



Neutral Citation Number: [2026] UKUT 345 (AAC)
Appeal No. UA-2025-001703-CIC

ANONYMITY:

The provisions of the Sexual Offences (Amendment) Act 1992 apply to this case. No matter relating to KJV shall during her lifetime be included in any publication if it is likely to lead members of the public to identify her as the person who alleged that an offence had been committed. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.

THE UPPER TRIBUNAL ORDERS that, without the permission of this Tribunal:

No one shall publish or reveal the name or address of KJV, who is the Applicant in these proceedings or any information that would be likely to lead to the identification of her or any member of her family in connection with these proceedings.

Any breach of this Order is liable to be treated as a contempt of court and may be punishable by imprisonment, fine or other sanctions under section 25 of the Tribunals, Courts and Enforcement Act 2007. The maximum punishment that may be imposed is a sentence of two years' imprisonment or an unlimited fine.

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

In the matter of an application for judicial review:

THE KING (on the application of KJV)

Applicant

v

THE FIRST-TIER TRIBUNAL (SOCIAL ENTITLEMENT CHAMBER)

Respondent

and

THE CRIMINAL INJURIES COMPENSATION AUTHORITY

Interested Party

Before: Upper Tribunal Judge Church
Decided on consideration of the papers

Representation:

Applicant: In person
Respondent: Not represented
Interested Party: CICA in-house legal department

Upon a judicial review of:

Tribunal: First-tier Tribunal (Social Entitlement Chamber)
Tribunal Panel: Tribunal Judge Mendoza and Dr Stuart-Cole
Digital Case No.: 1714-9922-6121-8187
Tribunal Venue: Remote video hearing by CVP
Decision Date: 25 November 2024

SUMMARY OF DECISION

CRIMINAL INJURIES COMPENSATION: reduction and withholding of awards (70.2)

In this case the Upper Tribunal considers paragraph 22 of the Criminal Injuries Compensation Scheme 2012, which requires an award under the scheme to be withheld unless the incident giving rise to the criminal injury has been reported to the police “as soon as reasonably practicable”.

The Upper Tribunal decides that having found that the claimant made informal disclosures to police officers about the sexual abuse giving rise to her criminal injury when she was intoxicated and under arrest but declined to make a formal statement, the tribunal should have considered whether these informal disclosures were sufficient to satisfy paragraph 22. The tribunal’s failure to do so amounted to an error of law.

The Upper Tribunal also considers the discretion under paragraph 89 of the scheme to extend the 2-year period for making a claim provided for by paragraph 88 of the scheme and observes that it is not a straightforward matter for someone who has experienced the trauma of sexual abuse in childhood to process what happened to them sufficiently to carry out seemingly straightforward tasks such as disclosing the abuse to the police or making a claim for compensation.

First-tier Tribunal’s decision quashed. Matter remitted for rehearing,

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 claim to judicial review of the First-tier Tribunal (Social Entitlement Chamber)’s decision dated 25 November 2024 is **ALLOWED**.

The Upper Tribunal **ORDERS** that:

(i) the decision of the First-tier Tribunal (Social Entitlement Chamber) dated 25 November 2024 is **QUASHED** under section 15(1)(c) of the Tribunals, Courts and Enforcement Act 2007; and

(ii) the matter is **REMITTED** to the First-tier Tribunal under section 17(1)(a) of the Tribunals, Courts and Enforcement Act 2007 to be heard by a fresh panel of the First-tier Tribunal in accordance with the directions set out below.

REASONS FOR DECISION

Background

1. This application relates to KJV's claim to compensation under the Criminal Injuries Compensation Scheme 2012 (the "**Scheme**") on the basis that she experienced sexual abuse by her father over a five-year period when she was a child which resulted in harm to her (the "**Criminal Injury**").
2. On 20 February the Criminal Injuries Compensation Authority (the "**Authority**") issued its decision on KJV's claim (the "**Review Decision**"). The Authority decided that KJV had not reported the sexual abuse which caused the Criminal Injury "as soon as reasonably practicable", as required by paragraph 22 of the Scheme. It said that it was, therefore, bound to refuse the claim.

The FtT Decision

3. KJV appealed the Review Decision to the First-tier Tribunal, which convened a two-member panel for a remote CVP hearing on 14 November 2024 (the "**Tribunal**"). The Tribunal heard evidence and argument. On 25 November 2024 it dismissed KJV's appeal and confirmed the Review Decision (the "**FtT Decision**").
4. The Tribunal provided clear and detailed reasons for the FtT Decision. It found KJV to be a largely credible witness and accepted her evidence that:
 - a. she had been subjected to sexual abuse over the course of 5 years between the ages of 13 and 18, when she managed to escape the abuse by leaving the family home;
 - b. in 2011, KJV's brother learned that his father had abused KJV and assaulted him. KJV was arrested for intervening in her brother's arrest. While intoxicated and under arrest, KJV made disclosures to police officers about her father's abuse, but did not repeat those disclosures when she was interviewed by the police the following day;
 - c. in 2015 KJV's father died;
 - d. KJV applied for compensation under the Scheme on 21 December 2023;
 - e. the Criminal Injuries Compensation Authority issued the Review Decision on 20 February 2024, stating that it was unable to offer compensation because the Incident giving rise to the Criminal Injury had not been reported to the police as soon as reasonably practicable; and
 - f. KJV made a formal complaint to the police about the Criminal Injury on 14 April 2024.
5. The Tribunal referred to paragraph 22 of the Scheme, which states in clear terms that an award under the Scheme will be withheld unless the incident giving rise to the criminal injury has been reported to the police as soon as reasonably practicable, and noted that particular account would be taken of the age and

capability of the applicant at the date of the incident and whether the effect of the incident on the applicant was such that it could not reasonably have been reported earlier.

6. Despite finding KJV to be generally credible, the Tribunal did not accept KJV's evidence as to her motivation for reporting the Criminal Injury to the police on 14 April 2024. KJV's evidence was that it was not until she had a conversation with an auntie in which the auntie disclosed having been abused by KJV's father that she felt able to go to the police. She denied that she was motivated to report the matter to the police because she had been informed of the Review Decision turning down her claim to compensation.
7. The Tribunal took KJV's age into account during the period of the sexual abuse (when she was a minor), and it accepted that she could not reasonably have reported the Incident to the police at that time. However, the Tribunal was not persuaded that KJV could not have reported the Incident to the police before 14 April 2024. Indeed, it decided she had an opportunity to do so when she made her police statement in 2011 following her arrest, but she did not avail herself of the opportunity.

The permission stage

8. KJV was unhappy with the FtT Decision and on 30 April 2025, KJV wrote to the First-tier Tribunal (considerably out of time) to ask that it be set aside. By a decision dated 2 May 2025 (and issued on 7 May 2025) a Judge of the First-tier Tribunal extended time for KJV to make the application and admitted it but refused to set the FtT Decision aside.
9. KJV made an out of time application to the Upper Tribunal for permission to bring judicial review proceedings in respect of the FtT Decision. I granted an extension of time and admitted the application in the interests of justice.
10. In her application to the Upper Tribunal, KJV said she felt the outcome of the First-tier Tribunal proceedings was unreasonable. She complained that the Tribunal did not request her medical records and denied her the opportunity to present evidence that explained why she did not report the criminal conduct and her resulting Criminal Injury earlier than she did.
11. KJV argued that the Tribunal was wrong to find that her reporting of the Criminal Injury to the police was prompted by her receiving the Review Decision refusing her claim to compensation. She said it was prompted by her bumping into her aunt on a night out. She complained that it was inconsistent and unjust that an abuser can still be convicted years after a crime, while a victim's claim to compensation can be refused as being too late.
12. I was not persuaded that KJV's grounds were realistically arguable, and I explained to her why that was so. However, because the Upper Tribunal has an inquisitorial jurisdiction I subjected the FtT Decision to my own scrutiny and identified a ground for judicial review that I considered to be realistically arguable. I explained it as follows:
 - "28. The Tribunal appears to have proceeded on the assumption that the requirement in paragraph 22 of the Scheme that a claimant must have reported the incident resulting in the criminal injury "as soon as reasonably practicable" can be satisfied only by the making of a formal police statement. The Tribunal

appears not to have considered whether the informal disclosures about the [sexual abuse] that she says she made to police officers while intoxicated and under arrest in 2011 might have amounted to the [sexual abuse] having been “reported to the police” for the purposes of paragraph 22.

29. There is no explanation in the Scheme of what an incident being “reported to the police” must involve, and this case raises the point of law of what is required for the purposes of paragraph 22. I consider it to be realistically arguable that the Tribunal was wrong to discount without explanation KJV’s informal disclosures in 2011 on the basis that she did not repeat the disclosure when she made her police statement the following day.

30. Even if the Tribunal did make a legal mistake in that regard, a grant of permission would only be justified if such a mistake would have been material. In other words, if there might have been a different outcome to KJV’s appeal had the Tribunal not made such a mistake.

31. The requirement in paragraph 22 of the Scheme that the claimant report the incident relied upon to the police as soon as reasonably practicable is not the only relevant time-sensitive requirement in the Scheme: paragraph 87 sets out a general requirement that an application for compensation under the Scheme must be sent by the applicant so that it is received by the Authority as soon as reasonably practicable after the incident giving rise to the criminal injury to which it relates, and in any event within two years after the date of the incident.

32. That provision, though, is expressly subject to paragraph 88, which provides that where the applicant was a child under the age of 18 on the date of the incident giving rise to the criminal injury and where the incident was reported to the police on or after the applicant’s 18th birthday, the application must be sent by the applicant so that it is received by the Authority within two years after the date of first report to the police in respect of the incident (see paragraph 88(1)(b)). This would, at first glance, appear to be fatal to KJV’s appeal because she did not make her application for compensation until 13 years after the informal reporting of the [sexual abuse] to the police, approximately 11 years out of time.

33. However, paragraph 89 gives a claims officer a discretion to extend the 2-year period in paragraph 88 if satisfied that (a) due to exceptional circumstances the applicant could not have applied earlier; and (b) the evidence presented in support of the application means that it can be determined without further extensive enquiries by a claims officer.

34. The Tribunal reached its decision on the basis that the requirement under paragraph 22 to report to the police as soon as reasonably practicable was a mandatory provision. Since the Tribunal’s reasoning for finding that KJV did not report the [sexual abuse] to the police as soon as reasonably practicable appears to have hinged on the finding that KJV had an opportunity to report it in 2011, that suggests that the Tribunal might well have considered that a disclosure in 2011 would have satisfied the requirement in paragraph 22.

35. Because the Tribunal, like the decision maker for the Authority, considered itself bound to dismiss the appeal for failing to satisfy the paragraph 22 requirements, it did not go on to consider whether to exercise the discretion

under paragraph 89 to extend time for KJV to make her application for compensation.

36. It might be considered unlikely that the circumstances would justify such a lengthy extension of time as KJV would require. However, it is by no means a straightforward matter for someone who has experienced the trauma of sexual abuse in childhood to process what happened to them sufficiently to carry out seemingly straightforward tasks such as disclosing the abuse to the police or making a claim for compensation.

37. The existence of the discretion under paragraph 89 to extend time for making a claim (which discretion would be available to the First-tier Tribunal standing in the shoes of the claims officer on appeal) means that it cannot be said that any error that the Tribunal might have made as to the requirement for a claimant to have “reported to the police as soon as reasonably practicable” could not have been material.”

13. I decided that a grant of permission for KJV to pursue judicial review proceedings in the Upper Tribunal in relation to the ground I had identified was warranted. I gave permission and made case management directions for the Respondent and Interested Party to make submissions in response to the judicial review claim.

The parties' positions

14. The First-tier Tribunal provided no submissions and took no active role in the judicial review proceedings (in accordance with its usual practice).
15. The Authority, as the Interested Party, made a short submission. While it made no concession or admission as to whether KJV's claim to compensation should ultimately succeed, the Authority accepted that the Tribunal “may” have erred in law by failing to consider whether or not KJV's disclosure to the police in 2011 might satisfy the requirement of reporting to police described in paragraph 22 of the Scheme. On that basis it did not resist the quashing of the FtT Decision and the matter being remitted to the First-tier Tribunal for determination by a fresh panel.

Why there was no oral hearing of this appeal

16. KJV asked for an oral hearing because she said she wanted “to be on hand to discuss disputes, clear up any misunderstandings in any of my evidence and to show the judge and the panel that I am credible and I would like a fair and just outcome.” Neither the Respondent nor the Interested Party requested an oral hearing.
17. I decided that the interests of justice did not require an oral hearing. This is because I can determine the issues I need to determine fairly and justly without an oral hearing. Determining the matter on the papers represents a proportionate use of the Upper Tribunal's resources, avoids unnecessary delay and is compatible with proper consideration of the issues. KJV will have the opportunity to give her evidence and make her arguments at the oral hearing of the remitted appeal.

Why I have allowed the appeal

18. At the permission stage I was required to decide whether it was realistically arguable that the FtT Decision was unlawful. At the substantive stage I must be satisfied that the FtT Decision was indeed unlawful.

19. For the same reasons I was persuaded at the permission stage that it was realistically arguable that the FtT Decision involved an error of law I am now persuaded that it did involve such an error and I am satisfied that such unlawfulness was material in the sense that the outcome for KJV might have been substantially different had the error not been made.

Disposal

20. Having found that the Tribunal erred in law, I consider that the interests of justice require me to exercise my discretion under section 15(1)(c) of the Tribunals, Courts and Enforcement Act 2007 (the “**2007 Act**”) to quash the FtT Decision.

21. Having decided to quash the FtT Decision under section 15(1)(c) of the 2007 Act I have a discretion whether to remit the matter to the First-tier Tribunal for redetermination (under section 17(1)(a) of the 2007 Act), or to substitute my own decision for the FtT Decision (under section 17(1)(b) of the 2007 Act). Because further facts need to be found, and because the First-tier Tribunal with its expert members is the most appropriate forum for finding such facts, I exercise my discretion to remit the matter to the First-tier Tribunal to redetermine the appeal.

DIRECTIONS FOR THE REHEARING

Pursuant to rule 5 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I DIRECT:

1. This case is remitted to the First-tier Tribunal for reconsideration at an oral hearing.
2. The new tribunal should not involve either of the members of the panel that made the FtT Decision on 25 November 2024.
3. The tribunal hearing the remitted case 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.
4. Copies of this decision and the Interested Party’s response are to be added to the bundle to be placed before the tribunal hearing the remitted case.

These Directions may be supplemented by later directions by a Tribunal Caseworker, Tribunal Registrar or Judge of the First-tier Tribunal.

**Thomas Church
Judge of the Upper Tribunal**

Authorised for issue on: 7 September 2026