



DECISION OF

Lord Lake

**ON THE APPEAL
(DECISION OF FIRST-TIER TRIBUNAL FOR SCOTLAND)
IN THE CASE OF**

JD
per North Ayrshire Council Money Matters

Appellant

- and -

Social Security Scotland

Respondent

FTS Case Reference: FTS/SSC/AE/24/03020

24 June 2025

Decision

The Upper Tribunal grants the appeal, quashes the decision of the First-tier Tribunal (Social Security Chamber) dated 18 November 2024 in so far as it relates to Mobility Activity 1 and remits the case back to a differently constituted Tribunal.

Reasons

1. JD seeks to appeal the decision of the First Tier Tribunal (Social Security Chamber) dated 8 January 2025. On 24 April, limited permission to appeal was granted by the Upper Tribunal. Following that, Social Security Scotland have lodged a written response and JD has lodged a reply.

Upper Tribunal for Scotland



2. It is apparent from parties' submissions that both are content that this matter is addressed without a hearing. Accordingly, I have exercised the power in Rule 22 of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2016 to proceed in that way.
3. The written response for SSS considers in some detail the principles that should be applied by the FTS when considering Mobility Activity 1. It refers to the cases of *JC v SSWP (PIP)* [2019] UKUT 181, *SSWP v IV (PIP)* [2016] UKUT 420, *MH v SSWP (PIP)* [2016] UKUT 531, *JB v SSWP (PIP)* [2019] UKUT 203 and *HO'H v SSWP (PIP)* [2020] UKUT 135. Having done so, the response concludes that FTS erred in making their decision in relation to this matter. The submissions are interesting and helpful but, in view of the decision I have made and the fact that this matter will now have to be reconsidered before the FTS, it is not appropriate that I express any views on them.
4. As parties are agreed that there has been an error, the appeal should be allowed. I accordingly quash the decision in so far as it relates to Mobility Activity 1 and remit back to FTS. There was some disagreement between the parties as to whether the tribunal that next hears it should be differently constituted from the one that heard it earlier. It is desirable that this matter is resolved as soon as possible. Requiring it to be heard by the same panel, could result in delay. In that the parties appear to contemplate that there will require to be further evidence, there does not appear to any particular advantage in remitting to the original panel. Accordingly, I direct that the matter should be remitted back to the Tribunal to be heard before a differently constituted panel.

*A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within **30 days** of the date on which this decision was sent to him or her. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.*

Lord Lake
Member of the Upper Tribunal for Scotland