

By Mark Sandford

17 November 2021

Council tax: empty properties



Summary

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

Image Credits

Empty houses in Herschell Street, Anfield by Derek Harper. Licensed under CC BY-SA 2.0 / image cropped.

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

Summary	5
1 Council tax discounts for second homes	6
1.1 England	6
Table: discounts for empty properties - England	6
1.2 Wales	7
1.3 Scotland	8
1.4 Second home discounts in England: 2004-2013	8
2 Empty Homes Premium	10
2.1 Empty homes premium: criteria	10
England	10
Scotland	12
Wales	13
2.2 Calculating the empty period	14
3 Impacts and mandatory discounts	15
3.1 Effects of changes	15
3.2 Job-related accommodation	15

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 certain classes of 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’ (though this term is not used in council tax legislation). It may also include a property

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.

which the owner does regularly occupy, but another property is defined as their ‘sole or main residence’.

It is for the billing 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.

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, within the specified limits, 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.

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, a 50% discount can be applied to unoccupied second homes, but billing authorities may decide to reduce this discount or to charge full council tax.⁴

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](#)

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.⁵ A mandatory discount of 50% also applies where the liable person is deceased: this applies for up to 12 months after the grant of probate, providing that the property is still empty.

1.3

Scotland

The standard discount for empty property and second homes in Scotland is 50%.⁶ 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.⁷ 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.⁸ 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 (see section 2.4).

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.⁹

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

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

⁶ See the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45)

⁷ The relevant legislation is the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Amendment Regulations 2016](#) (SI 2016/369).

⁸ See the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45), regulation 2

⁹ See the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Amendment Regulations 2016](#) (SI 2016/369)

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.¹⁰ Following this, regulations were introduced which permitted billing authorities to reduce council tax discounts for second homes from 50% to 10%; and from 50% to 0% for 'unoccupied and substantially unfurnished' properties.¹¹ These changes could be applied in all or part of the billing authority's area.

¹⁰ DTLR, Council tax: a consultation paper on proposed changes for second homes and long term empty homes, 20 November 2001

¹¹ 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’. In each country, it is for individual billing authorities to decide whether to levy an empty homes premium.¹²

In each country, the power to impose a premium emerges after a specified amount of time. Additionally, in each country a period of occupation of the property qualifies as a break in the empty period, ‘resetting the clock’ for the purposes of the empty homes premium.¹³

The powers to levy an empty homes premium in each country are compared in the table below.

Table: empty homes premium

	England	Scotland	Wales
Introduced	2013	2013	2017
Maximum charge as % of standard bill	200% / 300% / 400%	200%	200%
Property must be empty for	2 years	1 year	1 year
‘Reset period’	6 weeks	3 months	6 weeks

England

In England, billing authorities can charge up to 200% of the standard council tax bill on properties which have been unoccupied and substantially

¹² 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.

¹³ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964).

unfurnished for over two years. A period of occupation of 43 days or more ‘resets the clock’.¹⁴

The [Rating \(Property in Common Occupation\) and Council Tax \(Empty Dwellings\) Act 2018](#) brought in more extensive powers within England, with effect from the 2019-20 financial year.¹⁵ 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 cross-party discussions. 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](#).

In England, the empty homes premium cannot be applied 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.¹⁶ It cannot be applied to holiday homes that are furnished, only to those that are ‘unoccupied and substantially unfurnished’.¹⁷

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 requirement was introduced.¹⁸ 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

¹⁴ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964).

¹⁵ HM Treasury, [Budget 2017](#), p64

¹⁶ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964)

¹⁷ See section 11B (8) of the Local Government Finance Act 1992, inserted by section 12 of the Local Government Finance Act 2012

¹⁸ 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

available for sale or rent, and decide whether they want such properties to be included in their determination.”¹⁹

In the Levelling Up White Paper, published in February 2022, the Government committed to legislating to reduce the two-year limit in England to one year, and also said that it would “consult on updated guidance on application of the empty homes premium and possible statutory exemptions”.²⁰

Scotland

In Scotland, billing authorities can charge up to 200%; the qualifying period is one year. A period of three months is required to ‘reset the clock’.²¹

In 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.²² This amounts to one year’s additional grace before the premium applies to such properties.

The empty homes premium cannot be applied 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.²³ Further exemptions from the empty homes premium apply to holiday homes with use restrictions and job-related dwellings.

The Scottish Government published guidance on the application of the empty homes premium in 2018, which included provision for discretion in its application by local authorities. The guidance provided that a local authority was permitted:

“...should it so choose, to take the circumstances of individual owners into account when e.g. applying an increase. This flexibility was included so that local authorities can modify provision by not charging a council tax increase, charging a reduced level of increase or offering a higher level of discount...It allows a local authority to avoid charging a council tax increase (or charge a lower level of council tax than for other unoccupied dwellings) where it considers there are reasons why the owner is justified in leaving the dwelling unoccupied and/or reasons why the dwelling could not be lived in, sold or let.”²⁴

¹⁹ DCLG, [Council Tax empty homes premium: guidance for properties for sale and letting](#), 2013, p.3

²⁰ DLUHC, [Levelling Up the United Kingdom](#), 2022, p225

²¹ See the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Regulations 2013](#) (SI 2013/45)

²² [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

²³ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964)

²⁴ Scottish Government, [Revised supplementary guidance on local authority discretion to apply an increase to long-term unoccupied homes](#), 9 April 2018

Wales

From 1 April 2017 billing authorities in Wales can levy a premium of up to an additional 100% on both ‘second homes’ (i.e. Classes A and B from the table in section 1.1) **and** on properties that are ‘unoccupied and substantially unfurnished’. This is different from England and Scotland, where only the latter class of properties can attract a premium. In Wales, either premium can be applied after a property has been empty for one year.²⁵

Billing authorities must give at least one year’s notice of their intention to apply a premium on second homes: for example, an authority wishing to charge a premium from April 2020 must have given notice of this before 1 April 2019.

Second homes are defined as those where “there is no resident of the dwelling; and the dwelling is substantially furnished”.²⁶ It is for Welsh local authorities to decide whether a property falls into this category.

In Wales, properties which are being marketed for sale or rent are exempt from the empty homes premium, if the property has been empty for less than two years.²⁷ This amounts to one year’s additional grace before the premium applies to such properties.

The empty homes premium cannot be applied 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.²⁸ Further exemptions apply to holiday homes with use restrictions, caravans and boat moorings. Detailed guidance on the Welsh exemptions is available from the Welsh Government.²⁹

There are seven exemptions from the **second** homes premium in Wales. Four of these are the same as for the empty homes premium. Additional exemptions cover job-related accommodation, caravans and empty boat moorings and homes where whole year occupation is not permitted.³⁰

²⁵ See section 139 of the [Housing \(Wales\) Act 2014](#); and Welsh Government, [Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales](#), January 2016

²⁶ [See section 12B \(2\) into the Local Government Finance Act 1992, inserted by section 139 of the Housing \(Wales\) Act 2014](#)

²⁷ [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

²⁸ See the [Council Tax \(Prescribed Classes of Dwellings\) \(England\) \(Amendment\) Regulations 2012](#) (SI 2012/2964)

²⁹ See the [Council Tax \(Exceptions to Higher Amounts\) \(Wales\) Regulations 2015](#) (SI 2015/2068); Welsh Government, [Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales](#), January 2016

³⁰ Ibid.

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. This position has been made explicit by the Government:

“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.”³¹

This scenario could also apply to properties attracting the additional 300% and 400% rates applicable under the 2018 Act (see section 2.1 above). For instance, from 2020-21, an individual who bought a property that had been empty for five years could find themselves immediately liable for a total council tax bill of 300% of the normal rate.

³¹ HCDeb 12 May 2014 c318W

3 Impacts and mandatory discounts

3.1 Effects of changes

Some notable effects of the changes in England are as follows. Some of these may also occur 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 for an empty property. 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.³²

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.

³² 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

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;
- (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.”³³

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 taxpayer 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.³⁴ This does not apply to service personnel who are required to live overseas: they could still be held liable for council tax on a property in Great Britain. Further details can be found in the Library briefing paper [Council tax: FAQs](#).

³³ [Council Tax \(Prescribed Classes of Dwellings\) \(England\) Regulations 2003 \(SI 2003/3011\)](#), schedule

³⁴ 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.

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)