**, who have a second home in England but who live in a job-related dwelling in England, Scotland or Wales, can obtain a 50% discount on that second home.²⁵

3.3 Council tax liability: service personnel posted overseas

The 50% discount noted above only applies to service personnel who are required to live elsewhere in Great Britain, not to those serving overseas. Consequently, the Ministry of Defence (MoD) runs a scheme, as part of the military covenant, supporting military personnel serving overseas who are liable for council tax on a property they own in Great Britain. The guidance accompanying the covenant states:

MOD will double council tax relief for all Service personnel on eligible operations overseas. Eligible personnel will receive council tax relief of 50% of the average council tax paid in England for the period of their deployment. This will be an increase on the current rate which is set at 25%.²⁶

The Chancellor announced in the 2012 Budget that the relief would be doubled again, to 100%:

£3 million will be reinvested each year to double the rate of council tax rebate, from 50 per cent to 100 per cent, for around 9,500 deployed military personnel.²⁷

²⁴ [Council Tax \(Prescribed Classes of Dwellings\) \(England\) Regulations 2003 \(SI 2003/3011\)](#), schedule

²⁵ This wording is based on that in the explanatory notes [to The Council Tax \(Prescribed Classes of Dwellings\) \(Amendment\) \(England\) Regulations 2005](#), SI/2005/416.

²⁶ MOD, [The Armed Forces Covenant: Today and Tomorrow](#), May 2011

²⁷ HM Treasury, Budget 2012, Chapter 2, [Budget policy decisions](#), p57

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