

Scottish Government submission of 24 October 2022

PE1976/B: Backdate council tax discounts for dementia to the date of GP certification

Scottish Government response to petition PE1976, calling on the Scottish Government to require the severe mental impairment (SMI) council tax discount to be backdated to the date a person is certified as being severely mentally impaired by a qualified medical professional, where they go on to qualify for a qualifying state benefit.

The petitioner states:

“people with dementia are only disregarded (not counted) for council tax if they have a medical certificate and are in receipt of certain benefits. This means that many people with dementia have to wait months or years to qualify for council tax discounts after they have been diagnosed. If council tax discounts were backdated to the date a person was certified as being severely mentally impaired, people with dementia could potentially save thousands of pounds.”

The discount the petition refers to applies where a resident who is both certified as having a severe mental impairment by a qualified medical professional and entitled to a qualifying state benefit can be disregarded for council tax discount purposes. The effect of this disregard is that the 25% council tax single person discount can remain in place where it might otherwise be lost because a person with severe mental impairment is resident.

An associated council tax property exemption can apply to properties occupied exclusively by (i) residents regarded as having severe mental impairment and (ii) certain other classes of resident (including, for example, students and school leavers) in any combination. Our understanding is this petition relates solely to the council tax discount, although similar considerations apply to this related exemption.

The Scottish Government acknowledges the valuable role these council tax entitlements play in supporting eligible households.

The Local Government Finance Act 1992 defines severe mental impairment as "a severe impairment of intelligence and social functioning (however caused) which appears to be permanent" with medical certification required for these criteria to be regarded as being met.

The qualifying state benefits used as criteria for the severe mental impairment council tax discount and exemption are set out in Article 4 of the Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003.

As the law demands medical certification by a qualified medical practitioner and entitlement to a qualifying state benefit for the discount to apply, the date at which entitlement to the discount may start is the later of (i) the date of medical certification and (ii) the first day of qualifying benefit entitlement. Entitlement to each of the qualifying state benefits begins on the date of application by the claimant rather than the date any benefit entitlement decision was made. Therefore, local authorities administering the severe mental impairment council tax discount are able to backdate its entitlement to the first date of entitlement to the relevant qualifying state benefit.

Council tax, as a local tax, provides both financial and administrative accountability to individual councils and therefore backdating of council tax discounts in individual cases is a matter for each local authority to determine. However, the Scottish Government understands that local authorities in Scotland routinely backdate this and other discounts where sufficient supporting evidence can be demonstrated. If a local authority refuses to backdate households have the right to appeal to the relevant local Valuation Appeal Committee, which can resolve individual disputes.

Overall, the Scottish Government would be very disappointed if there were delays or discrepancies in entitlement as described by the petitioner. However, because local authorities already have the ability to backdate applications, Scottish Ministers have no plans to amend the law at this time.

More widely, the Scottish Government would highlight to the Committee the wider difference in support available for all households who might struggle to meet their council tax in Scotland compared to England, where we understand this petitioner resides. In Scotland, the single Council Tax Reduction scheme reduces council tax liabilities based on household income and characteristics, including where members of the household

have a disability and/or limited capability for work such as those in receipt of the SMI discount. Over 450,000 households benefit from the Council Tax Reduction scheme in Scotland, with approximately 80% of those receiving a full reduction and so not having to pay council tax. In contrast, council tax support schemes for those of working age in England are designed and implemented by individual local authorities, with reductions in funding meaning that most councils there require each household to contribute a minimum amount (in some cases up to half) of their council tax, irrespective of means to do so.

In conclusion, as the Scottish Government considers that local authorities currently have the ability to backdate applications for the council tax disregard for persons determined as having a severe mental impairment, Scottish Ministers have no plans to amend the law at this time. At the same time, the Scottish Government also highlights the higher levels of support available to all households who might struggle to meet their council tax liability in Scotland than in England.