



Neutral Citation Number: [2026] UKUT 160 (AAC)
Appeal No. UA-2024-001810-WP

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Between:

ROA

Appellant

– v –

Secretary of State for Defence (Veterans UK)

Respondent

Before: Upper Tribunal Judge L. Joanne Smith

Decision date: 21 April 2026

Decided on consideration of the papers

Representation:

Appellant Litigant in person
Respondent: Mr P. Carolan, Veterans UK

On appeal from:

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

Judge/Panel: Judge R. Freshwater
Medical Member Dr F. McManus
Service Member Mr R. Daisley

Tribunal Case No: WP/2024/00379

Tribunal Venue: Fox Court, London

Decision Date: 10 September 2024

SUMMARY OF DECISION

The decision of the First-tier Tribunal in respect of the Appellant’s claim for an award under the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006 (the “2006 Order”) 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.

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.

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: 56.1 War pensions - entitlement

DECISION

The decision of the Upper Tribunal is to allow the appeal. The decision of the First-tier Tribunal dated 10 September 2024, under file number **WP/2024/00379**, 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, 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 10 September 2024, in respect of the Appellant’s claim for an award under the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006 (the “2006 Order”). The Appellant had served as a reservist in the Territorial Army from 27 July 1986 until 10 September 1994. She noticed deafness in both ears in 2012. She submitted a claim form which was received by Veterans UK on 5 January 2022. The claim

was refused on the basis that the condition of bilateral presbycusis was neither caused, nor made worse, by service.

2. The Appellant appealed this decision. The FtT dismissed the appeal following a hearing on 10 September 2024. The FtT prepared a Statement of Reasons (“SOR”) dated 7 November 2024 to explain its decision. The FtT refused permission to appeal to the Upper Tribunal in a ruling dated 5 December 2024. The Appellant thereafter renewed her application for permission to appeal (“the application”) directly to the Upper Tribunal.
3. Following an oral hearing of the application (“permission hearing”) on 28 July 2025, permission to appeal was given on the basis of one of the Appellant’s three grounds of appeal (decision authorised for issue on 30 July 2025) which was summarised as follows:

“... I find it arguable that the FtT materially erred in law in its resolution of the conflict of evidence in this case by: (i) failing to make sufficient findings of fact; (ii) failing to provide adequate reasons for its conclusions and; (iii) misdirecting itself in respect of Article 41 of the 2006 Order in relation to this case.” (paragraph 14)

4. Mr Carolan, on behalf of the Secretary of State for Defence, supports the appeal stating in a written submission dated 9 September 2025:

“8. Having reviewed the entirety of the UT response bundle, the Secretary of State would agree with the FTT’s position, that the correct medical evidence was relied up on [sic] in the decision-making process. Mr Abdelkader’s report would appear to provide a more rigorous examination of [the Appellant] and her history.

9. Whilst the FTT’s failure to explicitly reference those issues doesn’t necessarily prove they were overlooked, we acknowledge that legislation requires clear reasoning on material matters. The absence of such reasoning amounts to an error of law, which can only be resolved by a newly constituted tribunal.” (paragraphs 8 and 9)

He recommends, if the appeal is allowed, that the FtT’s decision is set aside and that the matter is remitted to a freshly constituted tribunal. The Appellant, in response, repeats the points she made at the permission hearing on this ground of appeal, and seeks an oral hearing of the appeal. However, given that the matter is supported by the Secretary of State, I consider it to be in the interests of justice and of expediency to deal with this appeal on the papers before me.

Why I have allowed this appeal

5. The Appellant claimed that her hearing loss was attributable to service due to weapon training and firing on ranges over a long period of time with no protection provided.

6. Veteran's UK commissioned a medical report to determine whether the Appellant's hearing loss was noise induced and therefore attributable to service. The resulting report, dated 9 April 2023, was written by Mr Abdelkader, Consultant in Otorhinolaryngology/Head and Neck Surgery. He concluded that, "on the balance of probabilities [the Appellant's] hearing loss is probably not classical of military noise induced hearing loss and more probable (*sic*) attributed to other factors like aging" having taken note that "there is a gap between her employment at the Territorial Army and the start of her hearing loss" (page 31 reverse of the FtT bundle).
7. By contrast, the Appellant obtained her own expert medical report, written by Mr Ravinder S. Natt, a Consultant in Ear, Nose and Throat/Head and Neck Surgeon. Mr Natt had seen the Appellant in clinic, and in his report dated 2 October 2023, he concluded that, "it is possible that her hearing impairment is due to loud noise exposure in the army" (page 39 reverse of the FtT bundle). Having presented this evidence at her appeal, the FtT was faced with two conflicting pieces of evidence from which to make a finding of fact on whether the Appellant's hearing loss was attributable to or made worse by service, or whether it was unrelated to service in the military.
8. The FtT found the evidence of Mr Abdelkader more persuasive for the sole reason that he made reference to the length of time that had elapsed between the Appellant's discharge from service (1994) and the onset of her hearing loss (2012). At paragraph 23 of the FtT's SOR, it stated:

"The evidence of Mr Abdelkader clearly states that he took into account the gap between [the Appellant] being discharged and the onset of her hearing loss. This gap is not mentioned by Mr Natt. For that reason, the tribunal finds the evidence of Mr Abdelkader to be more reliable."

It concluded, at paragraph 24 of the SOR, that "[t]he tribunal is satisfied that the cause of the Appellant's hearing loss is attributable to aging and is not noise induced. Therefore the condition has been correctly identified as bilateral presbycusis. The condition arose approximately 9 years after service." Consequently, the appeal was dismissed.

9. The Appellant, in her grounds of appeal, asserted that she did not understand why the FtT chose to rely upon the report of Dr Abdelkader, which she found to contain factual inaccuracies about the state of her health, and referred to her as "he" rather than "she". She submits that this report could not therefore have been relied upon as credible evidence. The Secretary of State, at paragraph 7 of his written appeal submission, submits that "*[t]he appellant's oral evidence should not carry much weight in the case of studying specific medical reports and it is perfectly reasonable for the FTT to prefer Mr Abdelkader's analysis over Mr Natt's based on the evidence submitted.*"

10. It is well established that the failure of a tribunal to provide adequate reasons for its decision, to the extent that the parties cannot understand the reasoning behind the outcome, can amount to an error of law (*R(I) 2/06* and *CSDLA/500/2007*, endorsing *R(Iran) v Secretary of State for the Home Department* ([2005] EWCA Civ 982). While reasons for a decision need not be lengthy, they “...*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 ‘principle important controversial issues’, disclosing how any issue of law or fact was resolved*” (per Lord Brown in *South Bucks District Council v Porter* [2004] 1 WLR 1953 at [36]).
11. In this case, the FtT made brief findings of fact about the dates of service, the dates of medical reports and their contents. It thereafter advanced one single reason for preferring the evidence of the Veteran’s UK commissioned report, over the conflicting report of Mr Natt. This is the fact that the former states that the hearing loss presented itself several years after the end of the Appellant’s military service. This is the only reason contained in the SOR to explain why the appeal was dismissed.
12. When presented with a conflict of evidence, the role of the FtT is to evaluate that evidence and to determine which side it prefers, giving reasons for its preference. The FtT does not explain in its Statement of Reasons why it discounted the oral evidence of the Appellant when she claimed her hearing loss was due to noise exposure during service, and when she highlighted the medical and typographic errors in Mr Abdulkader’s medical report to weaken its credibility. It does not explain what it made of the Appellant’s evidence at all. It made no findings of fact about the nature of the Appellant’s military service, for example, the extent of her exposure to noise and whether she had ear protection, or whether noise induced hearing loss is even capable of presenting itself a number of years after exposure (utilising the expertise of the medical member of the panel).
13. While the Secretary of State submits that the Appellant’s oral evidence should not carry much weight against the medical opinions of a doctor, a FtT would be entitled to find that an Appellant’s evidence is preferred, perhaps because the Appellant has first hand experience of his/her medical conditions whereas a medical professional hears only a snapshot. The Appellant, having presented oral and medical evidence contrary to the medical opinion of the Respondent, and having highlighted errors in that medical opinion, is entitled to understand the reason why her evidence and submissions were rejected in favour of the evidence she considered to be inaccurate. The Appellant need not agree with the reasons given, but where provided, they allow her to understand how the FtT reached its decision.
14. I find that the in absence of reasons beyond the single one advanced, supported by associated findings of fact, it is difficult to comprehend how this one factor (time) was enough for the FtT to reach the outcome decision that it did. In the

absence of reasons, it is impossible to comprehend why the FtT rejected the Appellant's evidence. The brevity of this SOR creates the impression that the FtT did not deal with this appeal with the rigour and procedural fairness that due process requires.

15. The Secretary of State agrees that clear reasoning is required in material matters, and the absence of such reasoning in this case amounts to an error of law. In light of that acknowledgement, which aligns with my view of the decision, I find that the FtT materially erred in law in its decision of 10 September 2024 by making insufficient findings of fact and giving insufficient reasons to resolve a conflict in evidence before it. I therefore allow this appeal.
16. On a separate point, the medical condition in issue in this appeal had presented itself more than seven years after the termination of military service which, as stated by the FtT, engages Article 41 of the 2006 Order. While I granted permission to appeal on the additional basis that the FtT had arguably misdirected itself in respect of Article 41, the Secretary of State has not addressed me on this point. As the appeal is allowed on another ground, I need not take this matter any further within my decision.

Conclusion

17. I conclude that the decision of the First-tier Tribunal involves a material error of law. I allow the appeal and set aside the decision (Tribunals, Courts and Enforcement Act 2007, section 12(2)(a)). I have considered whether I should remake the decision in this case but as the FTT's findings and reasons fall short as explained above, I am unable to do so. The matter must therefore be remitted for re-determination by a freshly constituted tribunal in accordance with my directions (section 12(2)(b)(i)).
18. I make no finding or express any view on the merits of the Appellant's claim for an award of compensation under the 2006 Order. 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)
21 April 2026