

VALUATION TRIBUNAL FOR ENGLAND



*Council tax liability appeal; Class U of the Council Tax (Exempt Dwellings) Order 1992, as amended; whether appeal property occupied only by one or more severely mentally impaired persons; The Council Tax (Discount Disregards) Order 1992; person to be disregarded for the purposes of discount if he is severely mentally impaired; meaning of severely mentally impaired; fundamental requirement that doctor's certificate provided confirming that person is severely mentally impaired; no certificate provided; appeal dismissed.*

APPEAL NUMBER: VT00000741

BETWEEN:

And	Mrs M Donakey	Appellant
	Liverpool City Council (Billing Authority)	Respondent

RE: 57 Brodie Avenue, Liverpool, L18 4RE

PANEL: Mr M J Heslop-Mullens (Chairman)  
Mr J M Imperato

CLERK: Mr L Bertie

REMOTE HEARING ON: 21 January 2021

APPEARANCES: Ms L Donakey representing the Appellant

Ms C Mendes representing the Billing Authority (Respondent)

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## Summary of decision

1. The appeal was dismissed. It has not been shown that the appellant meets the definition for council tax purposes of a severely mentally impaired person for the period from 25<sup>th</sup> July 2018. No council tax exemption is therefore applicable.

## Introduction

2. The appeal has been accepted by the Valuation Tribunal for England (VTE) as an appeal made under section 16 of the Local Government Finance Act 1992 (the '1992 Act'). Briefly, that section allowed appeals to be made concerning council tax liability including the calculation of bills, the determination of the liable person and disputes over whether dwellings were chargeable.
3. The appellant is appealing the Billing Authority's decision to refuse to grant an exemption on the appeal property as she contends that all the occupants of the appeal property are severely mentally impaired. Ie Mr and Mrs Donakey.
4. An exempt dwelling is one that falls into one of 23 classes listed A – W by satisfying certain requirements. The classes of dwellings that are entitled to an exemption are set out in the Council Tax (Exempt Dwellings) Order 1992, as amended from 1<sup>st</sup> April 2013 by the Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012. In this case, Class U (a dwelling occupied by people who are "severely mentally impaired" is the relevant exemption being disputed by the appellant.
5. For Council Tax purposes, a person is considered "severely mentally impaired" if they have a severe impairment of intelligence and social functioning (however caused) that appears to be permanent. This includes where a person is severely mentally impaired as a result of a degenerative brain disorder such as a stroke, Alzheimer's disease or other forms of dementia.
6. To count as severely mentally impaired a person must have a certificate of confirmation from a registered medical practitioner. In addition, the person must be entitled to certain benefits. In this case, there is no dispute that Mr Donakey is severely mentally impaired and meets the qualifying criteria.

## Issue

7. For the purposes of this appeal the panel was required to consider whether Mrs M Donakey is a severely mentally impaired person for the purposes of either exemption from council tax or a discount in the council tax that she is liable to pay.

## Decision and reasons

8. Although in reaching its decision the panel have had regard to all of the evidence given and submissions made by the parties, their respective cases are not fully restated in this decision document.
9. The relevant legislation concerning exemption is contained within the Council Tax (Exempt Dwellings) Order 1992, as amended. The Order identifies classes of dwellings that are exempt from council tax, including:

“Class U:

(1) a dwelling occupied only—

(a) by one or more severely mentally impaired persons, where, but for this Order, either such a person, or a relevant person, would be liable to pay the council tax; or

(b) by one or more severely mentally impaired persons, together with one or more relevant persons.

(2) For the purposes of paragraph (1) above—

...

(b) ‘severely mentally impaired’ has the meaning given in paragraph 2 of Schedule 1 to the Act [the Local Government Finance Act 1992];

10. Paragraph 2 of Schedule 1 to the Act states as follows:

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(1) A person shall be disregarded for the purposes of discount on a particular day if—

(a) on the day he is severely mentally impaired;

(b) as regards any period which includes the day he is stated in a certificate of a registered medical practitioner to have been or to be likely to be severely mentally impaired [my emphasis]; and

(c) as regards the day he fulfils such conditions as may be prescribed by order made by the Secretary of State.

(2) For the purposes of this paragraph a person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent.”

11. The panel noted that the BA was informed in March 2019, that the GP returned a form stating that Mr Donakey was not severely mentally impaired but was undergoing investigation for dementia at Mossley Hill Hospital. The GP also refused to certify Mrs Donakey as he stated she was suffering from anxiety and depression.
12. The Billing Authority was informed that Mr Donakey was resident in a nursing home for the period 24<sup>th</sup> April 2019 to 13<sup>th</sup> August 2019 as he was suffering from dementia but returned home as he did not settle. In September 2019, the Billing Authority received a letter from the GP surgery about Mrs Donakey. It did not confirm a mental impairment but did confirm anxiety and depression. In March 2020 the Billing Authority contacted the family GP about Mrs Donakey and again, they confirmed that she is not severely mentally impaired but does suffer from anxiety and depression.
13. Following a review of the account, in December 2020 the following amendments were made: a 50% discount has been granted for the period 25<sup>th</sup> July 2018 to 23<sup>rd</sup> April 2019 and from 14 August onwards as Mr Donakey is suffering from a severe mental impairment and Mrs Donakey is his carer. For the period 24<sup>th</sup> April 2019 to 13<sup>th</sup> August 2019, a 25% discount was granted because Mr Donakey was resident in a nursing/ care home.
14. Whilst the Billing Authority did not dispute that Mrs Donakey is struggling with her mental health, it did not consider her to be severely mentally impaired based upon the information from the family doctor.
15. The appellant's daughter highlighted that her mother had suffered from Anorexia since her early 20s and had been signed off from work aged 36. She considered that because her mother had a long history of mental illness which had never improved, she should be classed as being severely mentally impaired and therefore qualify for the exemption.
16. The Billing Authority, accepted that it would send the certification form to both the appellant's daughter and GP with a full copy of Paragraph 2 of Schedule 1 to the Local Government Finance Act 1992 for their information and the daughter would clarify what was needed with the GP.
17. The panel find that it is a fundamental statutory requirement for the purposes of a claim for council tax exemption on the grounds of severe mental impairment that a doctor's certificate is provided in respect of the claimant. Mrs Donakey has not obtained a doctor's certificate stating that she suffers from a severe mental impairment and provided it to the Council. Importantly, Mrs M Donakey's GP has, on 3 separate occasions, declared that she is not severely mentally impaired. The panel therefore find that no council tax exemption is applicable on the basis of severe mental impairment.
18. The appeal must therefore be dismissed.

**Date:** 11 February 2021

**Appeal Number:** VT00000741