

08-21: DLA past presence test (PPT) 3-16 year olds

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Introduction

1. This memo provides guidance to DMs on the UT decision of Judge Ward on the PPT for 3-16 year olds¹.

1 [\[2020\] UKUT 284 \(AAC\)](#)

Background

2. The appeal to the UT concerned two children under the age of 16 one who had arrived from New Zealand and one from Australia, both were British citizens. The DMs in both cases disallowed the claims on the basis that they didn't satisfy the PPT of 104 weeks out of the last 156. Both cases were appealed to the FtT and the DMs decision was upheld. Both were then appealed to the UT.

The decision

3. In the UT Judge's lengthy decision dated 12/10/2020 he decided that the change to the PPT from 26 weeks out of 52 to 104 out of 156 breached the claimants human rights. He determined that the PPT for 3 to 16 year olds should revert to 26 weeks out of 52.

When it applies

4. The decision of 12/10/2020 is a relevant determination for the purposes of s.27 of the SS Act 1998. DMs should follow guidance in DMG paragraphs [04280 - 04299](#). The shorter PPT for 3 to 16 year olds applies to claims from that date.

Annotations

Please annotate the number of this memo (Memo DMG 08/21) against the following DMG paragraph: [071715](#)

Contacts

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E19, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 04/19](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: July 2021