

Petitioner submission of 17 October 2023

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

Local authority approaches

Regarding "officials are working with COSLA to try to encourage all 32 local authorities to adopt a common approach to administering a disregard for persons suffering from Severe Mental Impairment."

I would refer to PE1976/D 20 April 2023:

The petitioner repeated the Freedom of Information request in January 2023 which indicates that only one Scottish Council (South Ayrshire Council) presently backdate SMI disregards to the date of GP certification.

Thus since the petitioners initial FOI request of 2020, 31 out of the 32 Scottish local authorities have adopted a common approach to administering SMI disregard, be it to start Council Tax SMI disregards from the date both criteria are met (Qualifying Benefit plus GP Certification).

Legislative test

I would reiterate part of the final paragraph:

"It would be within the competence of Ministers to amend the Order to remove that requirement (referring to benefit entitlement), in the same way as it was within the competence of Ministers to make the 2003 Order in the first place."

Discretionary discounts and exemptions

The Local Taxation Unit of the Scottish Government Submission of 10 October 2023 points out that Local Government Finance Act 1992, does not provide the flexibility in Scotland that applies in England and Wales. It requires that any reduction in council tax liability be provided for by Regulations.

In contrast I refer to the final paragraph of the Scottish Government submission of 24 October 2022 PE1976/B which states:

"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."

Taking into account the Government's Legislative and Discretionary submissions of 10 October 2023 together with the Government submission of 24 October 2022, the petitioner appeals to the Scottish Ministers through the Joint Working Group that once the state benefit and thus eligibility has been met then council tax disregards for the people of Scotland with Severe Mental Impairment have their disregards started from the date of GP certification.