



Neutral Citation Number: [2026] UKUT 147 (AAC)  
**Appeal No. UA-2025-001458-USTA**

**IN THE UPPER TRIBUNAL  
ADMINISTRATIVE APPEALS CHAMBER**

**Between:**

**Martin Paterson**

**Appellant**

**- v -**

**Secretary of State for Work and Pensions**

**Respondent**

**Before: Upper Tribunal Judge Citron  
Decided on consideration of the papers**

**Representation:**

**Appellant:** by himself

**Respondent:** by Egle Smith of Decision Making and Appeals, Department for Work and Pensions

*On appeal from*

Tribunal: First-Tier Tribunal (Social Entitlement Chamber)

Judge: Tribunal Judge C Wood

Tribunal Case No: 1708693229200071

Tribunal Venue: Newcastle Civic

Decision Date: 29 May 2025

**SUMMARY OF DECISION**

**CLAIMS AND PAYMENTS (6)  
UNIVERSAL CREDIT (45)**

The Appellant had telephoned the Respondent's Helpline in order to claim universal credit but been told (wrongly) that he had to wait three months in order to make a claim. Seven weeks later, he claimed universal credit, with the help of a Jobcentre, electronically. The Respondent, focusing on regulation 26 of the Universal Credit etc (Claims and Payments) Regulations 2013, decided that the Appellant's award of universal credit ran from the date he claimed electronically, not from the date he phoned the Respondent's Helpline. The First-tier Tribunal upheld that decision.

The Upper Tribunal finds that the First-tier Tribunal erred in law in not making the necessary factual findings to determine whether the Appellant had made a valid claim for universal credit by telephone (when he phoned the Respondent's Helpline), applying regulations 8 and 10 of the above regulations. In the alternative, even if the First-tier Tribunal was right to find that the Appellant only made a valid claim for universal credit when he claimed electronically with the assistance of a Jobcentre, it erred in law in not making a factual finding as to when the Appellant first notified the Respondent that he needed such assistance. Both errors were material, as, on the facts of this case, the relevant factual findings could have resulted in the FTT concluding that the Appellant's claim for universal credit was made on the (earlier) date on which he telephoned the Respondent's Helpline.

The case was remitted to the First-tier Tribunal for fresh consideration.

*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 involved an 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 the First-tier Tribunal for reconsideration** in accordance with the following directions.

## DIRECTIONS

1. The appeal is remitted to the First-tier Tribunal to be heard at an oral hearing.
2. The new First-tier Tribunal should be comprised of a tribunal judge who has not previously made a decision in the case.
3. The new First-tier Tribunal must not take into account circumstances that did not apply at the date of the original decision by the Secretary of State under appeal (10 January 2024). Later evidence can be considered if it relates to the circumstances at the time of that decision.
4. The First-tier Tribunal hearing the remitted appeal is not bound in any way by the decision of the previous First-tier Tribunal. Depending on the findings of fact it makes, the new tribunal may reach the same or a different outcome from the previous tribunal.
5. A copy of this decision shall be added to the bundle to be placed before the First-tier Tribunal hearing the remitted appeal.

These Directions may be supplemented by later directions by a Tribunal Caseworker, Tribunal Registrar or Judge in the Social Entitlement Chamber.

## REASONS FOR DECISION

1. The decision of the First-tier Tribunal (**FTT**) in question dismissed the Appellant's appeal against a decision made by the Respondent on 10 January 2024. The FTT's decision was that the time for the Appellant's claiming universal credit (**UC**) could not be extended (backdated) from 12 December 2023 to 22 October 2023.
2. The FTT decision found that
  - a. on 22 October 2023 the Appellant rang the Respondent's Helpline and asked to start a claim for UC (the FTT decision also states that the Appellant rang them "to claim UC"); and that the Appellant was told that he must wait three months before he could claim UC (he had recently returned to the UK from the Republic of Ireland); (in some parts of the FTT decision, the Appellant's telephone call to the Respondent's Helpline is referred to as being one day later, on 23 October 2023; in this decision, I shall follow the FTT decision's own references to the date, when I cite a part of the FTT decision);
  - b. on 12 December 2023 the Appellant claimed UC with assistance from a Jobcentre;
  - c. on 9 January 2024 the Appellant attended the Jobcentre and requested that his UC claim be backdated to 22 October 2023.
3. The FTT found that the question for it was whether the Appellant satisfied any of the criteria in regulation 26 (*Time within which a claim for UC is to be made*) of the UC etc (Claims and Payments) Regulations 2013 (the **regulations**). The FTT concluded that the Appellant did not. The FTT also considered whether regulation 10 (*Date of claim for UC*) applied: it found that when the Appellant made the telephone call to the Respondent's Helpline, he did not complete a full claim for UC, and so the provisions of regulation 10 did not apply.

### Grant of permission to appeal and Respondent's response in support

4. I gave permission to appeal as it seemed to me arguable that the FTT erred in its consideration of whether, applying regulation 10, the Appellant might in fact have made a valid claim for UC at the time of his telephone call to the Respondent's Helpline on 22/23 October 2023. The arguable error of law was that the FTT failed to make the necessary factual findings, and then consider, the application of:
  - a. regulation 8(2), which provides for the making of a UC claim by telephone "if the claim falls within a class of claims for which the [Respondent] accepts telephone claims or where, in any other case, the [Respondent] is willing to do so"; arguably, the FTT should have made factual findings about whether the Appellant's call to the Respondent's Helpline, in which the FTT found that the Appellant asked to start a claim (and whose purpose, the FTT found, was to claim UC), fell into a class of claims for which the Respondent accepted telephone claims; and if so

- b. regulation 8(4), which provides that telephone claims are properly completed if the Respondent is provided during the call with all the information required to determine the claim; arguably, the FTT should have made factual findings about what information was provided to the Respondent in this call; and
  - c. regulation 10(1)(c), which provides that a claim for UC, if made, was made on the date on which that claim was properly completed in accordance with regulation 8(4).
5. The Respondent's response to the Upper Tribunal appeal, supported it. The following points were made on the Respondent's behalf:
  - a. a "discrepancy" was noted with regard to the party who gave incorrect advice to the Appellant (about having to wait three months to make a claim for UC): there was mention of the UC helpline supplying the wrong advice; but in a decision of the FTT that was later set aside, it was stated that the Appellant said he relied in part on advice given to him by his local council (Addition D, p1, FTT Bundle);
  - b. given the FTT's inquisitorial function, it was important for it to consider whether the Appellant's claim would fall within the class of cases for which the telephone claim could be accepted as an exception to the general rule of regulation 8(1) that a claim should be made online. There was no mention of this within the FTT decision; it was difficult to conclude whether the FTT considered this;
  - c. following on from regulation 8(2) it could then also be argued that another consideration which was required was whether the Appellant's phone conversation amounted to a valid, albeit defective claim within the meaning of regulation 8(4), which was later perfected under regulation 8(6). It was said on behalf of the Respondent that the Appellant's claim was completed on 12 December 2023 which would arguably be when the defective claim was corrected. This in turn would have enabled the backdating of the claim start date;
  - d. it was submitted that the FTT erred in law by failing to consider whether UC could be backdated under regulation 10(1)(b) using the FTT's inquisitorial function; the arranged "call back" from the Respondent's Helpline, which was not actioned, following the call on 22 October 2023, was *the date of first notification of a need for such assistance* (it seems what the Respondent's representative is referring to here is the evidence, on page 6 of the FTT bundle, that the Appellant said that the Helpline told him that he would get a "call back"). It is not unreasonable to accept the Appellant's account of waiting to hear back from the Department for Work and Pensions. This created a further delay in completing the claim. Despite not receiving the arranged "call back", the Appellant (on 12 December 2023) reached out to a Job Centre for further advice. This further illustrates that the requirement for assistance was present. It was submitted that the Appellant did, on the balance of probabilities, express

a clear intention to claim UC, particularly because of the “call back” arranged. It was submitted that the call also signalled a need for assistance in making an online application;

- e. *South Bucks District Council v Porter (No 2)* [2004] UKHL 33, [2004] 1 WLR 1953 at [36], quoted at paragraph 9 of *R(DLA) 3/08*, was cited, as follows:

The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the ‘principal important controversial issues’, disclosing how any issue of law or fact was resolved.

### **Text of regulations 8 and 10**

6. Regulations 8 and 10 read as follows:

#### *8 Making a claim for universal credit*

(1) Except as provided in paragraph (2), a claim for universal credit must be made by means of an electronic communication in accordance with the provisions set out in Schedule 2 and completed in accordance with any instructions given by the Secretary of State for that purpose.

(2) A claim for universal credit may be made by telephone call to the telephone number specified by the Secretary of State if the claim falls within a class of case for which the Secretary of State accepts telephone claims or where, in any other case, the Secretary of State is willing to do so.

(3) A claim for universal credit made by means of an electronic communication in accordance with the provisions set out in Schedule 2 is defective if it is not completed in accordance with any instructions of the Secretary of State.

(4) A claim made by telephone in accordance with paragraph (2) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for universal credit is defective the Secretary of State must inform the claimant of the defect and of the relevant provisions of regulation 10 relating to the date of claim.

(6) The Secretary of State must treat the claim as properly made in the first instance if—

(a) in the case of a claim made by telephone, the person corrects the defect; or

(b) in the case of a claim made by means of an electronic communication, a claim completed in accordance with any instructions of the Secretary of State is received at an appropriate office,

within one month, or such longer period as the Secretary of State considers reasonable, from the date on which the claimant is first informed of the defect.

#### *10 Date of claim for universal credit*

(1) Where a claim for universal credit is made, the date on which the claim is made is—

(a) subject to sub-paragraph (b), in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), the date on which the claim is received at an appropriate office;

(b) in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), where the claimant receives assistance at home or at an appropriate office from the Secretary of State, or a person providing services to the Secretary of State, which is provided for the purpose of enabling that person to make a claim, the date of first notification of a need for such assistance;

(c) subject to sub-paragraph (d), in the case of a claim made by telephone in accordance with regulation 8(2), the date on which that claim is properly completed in accordance with regulation 8(4); or

(d) where the Secretary of State is unable to accept a claim made by telephone in accordance with regulation 8(2) on the date of first notification of intention to make the claim, the date of first notification, provided a claim properly completed in accordance with regulation 8(4) is made within one month of that date,

or the first day in respect of which the claim is made if later than the above.

(2) In the case of a claim which is defective by virtue of regulation 8, the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 8(6).

### **Why I have determined this appeal on the papers**

7. Neither party requested a hearing before the Upper Tribunal. Given that the appeal was supported, that I had full written submissions from the Respondent, and that the Appellant made a reply to the Respondent's response but was not legally represented, it seemed to me fair and just in the circumstances to determine this appeal without a hearing.

### **Why I have decided that the FTT erred in law**

8. I note, as something of a preliminary point, that both the FTT decision, and the papers before the FTT (in particular, the Respondent's response to the appeal to the FTT), refer to the decision of the Respondent of 10 January 2024 as being one to refuse "backdating" under regulation 26; but there is no reference, seemingly, to any separate decision of the Respondent, under s8 of the Social Security Act 1998, determining the Appellant's claim and awarding him UC. It seems to me, therefore, that the Respondent's decision of 10 January 2024 was a decision under s8 of the Social Security Act 1998 to make an award of UC to the Appellant with effect from 12 December 2023 (the date on which the Respondent considered the Appellant to have made his claim) – but not from 22 October 2023. I accept it is possible that, some time prior to 10 January 2024, the Respondent made a separate decision under s8 of the Social Security Act 1998 (such that the decision of 10 January 2024 was in effect a refusal to revise that (hypothetical) earlier decision), but the papers before me do not suggest this is what happened. I do not think anything turns on this point, in any case – and I

am following the approach laid out by the Court of Appeal, upholding the Upper Tribunal, in *Miah v SSWP* [2024] 1 WLR 3012, in particular as regards seeing the date of commencement of an award of UC as one aspect of the determination of a claim for UC under s8 of the Social Security Act 1998 (see [46-47] and [51] of the Court of Appeal's judgement).

9. Turning now to the substance of this appeal: although the FTT decision did consider regulation 10 – and so, the date of the Appellant's claim for UC – it did so cursorily and this is where, in my view, it fell into error. Given the FTT's factual findings about a telephone call having taken place between the Appellant and the Respondent's Helpline on 22/23 October 2023, and that the Appellant's intention in making that phone call had been to claim UC, the FTT should have considered (and should have made the necessary factual findings to enable to it to consider) whether the Appellant had made a valid claim for UC by telephone and, if so, the date of that claim (applying regulations 8 and 10). This would have involved making factual findings as to:
  - a. Was the telephone number the Appellant used on 22/23 October 2023 one "specified" by the Respondent?
  - b. Did the Appellant's UC claim fall within a class for which the Respondent accepted telephone claims – or, if not, was the Respondent willing to do so?
  - c. Did the Appellant provide the Respondent, on that call, all the information required to determine his claim for UC?
  - d. If not, when did the Respondent inform the Appellant of the defects in his claim, and did the Appellant correct any such defects within one month of being told what they were?
10. The error was material because, if the FTT had made the findings set out above, those findings may have supported a conclusion that the Appellant made a valid claim by telephone and that claim was properly completed in accordance with regulation 8(4), either by telephone on 22/23 October 2023, or, if not, within one month of the Respondent's informing the Appellant of the defects in his telephone application (in which case, under regulation 10(2), the date of the Appellant's claim would again be 22/23 October 2023).
11. In the alternative (and as argued by the Respondent in response to this appeal), even if the FTT was correct to find that the Appellant's claim was made by means of electronic communication on 12 December 2023 (as opposed to, by telephone on 22/23 October 2023), the FTT fell into error in not considering whether regulation 10(1)(b) applied, given its finding that the Appellant was given assistance at a Jobcentre in making the application on 12 December 2023; such consideration would have required the FTT to make a factual finding as to when the Appellant first made notification of his need for such assistance. This error was also material because, if the FTT had found that the Appellant first notified his need for such assistance in the telephone call on 22/23 October 2023, his claim would have been treated as made on that date.

**Why I have decided to remit the case to the FTT for reconsideration**

12. Having found that the FTT decision involved the making of a material error on a point of law, it is right that I exercise the Upper Tribunal's power to set aside that decision. Having done so, the Upper Tribunal's further powers are restricted to either re-making the decision or remitting the case to the FTT for reconsideration (the Appellant's reply to the Respondent's response to this appeal asked for compensation from the Respondent, but that is not something the Upper Tribunal has the power to order). It would not, in my view, be right for the Upper Tribunal to re-make the decision, given that fresh factual findings need to be made, in order to make a correct decision. I have therefore remitted the case to the FTT for consideration afresh.

**Zachary Citron**  
**Judge of the Upper Tribunal**

Authorised by the Judge for issue on 13 April 2026