



Neutral Citation Number: [2021] EWHC 1 (Admin)

Case No: CO/936/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

The Combined Court Centre, Oxford Row, Leeds

Date: 15/01/2021

Before :

HIS HONOUR JUDGE GOSNELL
SITTING AS JUDGE OF THE HIGH COURT

Between :

DEREK JAMES BROWN

Appellant

- and -

HAMBLETON DISTRICT COUNCIL

Respondent

Mr Derek James Brown acting in person
Mr Eric Owen and Piers Riley-Smith (instructed by Hambleton District Council Legal
Department) for the Respondent

Hearing dates: 8th December 2020

Approved Judgment

His Honour Judge Gosnell :

1. Introduction

This claim involves an appeal by the Appellant against the decision of the Valuation Tribunal (the independent body for Council Tax and Rating appeals) dated 20th January 2020. The Appellant had applied to the Respondent Local Authority for a council tax discount on the basis that his wife suffered from Severe Mental Impairment (SMI) in the form of Alzheimer’s Disease. In order to qualify for the discount (single person’s discount) , which in the Appellant’s situation in a two-person household, would be 25%, the claimant must have certification from a medical practitioner stating the date when the patient first started to suffer from SMI and be entitled to a qualifying benefit, which in most cases is Attendance Allowance. The Respondent agreed that the Appellant was entitled to the Council Tax discount, but only from the date that Attendance Allowance was in payment. The Appellant thought that the payment should be backdated to the date when symptoms were first diagnosed and certified by the GP. He therefore appealed to the Valuation Tribunal who dismissed the appeal, giving reasons for doing so. He now appeals to this court. An appeal to this court may be made on a point of law only pursuant to paragraph 11, Schedule 11 Local Government Finance Act 1988.

2. The agreed facts

The Appellant’s wife Margaret was diagnosed with SMI from 1st February 2018 and a certificate was provided to this effect by her GP. Margaret became entitled to Attendance Allowance as a consequence of her condition and she first received payment on 29th November 2018. The Respondent backdated the Council Tax Discount to 29th November 2018, the date of her application for Attendance Allowance. The Appellant wrote to the Respondent asking them to backdate the discount until the date of certified diagnosis, being 1st February 2018. The Respondent refused stating that both certification of SMI and receipt of the qualifying benefit were required before the discount could apply. The Appellant appealed to the Valuation Tribunal on 2nd May 2019 and the Valuation Tribunal dismissed his appeal on 20th January 2010. The value of the backdated discount which the Appellant was seeking is £345.71. To be fair to him, he has made it clear that his aim in this litigation is to seek to establish the right for others in similar difficulties to make a successful claim backdated to the date of medical certification.

3. The Statutory Framework for Council Tax discounts

Council Tax is billed for domestic dwellings by Local Authorities pursuant to the regime set out in Local Government Finance Act 1992 (“LGFA 1992”). The Respondent Council is responsible for the assessment and collection of Council Tax in the Appellant’s local area and in the LGFA 1992 it is designated the “Billing Authority”. The basic amounts payable are calculated in accordance with a formula set out in section of the LGFA 1992. The entitlement to discounts is provided by section 11 of the Act which states as follows:

“11. Discounts.

(1)The amount of council tax payable in respect of any chargeable dwelling and any day shall be subject to a discount equal to the appropriate percentage of that amount if on that day—

(a)there is only one resident of the dwelling and he does not fall to be disregarded for the purposes of discount; or

(b)there are two or more residents of the dwelling and each of them except one falls to be disregarded for those purposes.

(2)Subject to sections 11A, 11B, 12, 12A and 12B below, the amount of council tax payable in respect of any chargeable dwelling and any day shall be subject to a discount equal to twice the appropriate percentage of that amount if on that day—

(a)there is no resident of the dwelling; or

(b)there are one or more residents of the dwelling and each of them falls to be disregarded for the purposes of discount.

(3)In this section . . . “the appropriate percentage” means 25 per cent. or, if the Secretary of State by order so provides in relation to the financial year in which the day falls, such other percentage as is specified in the order.

(4)No order under subsection (3) above shall be made unless a draft of the order has been laid before and approved by resolution of the House of Commons.

(5)Schedule 1 to this Act shall have effect for determining who shall be disregarded for the purposes of discount.”

Sections 11A,11B,12,12A and 12B have referred to above have no relevance to this appeal.

4. Schedule 1 to the LGFA 1992 paragraph 2 provides that:

“The severely mentally impaired

2 (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; 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.

(3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

Paragraphs 2 (1) (b) (c) and 2 (3) are relevant to this appeal.

5. Pursuant to paragraph 2 (1) (c) of Schedule 1 above the Secretary of State made the Council Tax (Discount Disregards) Order (UK SI 1992/548). Article 3 of this order prescribed an additional condition as follows:

“The severely mentally impaired

3.—(1) The condition prescribed for the purposes of paragraph 2(1)(c) of Schedule 1 to the Act is that the person in question is entitled to one of the qualifying benefits listed in paragraph (2) below.

(2) The qualifying benefits for the purposes of paragraph (1) are—

(a) an invalidity pension under section 33, 40 or 41 of the Social Security Contributions and Benefits Act 1992([1](#));

(b) an attendance allowance under section 64 of that Act;”

Other benefits are prescribed but are not relevant to this appeal.

6. **Entitlement to state benefits**

Attendance Allowance is a benefit under Part III of the Social Security (Contributions and Benefits) Act 1992. It therefore falls within section 1 (1) of the Social Security Administration Act 1992 (“The Administration Act”) which states as follows:

1. “Entitlement to benefit dependent on claim

(1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—

(a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or

(b) he is treated by virtue of such regulations as making a claim for it.

7. Section 191 of the Act contains the interpretation provisions and includes:

“prescribe” means prescribe by regulations;

8. Section 5 of the Social Security Administration Act 1992 provides that regulations can prescribe when the date of claim is considered as “made”. In particular the following provisions may be considered relevant:

“5. Regulations about claims for and payments of benefit

(1) Regulations may provide—

(a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed;

(b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;

(c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;

(d) for permitting an award on such a claim to be made for such a period subject to:

i) the condition that the requirements for entitlement are satisfied at a prescribed time after making the award, or

ii) other prescribed conditions.”

9. The Regulations referred to in the previous section are the Social Security (Claims and Payments) Regulations 1987 as subsequently amended. The Regulations state that an application for benefit must be made on a claim form. The date the application is made is prescribed by Regulation 6:

“Date of claim

6.—(1) Subject to the following provisions of this regulation, the date on which a claim is made shall be—

(a) in the case of a claim which meets the requirements of regulation 4(1), the date on which it is received in an appropriate office;”

(Regulation 4(1) is the provision which requires the application to be made on a claim form)

6.(8) Subject to paragraphs (8A) and (8B) where—

(a) a request is received in an appropriate office for a claim form for disability living allowance or attendance allowance; and

(b) in response to the request a claim form for disability living allowance or attendance allowance is issued from an appropriate office; and

(c) within the time specified the claim form properly completed is received in an appropriate office,

the date on which the claim is made shall be the date on which the request was received in the appropriate office.

Paragraphs 8A and 8B do not apply to the facts of this appeal.

10. Section 122 (1) of the Social Security (Contributions and Benefits) Act 1992 provides as follows:

“entitled”, in relation to any benefit, is to be construed in accordance with—

(a) the provisions specifically relating to that benefit;

(b) in the case of a benefit specified in section 20(1) above, section 21 above; and

(c) sections 1 to 3 and 68 of the Administration Act;

The specific conditions of entitlement to Attendance Allowance are set out in sections 64-67 of the Act and include the following provision:

“65 Period and rate of allowance

(1) Subject to the following provisions of this Act, the period for which a person is entitled to an attendance allowance shall be—

(a) a period throughout which he has satisfied or is likely to satisfy the day or the night attendance condition or both; and

(b) a period preceded immediately, or within such period as may be prescribed, by one of not less than 6 months throughout which he satisfied, or is likely to satisfy, one or both of those conditions.

I have set out paragraph 1 of the Administration Act in paragraph 6 above which provides that entitlement to benefits depends on making a claim.

11. **The decision of the Valuation Tribunal**

The hearing took place on 20th January 2020 where the Appellant represented himself and the Respondent was represented by Ms F Crisp. Dr Johnson the Senior Member of

the Valuation Tribunal who conducted the appeal set out the relevant legislative provisions and the factual basis of the claim. He correctly identified the two necessary conditions to make a successful claim for Council Tax Discount:

“20. I found that the test in law for a person to be disregarded in considering entitlement to a council tax discount was clear. For such a disregard on the grounds of being severely mentally impaired the person must, for each day the disregard is to apply, meet two conditions –

(a) that they are certified as severely mentally impaired; and

(b) that they are entitled to a qualifying benefit.”

12. He then confirmed that from 29th November 2018 Mrs Brown satisfied both conditions in that she was certified as severely mentally impaired and was in receipt of Attendance Allowance, a qualifying benefit. The issue was whether Mr Brown was entitled to backdate his claim for a Council Tax discount to the date that Mrs Brown was first certified as suffering from severe mental impairment. He decided that he was not for the following reasons:

“ 23. I considered that there is a significant and substantial difference between being entitled to a benefit and meeting the conditions to qualify for a benefit. Section 1(1) of the Social Security Administration Act 1992 stipulates that, in addition to meeting the conditions for a benefit, a person must have made the claim for the benefit, or be treated as having made such a claim, in accordance with the relevant regulations of the benefit to have an entitlement to it. Parliament clearly intended to limit a person’s ability to retrospectively claim entitlement to a benefit. The use of the phrase “entitled to” in Article 3 of the Discount Disregards Order must, as a matter of statutory construction, take account of the condition of entitlement to a benefit at section 1(1) of the Social Security Administration Act 1992. I found there to be no justifiable reason for interpreting the phrase “entitled to” in a way that disregards it.

24. In Mrs Brown’s case, the DWP has awarded Mrs Brown an attendance allowance from 29 November 2018 following the making of a claim in November 2018. There is no suggestion that the claim for attendance allowance was made earlier or that any such claim would be treated as made from an earlier date. Therefore, whilst she may have met the conditions to qualify for attendance allowance from the date of her diagnosis, Mrs Brown was not entitled to such an attendance allowance earlier because she failed to meet the condition imposed by section 1(1) of the Social Security Administration Act 1992.”

13. **The Appellant’s submissions in support of the appeal**

The Appellant submits that the decision of the Valuation Tribunal was wrong in law. He alludes to the difficulties experienced by relatives claiming Attendance Allowance for dementia sufferers which requires a 31-page form and supporting medical evidence. The form evidently stipulates that it can only be applied for six months after diagnosis and many relatives find the whole process too burdensome.

14. The Appellant has done a considerable amount of research from 288 different councils in England and Wales to find out how many of them habitually permit backdating of Council Tax rebate claims to the date of medical certification. I do not intend to rely on this research as , firstly it is not binding on me, and secondly it is likely that some of the councils are not acting in accordance with the law , given that they are taking two conflicting approaches it seems.
15. The Appellant understands the Respondent’s reliance on section 1 of the Administration Act set out in paragraph 6 of this judgment to make good the point that a person can only be entitled to a benefit where they have made a claim. He relies however on the preamble “ Except in such cases as may be prescribed.....”. He says this means “prescribed by law” and that Schedule 1 of the Local Government Finance Act 1992 and Article 3 of Council Tax (Discount Disregards) Order 1992 are prescribed by law and contain the only pre-conditions for obtaining a Council Tax discount , namely severe mental impairment and being entitled to (but not necessarily in receipt of) Attendance Allowance.
16. The Appellant submits that, in order to succeed in a claim for Council Tax discount the person must be entitled to, but not necessarily in receipt of, a qualifying benefit. Under the Council Tax (Discount Disregards) Order 1992 the relevant provision is Article 3 (2)(b) [see paragraph five above] which specifies “ an attendance allowance under s 64 of that Act”. This is the section which describes the medical conditions and needs required to qualify for attendance allowance. The Respondents rely on s 65 of the same Act which deals with period and rate of allowance but the Appellant argues that this section does not apply as it is not mentioned in Article 3 (2)(b).
17. Of the various qualifying benefits in the above order only Attendance Allowance requires a six month period following medical qualification for the benefit before a claim can be lodged. The Appellant argues that this amounts to unlawful discrimination against people suffering from dementia who make up the majority of claimants.
18. This should be contrasted with the Local Government Finance Act 1992 and the Council Tax (Discount Disregards) Order 1992 where there is no requirement to have to wait for six months before making a claim. This may be, according to the Appellant, because Council Tax discount is not a benefit and is not therefore covered by the Administration Act or the Contributions and Benefits Act. The Appellant therefore submits that once a person meets the medical and needs criteria under s 64 of the Social Security (Contributions and Benefits) Act 1992 they are then entitled to , but not in receipt of Attendance Allowance, and they should qualify for a Council Tax Discount.
19. The Appellant also submits that the Local Government Finance Act 1992 and the Council Tax (Discount Disregards) Order are not listed as benefits in s 1(4)(A) of the Administration Act as a “benefit as defined in s 122 of the Contributions and Benefits Act 1992” and so the refence to “entitlement to benefit” does not apply.

20. The Appellant also relies on the Human Rights Act 1998 and by implication the European Convention on Human Rights. It is contended that the Respondent's policy in refusing to backdate Council Tax discount is a breach of the prohibition against discrimination in Article 14 and the prohibition against torture in Article 3.

21. **The Respondent's submissions in opposing the appeal**

The Respondent submits that the Valuation Tribunal reached the right decision for the right reasons. The starting point is s 11 LGFA 1992 [paragraph 3 above] which then leads to Schedule 1 of the same act [paragraph 4 above]. The additional conditions prescribed by order are contained in Article 3 of the Council Tax Disregard Order [paragraph 5 above] – the entitlement to a qualifying benefit, namely Attendance Allowance. Both statutory conditions were met as from 29th November 2018; Mrs Brown had been certified as suffering from severe mental impairment and she was entitled to Attendance Allowance , a qualifying benefit. This does not mean that she is entitled to backdated Council Tax discount from the date she was certified as so suffering by her GP it claims.

22. The real crux of the Respondent's submissions lies in section 1 of the Social Security Administration Act 1992. It states in terms that no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied he makes a claim for it in the manner and within the time , prescribed in relation to that benefit by regulations.

23. The Respondent relies on the decision of Mr Justice Burton in *R v Social Security Appeal Tribunal* [2000] WL 1274142 where he explained why section 1 of the Administration Act was enacted:

“This, I am told by Mr Forsdick, was intended to statutorily reverse a decision of the House of Lords in Insurance Officer v McCaffrey [1984] 1 WLR 1353 in which the House of Lords concluded that a person was entitled to benefit if he met the conditions of entitlement , even though he had not made a claim for benefit, which of course would have accorded with the submission which Mr Davies has been making to me before, which, in those circumstances, has been expressly abjured by the legislature.”

24. This was further confirmed in *Secretary for Work and Pensions v Nelligan* [2003] EWCA Civ 555 where Scott Baker LJ said:

“ The legislative history illustrates clearly why section 1 of the 1992 Administration Act , and more particularly its predecessor section 17 of the Social Security Act 1985 was enacted , namely to reverse the effect of the decision in McCaffrey and make clear the fundamental position that entitlement to a benefit is ordinarily dependent on a claim being made for it”.

25. In relation to the disputed period the Respondent therefore submits the second condition required by Article 3 of the Council Tax Disregard Order , namely being entitled to Attendance Allowance has not been met as the Appellant did not make a claim for

Attendance Allowance until 29th November 2018 and could not have been entitled to Attendance Allowance before that date, even if the first condition applied during that period.

26. **Analysis**

The factual context of this appeal is essentially agreed. Mrs Brown was certified by her GP as being Severe Mentally Impaired on 1st February 2018. The Appellant made an application for Attendance Allowance on 29th November 2018 which was granted. No application was made to backdate that allowance. The Appellant made an application for his wife to be disregarded for the purposes of council tax and a discount claimed on 20th February 2019. This was granted backdated to 29th November 2018 the date when Attendance Allowance was approved for payment. It is the period from 1st February to 29th November 2018 that is in dispute.

27. Both parties agree that Mrs Brown qualified as Severely Mentally Impaired as from 1st February 2018 and that she is entitled to Attendance Allowance pursuant to the requirements set out in s 64 Social Security Contributions and Benefits Act 1992. The only real issue between the Appellant and Defendant is whether the Appellant is entitled to a backdated discount for Council Tax to 1st February 2018 or whether the Respondent is right and the backdate can only apply to the date of the application for Attendance Allowance on 29th November 2018.
28. The essential disagreement between Appellant and Respondent in this case is the effect of section of the Administration Act 1992 [set out in paragraph 6 above]. The Respondent says that the effect of this provision is that in addition to meeting the conditions for a benefit , a person must have made a claim for the benefit or be treated as having made such a claim in accordance with the regulations which apply for the benefit concerned. The Appellant, whilst recognising that section 1 of the Administration Act remains in force submits that it does not have the effect contended for by the Respondent. It would probably be convenient therefore to examine the reasons why the Appellant makes this submission.
29. His first argument is that the phrase “*except in such cases as may be prescribed...*” at the start of section one of the Administration Act means except in such cases as may be prescribed by law. Schedule 1 of the Local Government Finance Act 1992 and Article 3 of Council Tax (Discount Disregards) Order 1992 are prescribed by law and contain the only pre-conditions for obtain a Council Tax discount , namely severe mental impairment and being entitled to (but not necessarily in receipt of) Attendance Allowance, he submits.
30. I am afraid that I disagree with his interpretation of this phrase. The Administration Act itself contains a definition section , which is section 191. It states therein: “*prescribe*” means *prescribe by regulations*” and so section 1 of the Administration Act applies to all claims for a benefit unless a regulation (presumably the regulation dealing with the benefit under consideration) prescribes that it should not.
31. The regulations that would apply in the present case would be the Social Security (Claims and Payments) Regulations 1987. Regulation 3 of these regulations sets out certain benefits where “*it shall not be a condition of entitlement to benefit that a claim be made for it in the following cases:*”. Examples are given such as retirement pension

and widow's benefit. It is clear then that in respect of these benefits it is prescribed that section one of the Administration Act does not apply. This is the type of exception which the preamble in section one of the Administration Act refers to. More significantly, perhaps, Attendance Allowance is not referred to and I am not aware of any other Regulations where it states that making a claim shall not be a condition of entitlement to Attendance Allowance.

32. Regulation 4 of the same regulations states : "*Every claim for benefit shall be made in writing on a form approved by the Secretary of State.....*" . The date on which the application is made is prescribed by Regulation 6 (8) [see paragraph 9 above] . The only provisions for backdating relate to postal delay caused by industrial action (regulation 6(5)) and a failure to stamp the application on receipt (regulation 6(8A)). Neither of these provisions apply to this appeal.
33. There is provision for backdating of Attendance Allowance in section 65 of the Social Security Contributions and Benefits Act 1992. I have set out section 65 (1) earlier in this judgment . The backdating provisions are in Section 65(4) onwards:

(4)A person shall not be entitled to an attendance allowance for any period preceding the date on which he makes or is treated as making a claim for it.

(5)Notwithstanding anything in subsection (4) above, provision may be made by regulations for a person to be entitled to an attendance allowance for a period preceding the date on which he makes or is treated as making a claim for it if such an allowance has previously been paid to or in respect of him.

(6)Except in so far as regulations otherwise provide and subject to section 66(1) below—

(a) a claim for an attendance allowance may be made during the period of 6 months immediately preceding the period for which the person to whom the claim relates is entitled to the allowance; and

(b) an award may be made in pursuance of a claim so made, subject to the condition that, throughout that period of 6 months, that person satisfies—

(i)both the day and the night attendance conditions, or

(ii)if the award is at the lower rate, one of those conditions.

34. There are two difficulties for the Appellant with these provisions. Firstly, the ability to backdate under section 65 (5) is dependent on the applicant being able to prove that attendance allowance has previously been paid in respect of her (Mrs Brown cannot in fact claim this); and that section 65(6) is predicated on the claim for backdating is the six months "*immediately preceding the period for which the person to whom the claim relates is entitled to the allowance*". The implication of this latter phrase is, in my view, that a person becomes "*entitled to*" the allowance on the date they make the

claim. I should also perhaps record the fact that Mrs Brown made no claim to backdate her Attendance Allowance prior to the date of her application.

35. The Appellant's second principal submission is that, in order to succeed in a claim for Council Tax discount the person must be entitled to, but not necessarily in receipt of, a qualifying benefit. Under the Council Tax (Discount Disregards) Order 1992 the relevant provision is Article 3 (2)(b) [see paragraph five above] which specifies “ *an attendance allowance under s 64 of that Act*”. This is the section which describes the medical conditions and needs required to qualify for attendance allowance. The Respondents rely on s 65 of the same Act which deals with period and rate of allowance but the Appellant argues that this section does not apply as it is not mentioned in Article 3 (2)(b).
36. Whilst I accept that the Council Tax (Discount Disregards) Order 1992 , Article 3 only mentions section 64 of the Social Security Contributions and Benefits Act 1992 that is consistent with other benefits which are listed by reference to the legislative provision which describes the entitlement to the benefit. This does not mean that other sections which deal with period and rate of allowance are irrelevant. Section 65 (4) of the Act above is relatively conclusive of this appeal, for example [set out in paragraph 32 above]
37. This argument does not get over the fundamental statutory rule that a person is not entitled to a benefit until they have made a claim. I have already found that no specified exemption exists for Attendance Allowance in the regulations. I accept that Schedule one of the Local Government Finance Act [paragraph 4 above] and Article 3 of the Council Tax (Discount Disregards) Order together set out the qualifying conditions for a Council Tax Discount based on Severe Mental Impairment. These are the conditions to be met before a successful discount claim can be made: a GP's certificate that someone in the household has Severe Mental Impairment; and that that person is entitled to Attendance Allowance. A person cannot however be “*entitled to*” Attendance Allowance until they have made a claim. This is the clear pre-condition set out in section one of the Administration Act. My interpretation is clearly supported by the two authorities relied on by the Respondent and set out in paragraph 22 and 23 above. Nothing in either the LGFA 1992 or the Discount Disregards Order seeks to exclude the operation of section 1 of the Administration Act.
38. I must confess to having difficulty understanding the submission set out in paragraph 19 above. I accept that the right to seek a reduction in council tax where an occupant is severely mentally impaired is not within the list of benefits set out in section 122 of the Social Security (Contributions and Benefits) Act 1992. This does not matter however. It is a pre-condition to the ability to claim a discount of council tax that the claimant must also be entitled to a qualifying benefit , in this case Attendance Allowance. The test of whether a person is entitled to Attendance Allowance brings into play section of the Administration Act which insists that a claim on the appropriate form is made. Section 1 (4) (a) of the same Act defines a “benefit” as “ *benefit as defined in section 122 of the Contributions and Benefits Act*”. Section 122 of that Act includes Attendance Allowance which means that Section 1 of the Administration Act bites. The fact that the right to council tax discounts is not listed in section 122 does not matter. The qualifying benefit that the claimant must be entitled to is Attendance Allowance which is listed thus bringing section one of the Administration Act into play.

39. The Appellant also sought to argue that the Respondent was acting in contravention to Articles 3 and 14 of the European Convention on Human Rights in rejecting his claim. He confessed during the hearing that he was unable to progress this bare submission by reference to legal principles or authorities. He admitted that it was his way of asking the court to treat his appeal fairly. I assured Mr Brown during the hearing that the appeal would be conducted fairly but I could not allow my personal sympathy for himself and Mrs Brown to cloud my judgment on what essentially is an issue of construction of the relevant legislation. In the light of this I do not intend to conduct a magisterial review of Human Rights jurisprudence to consider these submissions. I am comfortable in finding that there has been no interference with the Appellants rights under either Article 3 or Article 14 on the facts of this appeal.

40. The Judgment of the Valuation Tribunal was thorough and well-reasoned. Having carefully considered all the documents filed and the submissions made in connection with this appeal I find that the decision maker was not wrong in law. He was right to conclude that there could be no entitlement to Attendance Allowance until a claim was made and that the Appellant was therefore not entitled to seek that his council tax discount be backdated to 1st February 2018 or indeed any date before 29th November 2018, the date of his application for Attendance Allowance. The fact that neither party appears to have raised this argument before the Valuation Tribunal does not mean that the decision was incorrect, merely that it had not occurred to either party before the hearing. It follows from this finding that the appeal must be dismissed. The Respondent has very fairly agreed not to pursue a claim for costs against the Appellant if the appeal failed. I suspect this was in recognition of the fact that the Appellant did not bring this appeal in his own interests, but in an effort to fight for the rights of other citizens who are affected by the effects of dementia on their loved ones. I have considerable sympathy for Mr Brown and others similarly affected by this dreadful disease, but sadly I cannot find in their favour.