

FOI number: **HBC_FOI_20200230**
Date FOI Received: **13/03/2020**
Department: **Council Tax**
Title: **Council Tax Class U and SMI Sole Occupant**
Description: **Details of how the Class U (Severely Mentally Impaired) qualification is applied where a person moves between more than one dwelling.**

Request: (As Redacted sent by requestor)

Please note that I do not consent to my personal sensitive data (i.e. my name and email address) being passed onto your colleagues or any third parties.

s6 of the Council Tax (Discount Disregards and Exempt Dwellings)(Amendment) Order 1995 states: *“Class U: a dwelling occupied only by a person or persons who is or are severely mentally impaired within the meaning given in paragraph 2 of Schedule to the Local Government Finance Act 1992 and who would but for this order be liable to pay the council tax.”*

Given the above legislation, and where a person is already in receipt of a Class U exemption and an SMI disregard, please kind answer the following and provide where in the legislation it permits you to answer in that way:

1. Is the person with the SMI disregard/exemption *‘invisible’* for Council Tax purposes?
2. Is the person with the SMI disregard/exemption disregarded/exempt for Council Tax purposes if the person falls within s6(2) of LGFA 1992?
3. Is the SMI disregard/exemption applicable to all dwellings occupied as a main residence by the person with the SMI?
4. Is the SMI disregard/exemption applicable in the example where a person with a SMI person occupies a dwelling with a son who (but for the SMI occupant) is a single occupant and occupies a dwelling with a daughter who (but for the SMI occupant) is a single occupant? That is, can both the son and the daughter both continue to receive the single person’s discount? In this instance both dwellings are main residences.
5. Does a single occupant need to ‘declare’ an occupant with a SMI to a billing authority if they have previously been in receipt of a Class U? For example, the SMI person no longer has a dwelling that is a Class U because they have given it up.
6. The person with the SMI occupies two dwellings as the sole occupant. Both are main dwellings and neither is a sole dwelling. Each dwelling comes under a different billing authority and is a significant distance apart. Does a Class U apply to each dwelling?
7. As Q4 but each dwelling is with the same billing authority? Does a Class U apply to each dwelling?
8. The person with the SMI occupies two dwellings as the sole occupant (either in a different billing authority or the same) and occupies a dwelling with a son who would be a single occupant but for the SMI occupant. All dwellings are main dwellings. Does a Class U apply to the two dwellings solely occupied by the SMI person and a disregard for the dwelling occupied with the son?
9. Do you agree that the SMI disregard/exemption is permanent and, providing the person is entitled to a qualifying benefit, it does not need to be re-applied for?
10. A SMI person with a Class U exemption moves house (to a different billing authority) and solely occupies that house. What is the process for continuing with the Class U?

11. A SMI person with a Class U exemption moves house (within the same billing authority region) and solely occupies that house. What is the process for continuing with the Class U?

Note: All dwellings are furnished in all examples and the SMI person lives in them and is rooted in each community.

Your earliest response, along with the legislation supporting your response would be much appreciated.

Response: (Response as Redacted sent by service)

1. Is the person with the SMI disregard/exemption '*invisible*' for Council Tax purposes?

Yes – they are disregarded so if there are 2 people in the property the charge payer will be entitled to a single person discount but if they are the sole occupant, although there will be no charge, their name will be on the bill

2. Is the person with the SMI disregard/exemption disregarded/exempt for Council Tax purposes if the person falls within s6(2) of LGFA 1992?

Yes

3. Is the SMI disregard/exemption applicable to all dwellings occupied as a main residence by the person with the SMI?

You can only have one main residence

4. Is the SMI disregard/exemption applicable in the example where a person with a SMI person occupies a dwelling with a son who (but for the SMI occupant) is a single occupant and occupies a dwelling with a daughter who (but for the SMI occupant) is a single occupant? That is, can both the son and the daughter both continue to receive the single person's discount? In this instance both dwellings are main residences.

As above – you can only have 1 "main" residence. So they would get the SMI discount in the main residence and the other child would get a SAD in the other (if I understand your example correctly)

5. Does a single occupant need to 'declare' an occupant with a SMI to a billing authority if they have previously been in receipt of a Class U? For example, the SMI person no longer has a dwelling that is a Class U because they have given it up.

Yes – all changes need to be reported to the billing authority

6. The person with the SMI occupies two dwellings as the sole occupant. Both are main dwellings and neither is a sole dwelling. Each dwelling comes under a different billing authority and is a significant distance apart. Does a Class U apply to each dwelling?

As above – you cannot have more than 1 main dwelling and the class U will only apply at the main residence.

7. As Q4 but each dwelling is with the same billing authority? Does a Class U apply to each dwelling?

As above

8. The person with the SMI occupies two dwellings as the sole occupant (either in a different billing authority or the same) and occupies a dwelling with a son who would be a single occupant but for the SMI occupant. All dwellings are main dwellings. Does a Class U apply to the two dwellings solely occupied by the SMI person and a disregard for the dwelling occupied with the son?

As above - there can only be 1 main dwelling

9. Do you agree that the SMI disregard/exemption is permanent and, providing the person is entitled to a qualifying benefit, it does not need to be re-applied for?

Yes

10. A SMI person with a Class U exemption moves house (to a different billing authority) and solely occupies that house. What is the process for continuing with the Class U?

As they have moved to a different billing authority they would have to complete a new SMI form

11. A SMI person with a Class U exemption moves house (within the same billing authority region) and solely occupies that house. What is the process for continuing with the Class U?

They would need to let us know that they were living alone (by reapplying for a SAD) but the original SMI form could be used to award the Class U.

If you have any queries about the processing of your request then please do not hesitate to contact me. Further information explaining the Council's process for responding to information requests together with a complaints/appeals procedure is available in our reception or via our website at:

<https://www.hertsmere.gov.uk/Your-Council/Official-Publications--Guides--Policies/Access-to-Information.aspx>

The Information Commissioner oversees the application of the Freedom of Information Act. You may contact the Information Commissioner at:

Information Commissioners Office
Wycliffe House, Water Lane
Wilmslow
Cheshire SK9 5AF
Telephone: 01625 545700
Website: www.informationcommissioner.gov.uk

Please include the above reference number on all correspondence related to this request.

Thank you for your request.

Kind regards
Information Services