

3. *This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the Panel.*

Issue

4. The Billing Authority claimed that the appeal property was the main residence of at least two adults for the period 31 March 2006 to 30 March 2007.

Evidence and Submissions

5. The Billing Authority stated, in summary, that the basis of the appeal was against their decision to remove sole adult occupier discount for the period 31 March 2006 to 30 March 2007.
6. The appellant took occupation of the property on 31 March 2006 and was granted single person discount of 25% from this date. In January 2013 as part of a general review of discounts, a council tax discount review form was sent to the appellant, which he completed on 5 February 2013 and returned. This form stated 'that his sole occupancy commenced in '2007' the Billing Authority provided a copy of this form at the hearing.
7. A further form was sent to the appellant for clarification of the date specifically asking when his ex-wife had left the property. The appellant completed this form on 17 February 2013 stating that his ex wife had vacated in March 2007.
8. On 21 March 2013 the single person discount was removed from the appellant's account for the period 31 March 2006 to 30 March 2007.
9. The Billing Authority also presented an extract from a housing benefit claim form and details of the electoral register form for the property both completed by the appellant at the end of August 2006. Both these forms were completed by the appellant himself and showed his ex wife as being a resident of the property at that time.
10. In conclusion the Billing Authority stated that the completion of documents for other council services at the time in 2006, together with two separate forms completed in 2013, all forms completed by the appellant himself, confirmed that his ex wife was resident at the property for the period in dispute. Therefore single person discount should not be applied for the period 31 March 2006 to 30 March 2007.
11. The appellant, in summary stated that due to a medical condition namely having a form of dyslexia he had trouble with reading and completing forms especially with figures.
12. The appellant had a medical report outlining his medical condition but was unwilling to show a copy to the Billing Authority. Therefore he read passages that outlined his condition from the report at the hearing.
13. The appellant stated that he moved into Address X with his wife and son. However in 2006 his marriage broke down and in March 2006 he purchased the appeal property and moved in with his son.

14. The appellant contended that he lived alone in the appeal property with his son who was under 18 years old. His ex wife did not reside in this property.
15. During the period in dispute the appellant suffered financial difficulties and completed a housing benefit form. He confirmed that on the housing benefit form he mentioned 'family' but this only meant himself and his son.
16. The appellant also confirmed that the housing benefit form was completed on his behalf by the Law Centre and due to his medical condition he was not fully aware of its content.
17. The appellant pointed out that even though a housing benefit form was completed on his behalf it was never processed and he never claimed anything.
18. The appellant confirmed that his ex wife's name had been left on the electoral register but this was only so she could get help from the NHS. But this did not mean that his ex-wife was resident in the property.
19. In conclusion the appellant contended that the Billing Authority had not presented any evidence to prove that there was more than one adult resident in the property. He had shown that he had completed the housing benefit form with the help and advice from a third party and had given a reason why his ex wife's name was still on the electoral register.
20. He therefore requested the Panel to allow the appeal and grant single person discount for the period 31 March 2006 to 30 March 2007.

Decision and Reasons

21. The Panel having considered the evidence presented arrives at the following conclusions.
22. The Panel were unable to accept the medical report from the appellant as he was not willing to show the contents to the Billing Authority. However, the appellant was given an opportunity to read out passages from the report in open hearing that confirmed he suffered from a form of dyslexia and this was noted by the Panel.
23. The Panel took account of the appellant's submission that the housing benefit form was completed by a third party and due to his medical condition and the fact he had problems reading letters and figures he was not fully aware of its content.
24. The Panel considers that the dispute concerns the removal of single person discount by the Billing Authority for the period 31 March 2006 to 30 March 2007.
25. The Panel notes that the Billing Authority contended that there were at least two adults who were resident in the appeal property during the period under dispute. The Billing Authority claimed that the appellant and his ex-wife, had their main residence at the appeal property during this period.
26. It was accepted that the appellant's sole or main residence was at the appeal property. However the Panel had to decide if the appellant's ex wife was resident and had her 'sole or main residence' at the appeal property during the period under dispute.
27. In Section 6(5) of the Local Government Finance Act 1992 resident is defined as;

“resident”, in relation to any dwelling, means an individual who has attained the age of 18 years and has his sole or main residence in the dwelling.

28. Sole or main residence is not defined in Council Tax legislation, however in order to help them to consider the issue of sole and main residence the Panel referred to the High Court case of *Williams v Horsham District Council [2004]* in which Lord Phillips remarked that *“we think that it is probably impossible to produce a definition of ‘main residence’ that will provide the appropriate test in all circumstances. Usually, however a person’s main residence will be the dwelling that a reasonable onlooker, with knowledge of the material facts, would regard as that person’s home at the material time. That test may not always be an easy one to apply, but we have no doubt as to the conclusion to which it leads in the present case”*.
29. The appellant had claimed that his ex wife did not reside in the appeal property during the period under dispute.
30. The Panel established the ‘material facts’ in this case are;
 - A housing benefit claim form was completed and signed by the appellant and dated 29 March 2006. This form clearly showed his ex wife as a resident of the appeal property. The Panel noted that the appellant did not qualify for help.
 - There was a register of elector’s form which the appellant had completed showing his ex wife as a person living at the appeal property. He had also signed it and it was dated 29 August 2006.
 - There was evidence produced of a council tax discount form completed by the appellant and signed by him dated 5 February 2013 stating that his sole occupancy commenced in 2007.
 - There was a further Council form (Sole Adult Occupier Discount) completed by the appellant on 17 February 2007 and signed by him which confirmed his ex wife vacated the appeal property in March 2007 and he had no forwarding address for her.
31. The Panel consider that cumulatively the above evidence on balance indicates to the Panel that the appeal property was the main residence of at least two adults during the period under dispute.
32. The Panel also consider that ‘a reasonable onlooker’ with knowledge of the above material facts would consider the appeal property was the main residence of at least two adults during the period under dispute.
33. The Panel noted the appellant’s submissions that the housing benefit form was completed on the advice of a third party and his ex wife’s name was left on the register of electors so she could receive NHS treatment. It also took into account the appellant’s contention that due to his medical condition he had trouble with figures especially dates. However even taking this into consideration it is the Panel’s opinion that the majority of the evidence suggested that more than one adult was resident in the appeal property during the period under dispute.
34. The Panel noted the appellant’s contention that he may not have know what he was signing. However all the dates in all the forms indicated that the appellant’s ex-wife was resident in the appeal property during the period under dispute and the appellant had signed all these forms.

35. The appellant did not present the Panel with any substantive evidence to persuade them that he was the only adult resident in the appeal property during the period in dispute.
36. The Panel are satisfied that during the period 31 March 2006 to 30 March 2007 the appeal property was the main residence of at least two adults. Therefore the appellant was not entitled to single person discount during the period under dispute.
37. Consequently the Panel dismisses the appeal.

Appeal No:

Dated: 9 January 2014