

NORTHERN IRELAND VALUATION TRIBUNAL

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

CASE REFERENCE NUMBER: 14/25

AB26 - APPELLANT

AND

DEPARTMENT OF FINANCE - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr A Tough FRICS and Ms N McCartan

Belfast, 31 March 2026

DECISION

The unanimous decision of the tribunal, for the reasons stated below, is that the appeal is not upheld by the tribunal and the appeal is dismissed, without further Order.

REASONS

Introduction

1. This is a reference under Article 12B of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). In view of the nature of this appeal, as is customary, the tribunal has sought to redact the identity of the appellant.

Here reference is made to “the appellant” who is a person who brings this appeal on behalf of a person with a disability and in respect of the hereditament in which the person with a disability resides, the appellant doing so upon the basis of a power of attorney, dated 6 November 2017. In this determination any reference to the appellant is to be construed as being in respect of an appeal conducted under such power of attorney, in the interests of the person with a disability who is in occupation of the hereditament. The appellant is referred to as “AB26” in order to avoid any link to the identification of that person with a disability. The tribunal had also redacted any identifying details concerning the hereditament under consideration. The appellant confirmed that she was content for this appeal to be determined without a hearing and upon the basis of the documentary evidence and any written representations placed before the tribunal. There was no objection to this course by the respondent Department of Finance (“the Department”). The appellant appealed against the outcome of a review of a decision of the Department that the appellant was not entitled to claim Disabled Persons’ Allowance (“DPA”) in regard to a defined period, referred to further below. Accordingly, the tribunal’s task is to determine a discrete issue: whether the appellant is entitled to DPA in regard to that defined period, or not.

The Law

2. The relevant statutory provisions are to be found in the 1977 Order. Article 31A (12B) of the 1977 Order was inserted by Article 17(8) of the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). Article 31A (12B) enables a person to appeal to the Northern Ireland Valuation Tribunal against the result of a review by the Department (the respondent) of a decision that a person is not entitled to a rate rebate for premises with a special facility for a person with a disability. This is referred to as Disabled Person's Allowance (“DPA”). Of particular significance to this appeal are the provisions of Article 31A, at paragraph 8 thereof, which provide as follows:-

31A (8) No rebate shall be granted—

(a) for any period before 1st April 1979; or

(b) except in such circumstances and to such extent as the Department may determine, for any period before the beginning of the year in which the application is made.

3. Materially, the relevant statutory provision employs words in Article 31A (8) (b), which read: “.....*except in such circumstances and to such extent as the Department may determine*”. Thus, there is provided an exception to any absolute prohibition upon the granting of a rebate and there is afforded to the Department: (a) under circumstances which are expressly stated to be determinable by the Department and (b) to an extent also determinable by the Department, an entitlement to grant a rebate extending back in time (with the backstop date nonetheless being 1 April 1979, which latter is of no practical significance). This can accordingly be referable to any period before the

beginning of the year in which the relevant rebate application was made. In summary therefore, a statutory discretion is afforded to the Department in these two aspects: (a) relevant **circumstances** and (b) relevant **extent**.

Timeline

4. The following dates have been helpfully provided in the Department's Presentation of Evidence:

6 August 2025 - a DPA application was received from the appellant under a power of attorney for the disabled person and a request was made for the award to be backdated to 2020.

21 August 2025 - the Department decision-maker decided that the disabled person was entitled to an award of DPA from 1 April 2025 and notification of this decision was issued on the same date, but the decision-maker refused the request to backdate the award at that time.

29 August 2025 – an email was received from the appellant who requested a review of the original decision.

4 September 2025 – the decision-maker looked again at the original decision, but decided not to change it and notification of this decision was issued on the same date.

12 September 2025 – the appeal was received from the appellant, under power of attorney for the disabled person.

The Department's Case and the Appellant's Case

5. The case made on behalf of the Department, as set forth in the Presentation of Evidence, makes reference to the fact that the disabled person suffers from a neurological disorder and that the appellant holds a power of attorney and is aware of the relief available. The respondent, it is said, had no record of any previous enquiry regarding DPA, nor concerning any request for an application form (until receipt of the form ultimately applying for such relief) relating to any entitlement pertaining to an earlier date. Any backdating decisions by the Department are made using guidance (more of which below). Each year the Department issues an information leaflet with all domestic rates bills which provides for information concerning help available with domestic rates. The Department feels that information regarding any entitlement (including to DPA) had been communicated clearly to all domestic ratepayers, upon a yearly basis. Therefore, although the Department was sympathetic to the circumstances of the appellant, the Department believed there were no circumstances which would allow a start date prior to 1 April 2025, as per the

statutory provisions, and the respondent had not prevented any earlier application having been made in the case.

6. The case for the Department accordingly relies upon the somewhat fundamental proposition that any ratepayer is provided by the Department with adequate information in order to enable such a ratepayer to make an informed application for DPA during any current year: so any necessary information is provided which would enable that course to be taken. The case made for the Department is that, when considering any DPA backdating request, decisions are made “using the guidance”. When reviewing the decision in this case, the Department was satisfied that the appellant had received the yearly rates bill and included with this was the relevant insert which provided specific information concerning help available with rates. The request for backdating (for a period of five years to when adaptations were made to the subject property), was made upon the basis that the appellant was, so she stated, unaware of the process prior to the time application was indeed made (that being received by the Department on 6 August 2025) and that was granted for the current year.
7. The appellant in this case made an application to the Valuation Tribunal (in Form 2) which was received on 12 September 2025. The appellant seeks to advance a number of arguments which include the assertion that the disabled person is the sole ratepayer with a degenerative neurological disease and that this person was incapable of knowing that such relief was available to him. The ability to be aware or cognisant of a benefit relief, so it is argued, can only apply to a person who is fully able to be aware and cognisant and in that context the reason for rejecting the appeal seems unfair and unethical.
8. As mentioned, this appeal is confined to a discrete “backdating” issue. The matters arising are thus, firstly, whether the tribunal might properly reverse the determination of the Department in respect of this backdating issue and find in favour of the appellant, based upon the appellant’s assertion of ignorance on the part of the disabled person concerning the entitlement over the preceding number of years and, secondly, whether there might be any other ground for upholding, or for not dismissing, this appeal.
9. Some matters are agreed in this case and are not in contention. The Department accepts that there is a qualifying disability. The person with the qualifying disability is subject to a power of attorney held by the appellant and at the relevant time there existed consequent qualifying adaptations to the property. That latter fact is borne out by the affording of a rebate for the qualifying year. The tribunal is accordingly not required to address any additional issues, save to confirm that the statutory criteria had been met, throughout the relevant period of time agreed in respect of which the award has indeed been made. Thus DPA was awarded to the appellant.
10. By letter dated 4 September 2025 the Department wrote to the appellant in response to a review request concerning the original decision dated 21

August 2025, confirming that the Department had considered the request along with any additional evidence that might have been supplied and had determined that the original decision should remain unchanged. The reason that the appellant had provided for the delay in making the application (in not being aware of the relief until recently) was not considered an acceptable reason to backdate the award.

The Tribunal's Determination

11. This case has raised an issue which requires to be determined relating to possible backdating of the relevant award prior to the rating year upon which a formal claim for DPA had been made by the appellant. Without doubt, the Department holds a discretionary power under the statutory provisions to backdate any DPA award prior to the relevant year in which any claim for DPA is made (subject to the backstop provision). The second issue, as the Department does hold such a discretionary power, is whether the discretion, in the circumstances of this particular case, has been properly exercised.
12. As has been observed in the earlier Valuation Tribunal case of **AB23 v Department of Finance NIVT 26/22** no statutory mechanism is expressly stated concerning the manner in which the Department can exercise this discretionary power.
13. The case for the Department thus relies upon the proposition that any ratepayer is provided with adequate information to enable the ratepayer to make an informed application for DPA during any current rating year. The tribunal's determination, accordingly, focuses upon whether the statutory discretion afforded to the Department, in the specific circumstances and facts of this particular case, has been properly exercised in accordance with accepted principles and standards of public administration. The focus is upon the process by which the Department exercises such a statutory discretion in these two stated aspects: (a) relevant circumstances and (b) relevant extent.
14. In making this determination the tribunal notes the "flowchart" provided in evidence. This flowchart is designed to assist in Departmental decision-making regarding the backdating issue. Following the steps identified in the flowchart, the most relevant part contains the words, firstly, "*did LPS issue yearly bills as required?*", secondly, "*was the delay due to personal reasons of the applicant?*", thirdly, "*has evidence been provided that the application was delayed due to personal reasons?*" and, fourthly, "*does the evidence indicate acceptable reason for backdating?*". There is specifically a footnote in reference to the fourth-mentioned point which reads: "*not acceptable - was not aware of DPA; was not aware that DPA backdating was restricted*".
15. For the appellant, the argument is noted that the disabled person was fully ignorant (on account of cognitive impairment) of any entitlement to apply for DPA over a period of time prior to the rating year in which the application for DPA was made. As will be seen from the footnote above, the Department does not regard lack of awareness as being an acceptable reason for backdating.

16. Certain factors were considered by the tribunal as being relevant to the tribunal's determination. Firstly, a reasonable presumption must be made that a copy of this Departmental information leaflet was delivered to and received into the subject property address and was thus received not just by the disabled person but also, it must be reasonably presumed, by the appellant who acts under a power of attorney, which power has been in existence since November 2017. It therefore must be presumed that the literature contained within the rates billing was seen by the appellant, having been transmitted in the normal course of postage, in respect of the preceding years. Notwithstanding this, for whatever reason, this appears not to have caused the appellant to become alert to the point at an earlier time.
17. Secondly, the appellant has not advanced any argument as to how the Department might otherwise (apart from the standard information leaflet enclosed with the rates bill) reasonably have brought to the appellant's attention, by some other effective means, the existence of DPA relief for the prior years in question.
18. Thirdly (and this is highlighted more extensively in the previous case of **AB23**) the tribunal is entitled to apply the broad principles of review, concerning the exercise of a statutory discretion, to the Department's decision-making as a public authority, such principles being well-settled and encompassing relevant areas including: illegality, irrationality (unreasonableness), procedural impropriety and legitimate expectation.
19. The tribunal examined the application of the various stages identified in the flowchart. The first stage ("Stage One") is non-controversial in that DPA has been awarded and the appellant has requested backdating on behalf of the disabled person. Stage Two focuses upon whether or not LPS had prevented an earlier application. There was nothing emerging in the evidence that that was the case. There is an absence of any evidence concerning why, personally, the appellant did not become alert to the issue and make an earlier application on behalf of the disabled person. The appellant has endeavoured to rely upon the appellant's disability. However, the tribunal believes that the proper focus must be not upon that, but upon the appellant's own position in acting, as she does, as attorney on behalf of the disabled person. It is accordingly the appellant's responsibility, as attorney, to be alert to and to act in the best interests of the subject of such a power of attorney, in this case the disabled person. Stage Three of the flowchart then poses the question: "*was a delay in the valuation of the Property due to LPS actions?*" There is nothing here to assist the appellant. Then Stage Four: there is nothing challenging the evidence that LPS did issue yearly bills as required and that these contained relevant information to assist in an application being made for any reliefs. Turning then to Stage Five which states: "*was the delay due to personal reasons of the applicant?*" Here, the appellant's case (again) centres around the argument concerning the disabled person's lack of awareness and cognitive functioning difficulties. However, as mentioned above, that is the wrong focus. This does not assist the appellant. Stage Six substantially connects with the previous stage in that it states: "*has evidence been provided that the application was delayed due to personal reasons?*"

(Stage Seven does not apply in the circumstances of the case). Stage Eight then states: “*does the evidence indicate acceptable reason for backdating?*” In respect of this latter stage, the Department assessed that nothing advanced by the appellant constituted an acceptable reason for backdating. Specifically the footnote, as mentioned, includes the following: “*Note 1 – see examples below of acceptable and not acceptable reason to award backdating - these are examples only please speak to your line manager if in doubt. **Not acceptable** - was not aware of DPA; was not aware that DPA backdating was restricted.*” The exercise of statutory discretion, to the Department’s decision-making, has been properly applied in this case, by unanimous determination of the tribunal.

20. The task of the tribunal is to determine if this appeal is properly to be upheld. Unfortunately, from the appellant’s perspective, the tribunal has heard nothing and has received no persuasive evidence and argument in order to permit this appeal to be upheld. The appeal is accordingly not upheld by the tribunal and for this reason the appeal is dismissed on that basis, without further Order.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 20 April 2026

