
COUNCIL TAX EMPTY HOMES DISCOUNTS AND PREMIUMS

Relevant Portfolio Holder	Councillor M Rouse
Portfolio Holder Consulted	Yes
Relevant Head of Service	Chris Forrester, Head of Financial and Customer Services
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Wards Affected	All Wards
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	Finding Somewhere to Live
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

The Executive Committee is asked to RECOMMEND that:

- 1) From 1st April 2022 the level of Council Tax discount to be applied under Section 11A (4) and Section 11A (4A) for each class of dwellings as defined by The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (as amended) will be:

Class A [“second homes with a planning restriction”] 0%: no discount

Class B [“second homes with a planning restriction”] 0%: no discount

Class C [“vacant dwellings”]

- a. **Where the dwelling has been unoccupied and unfurnished for a continuous period of not more than 14 days - 100% discount**
- b. **Where the dwelling has been unoccupied and unfurnished for more than 14 days - 0%: no discount.**
- c. **Where the dwelling is**
 - i. **unoccupied and substantially unfurnished; and**

- ii. the owner of the dwelling is a local housing authority;
and
- iii. when next in use the dwelling will be occupied under the provisions of the Housing act 1985

100% discount.

Owner will be defined by reference to section 6(5) and 6(6) of the Local Government Finance Act 1992 .

For the purposes of Class C when considering whether a dwelling falls within the description any period of occupation, not exceeding 6 weeks, during which it was not unoccupied and substantially unfurnished shall be disregarded.

Class D [“dwellings requiring major repair works”] - 100% discount

2) From 1st April 2022 the additional council tax premium applied under section 11B of the LGFA '92, for long-term empty dwellings will be

- i) For a dwelling that has been a long-term empty dwelling for less than 5 years – 100% premium
- ii) For a dwelling that has been a long-term empty dwelling for 5 years or more, but less than 10 years – 200% premium
- iii) For a dwelling that has been a long-term empty dwelling for at least 10 years – 300% premium

3) The Head of Financial and Customer Services on a case-by-case basis may consider a reduction to the long-term empty premium.

2. BACKGROUND

2.1 From the introduction of council tax in 1993 until March 2004 properties in England which had been unoccupied and substantially unfurnished (vacant dwellings) were subject to a statutory exemption for the first 6 months that they were unoccupied and after that date the council tax was subject to a 50% discount. Properties which were furnished but were no one's sole or main residence (second homes) were subject to a 50% discount

2.2 The Local Government Act 2003 inserted section 11A into the Local Government Finance Act 1992 (LGFA '92) and gave billing authorities

in England a discretionary power to remove the discount for vacant dwellings or to set a discount of between 1% and 50%; and to reduce the discount for second homes to 10%.

- 2.3 The Council Tax (Prescribed Classes of Dwellings) Regulation 2003 prescribed the classes of dwellings for which billing authorities could reduce the empty home discounts. The regulations included specific exceptions where the second home discount could not be adjusted and would remain at 50%. These exceptions included unoccupied caravans and boats; second homes where the liable person is required to live elsewhere for work purposes and is liable for council tax at that address; and the second homes of ministers of religion and service personnel where they are living elsewhere to perform their duties in premises that are exempt from council tax.
- 2.4 The legislation allowing billing authorities discretion to amend discounts remained unchanged from 2003 until April 2013 when the Government - having consulted on technical reforms to council tax – made several changes to council tax legislation.
- 2.5 The changes introduced from April 2013 removed two statutory exemptions from council tax; amended section 11A of the LGFA '92 giving billing authorities further discretion to adjust discounts for second homes and vacant homes; and inserted a new Section 11B which allowed premiums for long-term empty homes.
- 2.6 The two exemptions removed were the class A exemption which was given to properties that were vacant and undergoing major repair works to make them habitable or structural alterations and had been so for less than 12 months, and the class C exemption which was provided to homes that had been vacant for less than 6 months.
- 2.7 The new powers allowed billing authorities to adjust the level of discount for homes that would have been exempt under class A and to set a discount of between 0% and 100% for the first 12 months that they were undergoing repairs.
- 2.8 Homes that would have been exempt under class C would be classed as vacant dwellings. The existing power to set a discount for vacant dwelling of between 0% and 50% was extended. The new provisions allowed for a discount of between 0% and 100% for all vacant dwellings in the area, or for a billing authority to define a class of dwellings for which a discount of between 0% and 100% would be set.
- 2.9 The ability to set a discount for second homes was extended to allow the discount to be removed completely.

- 2.10 In addition billing authorities were given the discretionary power to charge a premium of 50% for long-term empty homes. The premium would increase the council tax that could be charged up to 150% of the normal amount. A long-term empty home was defined as one which had been unoccupied and substantially unfurnished for more than 2 years.
- 2.10 The 2013 changes provided greater flexibility over the amount of council tax to charge for empty homes, and over the type of empty homes for which discounts could be applied. The changes also gave billing authorities the ability to use the council tax premiums to incentivise owners to bring empty homes into use.
- 2.11 The Rating (Property in Common Occupation) and Council Tax (Empty Property) Act 2018 provided further powers to adjust the premium for long term empty properties. The level of premiums that could be charged were increased to 100% for homes empty for 2 years or more but less than 5 years, 200% for homes left empty for 5 years or more but less than 10 years, and 300% for homes left empty for 10 years or more.
- 2.12 The Council Tax (Prescribed Classes of Dwellings) Regulations 2003 were amended to introduce two classes of property for which a long-term empty premium cannot be charged. These classes are homes owned by members of the armed forces which would be their sole or main residence if they were not living in armed forces accommodation; and annexes which are used as part of the sole or main residence of a person living in the other part of the property.
- 2.13 Redditch Borough Council does not apply long-term empty premiums, the following discounts are given for empty homes:
- Second homes:
- no discount, full council tax is payable.
- Vacant homes:
- 50% discount for the first three months a property is vacant.
- 0% discount for homes vacant for more than 3 months
- 100% discount for vacant new homes for the first three months

50% discount for vacant new homes empty for more than 3, but less than 6 months.

Dwellings undergoing repair works:

100% discount.

2.14 National council tax taxbase information is published annually by Government. The data published in November 2020 provides information on the council tax discounts, and premiums levied by each billing authority in England. The information published indicates that in 2020 just 10 of the 314 billing authorities forecasted no premiums would be levied by that authority. The implementation of empty home premiums would bring Redditch Borough Council in line with almost all other local authorities in England.

2.15 The tabulation below provides an indication of the number of dwellings for which empty home premium is levied at a national and regional level. Vacant Dwellings are those which have been unoccupied and unfurnished for 6 months or more.

Region	# Dwellings	# Vacant	# Premium	% Dwellings subject to premium	% Vacant Dwellings subject to premium
England	24,109,277	278,470	69,201	0.29	24.85
South East	3,841,069	37,103	8,260	0.22	22.26
North West	3,253,662	46,894	13,048	0.40	27.82
East Midlands	2,070,331	25,832	5,543	0.27	21.46
East of England	2,658,277	27,076	5,665	0.21	20.92
London	3,607,934	31,529	9,086	0.25	28.82
Yorkshire & Humber	2,389,792	32,702	8,458	0.35	25.86
South West	2,598,603	26,543	5,596	0.22	21.08
West Midlands	2,476,202	29,636	7,940	0.32	26.79
North East	1,213,407	21,155	5,605	0.46	26.49

2.16 Nationally 1.16% of chargeable dwellings are left vacant for 6 months or more; and 24.85% of the stock of vacant dwellings were projected to be subject to an empty home premium.

2.17 The second table shows the most recent information on the number of vacant dwellings within the Borough of Redditch, and a local projection of those dwellings that would potentially be subject to an

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2022

11th January

empty home premium. The data is shown for each council tax valuation band.

	A	B	C	D	E	F	G	H	Total
Chargeable Dwellings	7866	12169	7915	4442	3415	1273	468	22	37,570
Vacant	128	87	66	33	19	9	5	1	348
Less than 5 Years	29	18	25	10	6	5	1	1	95
5 to 10 Years	3	6	1	0	0	1	0	0	11
Over 10 Years	6	1	2	1	1	0	0	0	11

- 2.18 The percentage of chargeable dwellings left vacant for 6 months or more in Redditch is 0.93% this is below the national rate. When making a comparison at billing authority level, the vacancy rate recorded in CTB1 returns is between 0% and 3.77% with a median figure of 1.09%. Redditch would be placed within the 33rd percentile so has a lower vacancy rate than 67% of all councils.
- 2.19 The number of dwellings that are subject to an empty home premium, at a national level is 0.29%. Within Redditch current figures indicate 0.35% of dwellings have been empty for more than 2 years and could be subject to a premium.
- 2.20 Redditch has a lower-than-average rate of vacant dwellings but would potentially see a higher proportion of dwellings being subject to a premium. The potentially higher level of premiums within Redditch is likely to be the result of two factors. Firstly, the absence of premiums means there is limited incentive to bring empty homes back into use, and secondly the annual exercises to cleanse empty home data were not carried out in 2020 and 2021 and properties which have become occupied have not been identified and removed from the empty homes listing.
- 2.21 The introduction of a premium is likely to have an immediate impact in reducing the number of empty homes, as the owners of the premises update records or take steps to make the property available for let. It should be accepted that the number of premises subject to a premium is likely to reduce to a level in line with the national average.
- 2.22 The financial impact of introducing empty homes premiums is detailed within the financial implications section of this report.
- 2.23 The authority should consider all Government guidance before introducing the empty home premium. The specific guidance - "Council

Tax Definitions of Empty and Second Homes” and “Council Tax Guidance for Properties for sale and letting” is considered within the legal implications section of the report.

- 2.24 This report also seeks approval for a revision to the level of discount for vacant homes. The existing discounts are detailed in 2.13 above. It is proposed that the 50% discount for vacant homes is removed to be replaced by a 100% discount for the first 14 days that a property is vacant, and then 0% discount from day 15 onwards.
- 2.25 The existing graduated discount for new properties of 100% for three months and then 50% for the next three months will also be removed and the new standard discount for vacant homes applied.
- 2.26 The higher level of discount for new homes was introduced in 2013 as it was felt that a potential council tax charge on completion of a new property could disincentivise developers from building new homes. An analysis of discounts awarded in the 2019/20, 2020/21 and 2021/22 council tax years shows that 60, 34 and 41 new properties were granted a discount that exceeded 14 days. 48 of the 135 new homes discounts granted were given to housing associations which may fall to be exempt from council tax under exemption class B. There would be a limited impact from the removal of the discount for newly completed dwellings and it is proposed that the discount is removed.
- 2.27 The new 14-day discount at 100% for unoccupied and unfurnished properties will assist in the timely administration of council tax. The existing discount of 50% means that a council tax liability accrues from the first day that the property is empty, and this leads to regular disputes between landlords, tenants, and the local authority; and vendors, purchasers, and the local authority concerning the correct date for changes to council tax liability. The 14-day 100% discount will limit the administrative burden of obtaining evidence to support liability change dates.
- 2.28 The report also proposes a 100% discount for vacant homes owned by a local housing authority and used for meeting the provisions of the housing act 1985. This change is intended to place local authority housing in the same position as charitable housing associations and registered social landlords whose properties when unoccupied attract a Class B exemption from Council Tax.
- 2.29 Registered Social Landlords that are charitable organisations retain an exemption from Council Tax – under exemption class B – where the property is unoccupied and when next in use will be used for charitable purposes.

- 2.30 Local Authority Housing does not benefit from this exemption, which means when council housing is unoccupied the local authority is required to make payments of council tax.
- 2.31 The cost of the council tax payments is met by the Housing Revenue Account. The income is then shared by all precepting authorities. In the 2021/22 council tax year the cost will be approximately £130,000.
- 2.32 Providing a discount for local authority housing will enable funds to be retained and support the provision of social housing to people within Redditch.
- 2.33 The remaining change to discounts will be the levying of a 100% charge once a property has been vacant for more than 14 days. This change will bring the authority into line with neighbouring authorities which, after a short period of 100% discount, levy the full council tax charge.

3. FINANCIAL IMPLICATIONS

- 3.1 The introduction of empty home premium will increase the council tax levied on long term empty homes within the district. Assuming a distribution of long-term empty homes and premiums in line with national averages as reported in CTB1 returns this would lead to an increase in council tax collected of approximately £320,000.
- 3.2 The increased council tax would be shared by precepting authorities and approximately 13%, £48,000, would be retained locally by Redditch Borough Council.
- 3.4 The changes to the discount for vacant homes would increase the council tax levied on empty homes by approximately £123,000 the increased council tax would be shared by precepting authorities.
- 3.5 The implementation of a 100% discount for vacant homes owned by a local housing authority would reduce the costs to the Housing Revenue Account by approximately £130,000.

4. LEGAL IMPLICATIONS

- 4.1 The legislative basis for the amendments to discounts for empty homes and for the imposition of empty homes premiums has been set out within the background section of the report.
- 4.2 Section 11A of the Local Government Finance Act 1992 provides local authorities with the discretion to determine the level of discount to

apply to vacant and second homes. Section 11B provides local authorities with the discretion to charge premiums for long-term empty homes.

- 4.3 There is no requirement for the authority to consult with taxpayers before making changes to the empty home discounts or before implementing premiums, however the authority should have consideration for the Government's guidance on discounts and premiums.
- 4.4 Section 66 of the Local Government Finance Act 1992 allows for determinations under section 11A and 11B to be challenged by an application for judicial review.
- 4.5 The president of the Valuation Tribunal for England, Professor Graham Zellick QC in appeals

4635M121095/176C, K v Wolverhampton City Council
1840M127193/176C, F v Wychavon District Council
3430M119853/176C, J v South Staffordshire Council

Heard cases which concerned the levying of a premium of 50% on long term empty homes.

- 4.6 The president of the tribunal concluded that the three appeals constituted a challenge to the council's determination to apply a premium and as such were excluded by virtue of section 66 of the LGFA '92 from being scrutinised by the tribunal.
- 4.7 The president stated within paragraph 42 of the decision notice:
- “Whether the determinations are unlawful either because of a failure to give consideration to the Government's Guidance or other relevant considerations or because an unqualified determination is one no reasonable billing authority could make are quintessentially judicial review questions (even apart from section 66). That, of course, presupposes that the Government is correct in believing that the legislation allows billing authorities to make these distinctions.”*
- 4.8 Having regard to the decision notice and the power of individuals to apply for a judicial review of the determination the council should consider the Government's guidance when determining changes to discounts and premiums.
- 4.9 The power to implement a premium was proposed in the Government consultation Technical Reforms to Council Tax. Following this

consultation, the Government announced that it would proceed with the introduction of premiums but commenced a further consultation to determine views on the cases where the empty home premium should not be charged.

- 4.10 The second consultation entitled – “Technical Reforms to Council Tax – when dwellings should not be liable to the empty home premium” – sought views on three specific scenarios where the Government was of the view that a premium would not be charged. These were

A dwelling which was genuinely on the market for sale or letting.

A dwelling which is the sole or main residence of a member of the armed forces, who is absent from the property because of such service.

A dwelling which is an annexe which is unoccupied because it is being treated, by the occupier of the main dwelling, as part of that dwelling.

- 4.11 The consultation responses were generally supportive of the 2nd and 3rd exceptions to the empty home premium, however, for properties genuinely marketed for sale responses raised the difficulties for local authorities in determining which properties were marketed for sale, and monitoring compliance with this exception.

- 4.12 Government inserted class E and F into the Council Tax (Prescribed Classes of Dwellings) Regulations – providing for annexes and homes owned by serving members of the armed forces – to be exempt from the premium; however, no statutory exception was introduced for properties which were being marketed for sale. The Government reiterated their view that such properties should not be subject to the premium and proposed to publish guidance on properties for sale.

- 4.13 “Council Tax Empty Homes Premium: Properties for Sale and Letting” was published in May 2013. This guidance states:

5. While the decision to make a determination under Section 11B of the Local Government Finance Act 1992 is for billing authorities to make, the government would expect that due consideration is given to the health of the local housing market when making determinations.

6. 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.

7. 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.

When considering the reasons an authority may want to take account of the following:

- on average, how long are properties in their area been available for sale or rent before completion/occupation*
- what is the average price/rent in the local area?*

8. The above list is not exhaustive and billing authorities will want to consider all factors they think are relevant before making a decision.

4.14 The Government guidance states that in their view authorities should consider whether properties for sale should be included in the determination under section 11B and exclude these cases if local circumstances merit such a decision.

4.15 Section 11B of LGFA '92 – which allows the introduction of a premium states:

11B (1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling—

(a) the discount under section 11(2)(a) shall not apply, and

(b) the amount of council tax payable in respect of that dwelling and that day (“the relevant day”) shall be increased by such percentage of not more than the relevant maximum] as it may so specify.

4.16 This should be compared with Section 11A (4A) which allows a discount for vacant homes which states:

(4A) For any financial year for which a class of dwellings is prescribed for the purposes of this subsection, a billing authority in England may by determination provide—

(a) in relation to all dwellings of that class in its area, or

(b) in relation to such description of dwellings of that class as it may specify in the determination,

that the discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100) as it may so specify.

4.17 The provision allowing for a premium gives billing authorities the power to implement a premium for all dwellings in the area, or for such part of its area as it may specify. The power to exclude dwellings from the premium appears to be a geographical one by applying the premium to part of the area only. There does not, on reading the legislation, appear to be a power to determine a class of dwellings which would be exempt from the empty home premium, or to limit the application of the premium by defining a class of dwellings which are subject to premium.

4.18 Within the decision notice of Professor Graham Zellick Q.C. the power of the local authority to distinguish between properties is considered and it is stated:

17. It is in fact open to question whether the statutory provisions as enacted allow billing authorities to design determinations which distinguish between properties in line with the Government Guidance. At least one of the respondents (Wychavon) appears to take that view.

18. Section 11B(1) does not on its face appear to allow such differences in treatment, particularly when read in conjunction with subsections (2) and (3) which do give such a power to the Secretary of State. This may be said to argue against any corresponding power in the local authority

4.19 Section 11B (4) does mention a premium determination being applied to a class of dwellings, and reads:

(4) Where a determination under this section has effect in relation to a class of dwellings—

(a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and

(b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.

This section removes the billing authority's power to vary discounts under section 11A for dwellings that are subject to a premium and makes it clear that any variable discount ceases to apply when a premium becomes due. The section does not explicitly allow a billing authority to define the type or class of dwellings that are subject to the premium.

- 4.20 The only circumstances in which dwellings could at a local level be removed from the premium would be through using the powers under section 13A (1) (C) to reduce the Council Tax payable on case-by-case basis or by determining a class of dwellings for which a local discount should apply.
- 4.21 The costs of any decisions made under Section 13A (1) (C) are required to be met locally by the billing authority through a transfer from the general fund to the collection fund.
- 4.22 It is the Government's view – as expressed in the explanatory notes to the Council Tax (Prescribed Classes of Dwelling) (England) (Amendment) Regulations 2012 – that billing authorities may define a class of dwellings for which the premium does, and does not apply, however the legislative provisions do not appear to support this.
- 4.23 The housing market within the Borough of Redditch is at this time buoyant – with an average time on the market reported as 130 days, a median time on the market of 30 days [source home.co.uk Redditch House Prices Report].
- 4.24 At this time it is proposed that all dwellings in Redditch should be subject to the empty home premium this is because:
- a) There is no indication from house sales, or housing market data that would indicate specific local difficulties in selling empty homes.
 - b) The legislative framework – especially the powers under section 11B – do not appear to give the authority discretion to exclude a class of dwellings from the premium.
 - c) The authority retains the power – under section 13A (1)(C) - on a case-by-case basis to reduce the amount of council tax payable, and this power would include a reduction in the premium.

5. STRATEGIC PURPOSES - IMPLICATIONS

Finding Somewhere to Live

- 5.1 The proposed implementation of empty home premiums and adjustment to empty home discounts will support the strategic purpose through using the powers within the council tax system to encourage homeowners to bring long term property back into use.

- 5.2 The retention of the existing discount for properties that are undergoing major repair works to make them habitable maintains and incentive to support developers in bringing property back to a standard suitable for sale or letting.
- 5.3 The introduction of 100% discount for unoccupied local housing authority homes will support the provision of affordable social housing within the Borough.
- 5.3 The organisation has a priority of ensuring financial stability and the proposed adjustments to discounts and premiums will provide assurance that the authority is using all its available powers to ensure that the taxbase is maximised.

Climate Change Implications

- 5.4 None

6. OTHER IMPLICATIONS

Equalities and Diversity Implications

- 6.1 None

Operational Implications

- 6.2 The implementation of premiums will lead to an initial increase in demand on the Revenue Services Section. Steps will be taken to manage the demand by ensuring communications is made with homeowners who will become subject to the premium and information is provided on steps that can be taken to bring the home back into use.
- 6.3 Training and briefings will be provided to officers on the legislative framework, the application of premiums and the circumstances in which the premium may be waived or come to an end.
- 6.4 It is anticipated that some council taxpayers may take steps to evade the premium and a process for compliance checks will be developed. At present there is no specific resource for the inspection of empty premises and monitoring of discounts/premiums.

7. RISK MANAGEMENT

7.1 The table below identifies specific risks and mitigations in relation to the administration of grants. The table is not exhaustive and provides information on the main identified risks.

Risks	Mitigations
Taxpayers subject to premiums may be dissatisfied with the decision of the authority.	Clear communications to be issued with Council Tax demand notices setting out the reasons for the changes. Establish links with internal Housing Strategy team to help to publicise methods by which empty homes can be brought back into use.
Failure to deliver and manage changes to discounts/premiums effectively.	Timetable for full system testing of new discount and premiums will be set. Discounts and Premiums will be tested fully during year end testing processes.
Revenues Officers/Customer Services and other Council Officers not prepared for changes	Full briefing sessions to be provided to all Revenues and Customer Services Officers setting out details of changes and framework for levying premiums. Briefing note to internal departments detailing changes and impacts of premiums.
Increase in appeals and liability disputes.	Guidance will be provided to officers on appeals and appropriate responses to liability, discount and premium disputes.
Manipulation of council tax system to avoid empty home premium	Homeowners may provide false information to evade the application of the empty home premium. Briefings to teams will include information on steps that should be taken to validate changes to liability on long-term empty homes. Inspections and compliance of empty homes will be required to ensure that premiums are levied correctly.

8. APPENDICES and BACKGROUND PAPERS

Council Tax Base England Statistics:

[Government Statistics - Council Tax Base](#)

Technical Reforms of Council Tax

[Government information - technical reforms of Council Tax](#)

Technical Reforms of Council Tax when dwellings should not be liable to the empty home premium

[Government information - technical reforms - exemptions](#)

Council Tax Definitions of Empty and Second Homes

[Government definitions of empty homes and second homes](#)

Council Tax Guidance for Properties for Sale or Letting

[Government guidance - Council Tax - properties for sale or to let](#)

9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Councillor Mike Rouse	December 2021
Lead Director / Head of Service	Head of Financial and Customer Services	December 2021
Financial Services	Head of Financial and Customer Services	December 2021