



Neutral Citation Number: [2026] UKUT 54 (AAC)
Appeal No. UA-2025-000119-AFCS

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Between:

PC

Appellant

– v –

Secretary of State for Defence (Veterans UK)

Respondent

Before: Upper Tribunal Judge L. Joanne Smith

Decision date: 4 February 2026

Decided on consideration of the papers

Representation:

Appellant: Mr P. Collins, the Royal British Legion

Respondent: Mr P. Carolan, Veteran's UK

On appeal from:

Tribunal: First-tier Tribunal (War Pensions and Armed Forces
Compensation Chamber)

Judge/Panel: Judge P. Richardson
Medical Member Dr E. Miller
Service Member Miss L. Dallyn

Tribunal Case No: WP/2024/00704

Tribunal Venue: Fox Court, London

Decision Date: 29 October 2024

SUMMARY OF DECISION

The decision of the First-tier Tribunal in respect of the Appellant's claim for compensation under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 was made in error of law as it made insufficient findings of fact and gave insufficient reasons for its decision to dismiss the appeal. The decision is set aside and the matter is remitted to a differently constituted panel of the First-tier Tribunal for re-determination.

Anonymity: The appellant in this case is anonymised in accordance with the practice of the Upper Tribunal approved in *Adams v Secretary of State for Work and Pensions and Green (CSM)* [2017] UKUT 9 (AAC), [2017] AACR 28.

Keywords: 56.5 Armed Forces Compensation Scheme

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the judge follow.

DECISION

The decision of the Upper Tribunal is to allow the appeal. The decision of the First-tier Tribunal dated 29 October 2024, under file number **WP/2024/00704**, was made in error of law. Under section 12(2)(a) and (b)(i) of the Tribunals, Courts and Enforcement Act 2007 I set that decision aside and remit the case to be re-determined by a fresh First-tier Tribunal in accordance with the following directions.

DIRECTIONS

- (i) This case is remitted to the First-tier Tribunal for redetermination at an oral hearing.**
- (ii) The new First-tier Tribunal should not involve the tribunal judge or specialist members previously involved in considering this appeal.**
- (iii) If the Appellant has any further written evidence to put before the Tribunal and, in particular, further medical evidence, this should be sent to the relevant HMCTS tribunal office within one month of the issue of this decision.**
- (iv) The new First-tier Tribunal is not bound in any way by the decision of the previous Tribunal. Depending on the findings of fact it makes, the new Tribunal may reach the same or a different outcome to the previous Tribunal.**

These Directions may be supplemented by later directions by a Tribunal Judge or Legal Officer in the War Pensions and Armed Forces Compensation Chamber of the First-tier Tribunal.

REASONS FOR DECISION

The background to the case

1. This is an appeal against the decision of the First-tier tribunal (“FtT”) sitting at Fox Court, London on 29 October 2024, in respect of the Appellant’s claim for an award under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (the “AFCS”). The Appellant had made the claim as a result of the onset of a skin condition which he asserted was caused by his military service in the Falkland Islands. The claim was refused. On 29 October 2024, the FtT dismissed the Appellant’s appeal against the refusal decision, on the basis that his skin condition was not caused by service. The FtT prepared a Statement of Reasons (“SOR”) to explain its decision, dated 7 November 2024.

2. Following an oral hearing on 28 May 2025, I gave the Appellant permission to appeal (decision dated 6 June 2025) on one of the four grounds presented at the hearing. At paragraphs 13-18 of my permission decision, I reasoned as follows,:

13. *“This ground of appeal asserts that the FtT had fallen into error by “asking the wrong question” in respect of the Appellant’s appeal. More specifically, Mr Collins submitted that the FtT had misdirected itself in relation to Article 8 of the 2011 Order, which states:*

“8(1) Subject to articles 11 and 12, benefit is payable to or in respect of a member or former member by reason of an injury which is caused (wholly or partly) by service where the cause of the injury occurred on or after 6 April 2005.

(2) Where injury is partly caused by service, benefit is only payable if service is the predominant cause of the injury.”

14. *At paragraph 12 of the SOR, the FtT concluded that (my underlining), “it was not shown that the deployment, or any other factor of service, was [the injury’s] predominant cause. Accordingly, the appeal is dismissed.” Mr Collins submits that the test of predominancy, as outlined in Article 8(2) of the 2011 Order, only applies if the claimed injury is found, in the first instance, to be “partly” caused by service. He relies upon JM v SSD [2015] UKUT 223 (AAC) in support of this submission, suggesting that the FtT did not follow the staged application outlined by the three-judge panel in that case. The process is set out in paragraph 118 of JM v SSD, and can be summarised as: (i) identify the potential process cause or causes of the claimed condition; (ii) discount the potential process causes that are too remote or uncertain to be regarded as a relevant process cause(s); (iii) categorise the relevant process cause or causes by deciding whether the circumstances of each process cause were service or non-service related; and (iv) if all the relevant process causes are not categorised as service causes, apply the predominancy test. The predominancy test is therefore relevant to a situation where, for example, there is a service cause and a constitutional or pre-existing weakness in the Appellant which together have caused the injury.*

15. *It is fair to say that the FtT referred to service in the Falkland’s as not being the “predominant” cause of the Appellant’s injury as the overall reason for its decision. When considering the two parts of Article 8 as a whole, it could be argued that if service is not a predominant cause, then it follows that it cannot be either a part cause or a whole cause of the claimed injury, so the use of this term (“predominant”) is potentially immaterial. However, having read the SOR prepared by the FtT, I nonetheless find it arguable that this ground of appeal has a reasonable prospect of success in the particular circumstances of this case.*

16. *The FtT reasoned that “the Appellant could not refer to any evidence that supported, or tended to support, a claim that either pityriasis versicolour or vitiligo could be caused by the weather conditions experienced by the appellant in the Falklands, or by the cold weather equipment and health and safety practices that living in such an environment necessitated.” It continued that “[n]one of the treating professionals expressed this view and no independent expert evidence was submitted to support the appellant’s contentions. Equally, the tribunal had no specialist knowledge that might assist the appellant’s case.”*
17. *I find it arguable that the FtT materially erred in law by making insufficient findings of fact and giving inadequate reasons in relation to its decision to dismiss the Appellant’s appeal, by failing to follow the approach outlined in JM. In particular, it is arguable that the FtT limited itself to consideration of whether service in the Falkland Islands, including the weather conditions, equipment and health and safety practices, were the cause(s) of the skin condition experienced by the Appellant, rather than a wider consideration of his military service prior to the Falklands or any other potential causes, including a pre-existing weakness to the condition. There appears to be little reference to what evidence was presented in relation to equipment and health and safety practices, or the reasons as to why that evidence was rejected. Without openly dismissing all the potential causes, with reasons, the Appellant cannot be certain that the FtT considered them. I grant permission to appeal on this ground.*
18. *Furthermore, the FtT reasons that there was no medical evidence, expert evidence or specialist knowledge on the panel to allow it to determine the question before the tribunal, namely the potential cause(s) of the Appellant’s skin condition. The burden of proof is on the Appellant to prove his case, and it is therefore his responsibility to present any evidence, including expert evidence, to demonstrate on the balance of probabilities that service was a whole or part (predominant) cause of his skin condition. He had produced information from the internet in an effort to achieve this (see pages 15 (reverse) and 117 of the FtT bundle). However, the FtT did not make reference to any consideration of this evidence so it is unclear whether this was considered. It is also within the remit of the FtT to exercise its inquisitorial function to direct the procurement of medical/expert evidence, particularly where the decision relies upon it and the medical member of the panel is not in a position to assist. I find it arguable that in potentially disregarding the evidence already presented to the FtT and/or by failing to exercise its inquisitorial function to obtain the evidence it required to make an informed decision, the FtT permitted a procedural irregularity to occur, which may give rise to a material error of law in its decision in this case.”*

3. Mr Carolan, on behalf of the Secretary of State for Defence, supports the appeal on the ground on which permission to appeal was given. In a succinct written submission, dated 17 July 2025, he submits, “[T]he Respondent would also agree with the UT’s opinion on ground 4 of the appeal noted in paragraphs 12-18 of the UT’s application for permission to appeal. That being, it could be argued that the First Tier Tribunal (FTT) materially erred in law by making insufficient findings of fact and gave inadequate reasons in relation to its decision.” He requests that the FtT’s decision is set aside and that the matter is remitted to a freshly constituted tribunal. The Appellant, in response, makes no submission to the contrary and consents to a decision without reasons. Neither party seeks an oral hearing of this appeal therefore I can deal with it on the papers before me.
4. Given that the parties agree with my reasoning outlined above, I make a formal finding that the FtT materially erred in law in its decision of 29 October 2024 by making insufficient findings of fact and giving insufficient reasons for its decision. I therefore allow this appeal.

Conclusion

5. I conclude that the decision of the First-tier Tribunal involves an error of law. I allow the appeal and set aside the decision (Tribunals, Courts and Enforcement Act 2007, section 12(2)(a)). The matter must be remitted for re-determination by a freshly constituted tribunal in accordance with my directions (section 12(2)(b)(i)).
6. I make no finding or express any view on the merits of the Appellant’s claim for an award of compensation under the AFCS. That is a matter for the FtT to determine when the appeal is reheard.

L. Joanne Smith
Judge of the Upper Tribunal

(authorised for issue on)
4 February 2026