



Neutral Citation Number: [2026] UKUT 365 (AAC)
Appeal No. UA-2025-001739-ULCW

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Between:

Kirsty Bell

Appellant

- v -

Secretary of State for Work and Pensions

Respondent

**Before: Upper Tribunal Judge Wright
Decided on the papers**

On appeal from:

Tribunal: First-tier Tribunal (Social Entitlement Chamber)
Tribunal member: Judge L McDonald and Dr M McLelland
Tribunal Case No: SC236/25/00025
Tribunal Venue: Leeds
Decision Date: 16 June 2025

SUMMARY OF DECISION

This is another decision about the need for the FTT to address the extent to which a claimant may satisfy the descriptors in Schedule 6 to the UC Regs, particularly where the substantial risk test under paragraph 4 in Schedule 9 to the UC Regs: see the recent further example of *Michael Monaghan v Secretary of State for Work and Pensions (UC)* [2026] UKUT 325 (AAC). It also emphasises the need for the FTT to be clear about the evidence on which it bases its decision about the specific work-related activities the claimant may reasonably have been expected to undertake at the date of the decision under appeal and the most and least demanding work-related activities claimant might in fact have been required to undertake.

It also comments on the, at least unwisdom, of the FTT seeking to impose conditions on an appellant seeking reasons for the FTT's decision, as the FTT had already been warned about in *OU v Secretary of State for Work and Pensions* [2024] UKUT 223 (AAC).

UNIVERSAL CREDIT (45); TRIBUNAL PROCEDURE AND PRACTICE (34); STATEMENTS OF REASONS (34.9)

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 judges follow.

DECISION

The decision of the Upper Tribunal is to allow Miss Bell's appeal.

The decision of the First-tier Tribunal made on 16 June 2025 under case number SC236/25/00025 was made in error of law.

Under section 12(2)(a) and (b)(i) of the Tribunals, Courts and Enforcement Act 2007, that decision is set and the appeal is remitted to an entirely freshly constituted First-tier Tribunal to be redecided, after an oral hearing.

REASONS FOR DECISION

1. I am satisfied on the arguments before me that the First-Tier Tribunal ("FTT") erred materially in law in the decision to which it came on 16 June 2025 and that the FTT's decision should be set aside as a result.

2. The grounds on which permission was sought were:

"Para. 28 of the [the FTT's] Statement of Reasons states that the appellant drives, can do the school run, drive to see her family, to the shops and that she is able to use sat nav to drive to an unfamiliar place. Para. 45 essentially repeats what is in para. 28. I do not know why the tribunal have come to this conclusion. They do not state why. The conclusion is in absolute contradiction to the appellant's evidence. The audio recording covers this 16:00m-17:00m. Kirsty told the tribunal that she had a bad accident in her mam's car two to three years ago and had only driven once since. She had concluded after this that she was unable to drive due to fear and flashbacks of the accident. She also told the tribunal that she was unable to read and write and could not use sat nav to find an unfamiliar destination. At 17:00 the doctor says "...let's take it that you haven't driven for several years".

The tribunal do not deal with Kirsty's evidence. They have either overlooked it, disregarded it, rejected it or preferred other evidence that they do not mention. It is not possible to see why they have reached these conclusions. I submit that they have they have not given adequate reasons for their decision and have consequently erred in law. I submit that this appeal is a candidate for setting aside.

Leave has now been refused by the LT Judge. In para. 8 of Judge McDonald's refusal she states:

"Her lack of ability to drive more recently does not impact on the tribunal's findings in respect of the appellant's ability to do the work related activity tasks as dealt with in the S of R from para. 30 onwards which makes no mention of her ability to drive or use a sat nav.."

This is factually incorrect. Para. 45 of the Statement of Reasons [states]:

"The appellant is a driver. She is able to follow a sat nav. She confirms that she is able to use a sat nav to access an unfamiliar place."

3. I gave Miss Bell permission to appeal on the following grounds:

"1. I give permission to appeal because I consider that the grounds of appeal identified below have a realistic prospect of establishing that the First-tier Tribunal ("the FTT") erred materially in law in its decision of 16 June 2025.

2. The **first** ground is the ground advanced on behalf of Miss Bell. If the FTT failed to take account of Miss Bell's evidence and as a result wrongly proceeded on the basis that she was driving in October 2024, it is arguable that it erred in law in basing its decision on wrong evidence.

3. The **second** potential error of law concerns the arguable failure of the FTT to explain why it did not find any other points were merited under Schedule 6 to the UC Regs: see paragraph [8] of *KW v Secretary of State for Work and Pensions (ESA)* [2015] UKUT 131 (AAC). Miss Bell's ability to drive may be relevant here too. Her grounds of appeal did not appear to be limited only to activities 3 and 13 in Schedule 6, as they were:

"I do not think my mental health problems have been fully taken into consideration. Due to extremely traumatic events in the past my mental health is very poor and this severely restricts many aspects of my life. I do not feel able to engage in work related activity at this time."

As such, all mental health activities might have been in issue. And the PIP awards made by the FTT on 2 May 2025 (FTT bundle at Addition B, Pages 1-2, and Addition C. Pages 1-2), with effect from 6 June 2023 and 2 February 2024), may arguably have brought at least activity 16 in Schedule 6 to the UC Regs into issue on the appeal.

4. The **third** potential error of law concerns an arguable inadequacy in the FTT's approach to whether Miss Bell satisfied paragraph 4 in Schedule 9 to the UC Regs. The first and second potential errors of law may be relevant here too. In addition, however, it may arguably be unclear what the evidential basis was for the FTT's findings at paragraphs 34-39 of its reasons. As I understand it, no presenting officer for the DWP was present at the hearing before the FTT on 16 June 2025. If that is the case then the evidence concerning work-related activity was seemingly limited to that found at paragraph 5.8 of the Secretary of State's appeal response before the FTT and pages 168-172 of the FTT appeal bundle. It is arguably not apparent from that evidence where, for example, *Miss Bell's work coach* confirmed that they would take into account Miss Bell's conditions (per paragraph 36 of the FTT's reasons); or where the Secretary of State had specified which types of work-related activity *Miss Bell* might reasonably be expected to undertake (para. 36 of the FTT's reasons); or why the most demanding work-related activity *Miss Bell* might be required to undertake would have been to set up an email account (per para. 38 of the reasons).

5. Although not a matter going to the FTT's decision of 16 June 2025, I am concerned to note what was said by the FTT (salaried) judge on 24 June 2025 (FTT bundle at Addition G, Page 1) in response to the request for reasons for the FTT's decision. To seek to fetter the ability to seek such reasons was arguably contrary to *OU v Secretary of State for Work and Pensions* [2024] UKUT 223 (AAC)."

4. I am satisfied that the FTT erred materially in law on all three grounds identified above.
5. Before turning to those grounds in a little more detail, I should say something about what the salaried judge said on 24 June 2025 in response to the request that the FTT provide its reasons for its decision of 16 June 2025.
6. The District Tribunal Judge was addressing a request from Miss Bell's professional welfare rights officer representative for a statement of the reasons

for the FTT's decision. Subject to making the request within a month and any issues arising under rule 14(2) (neither of which arose here), Miss Bell had an unqualified right to ask for the FTT's reasons for its decision: see rule 34(5) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 ("the SEC Rules"). Putting this another way, the FTT could not impose any conditions or limitations on the right to request the reasons for the decision it had made, other than the conditions and limitations found in rule 34 of the SEC Rules itself, and certainly could not lawfully refuse or inhibit such a request.

7. In this context, what the DTJ said in response to the statement request was, albeit perhaps well motivated, at best unwise. The salaried judge said this by way of response:

"4. The purpose of a Statement of Reasons is to form the basis of an appeal of the First-tier Tribunal's decision to the Upper Tribunal. Should such an appeal be successful, the decision made by the [FTT] on 16.06.25 will be set aside.

5. The appellant should be aware that, in having the [FTT's] decision set aside, she will be placed in the position she was in before the appeal was determined. The appeal will then be reheard by a differently constituted [FTT]. The [new FTT] having heard her evidence may reach a different conclusion to that reached by the [FTT] on 16.06.25.

6. The appellant, or her representative, is to confirm, within 21 days of the date of issue of this notice to her, if this is how she wishes to proceed and that she is aware of the implications of this course of action."

8. There was in my judgement, and following Upper Tribunal Judge Perez's decision in *OU*, no proper or lawful basis for the FTT judge imposing this additional 'confirmation condition' on Miss Bell's ability to obtain the FTT's reasons for its decision. The FTT had already had an time request from Miss Bell's duly appointed representative for the FTT's reasons for its decision of 16 June 2025, and should simply have met its duty to provide the requested reasons.

9. I now turn back to the FTT's decision of 16 June 2025.

10. The Secretary of State's submission to the Upper Tribunal, dated 16 March 2026 supports the appeal being allowed on the first and second grounds identified in my grant of permission to appeal (see paragraph 3 above), and argues for the third ground to be subsumed in issues the new FTT may need to consider when the appeal is remitted back to be redetermined.

11. The Secretary of State also argues that the FTT erred in law in failing to give an adequate explanation for why it awarded the points it did under Schedule 6 to the Universal Credit Regulations 2013 ("the UC Regs"). The appellant has not sought to address or challenge this additional error of law argument.

12. The relevant parts of the Secretary of State's submission reads as follows:

"1. Permission to appeal to the UT has been granted by UT Judge Wright on the basis of the grounds submitted on behalf of the Appellant. Judge Wright also identified two further potential errors in law. The first that the Tribunal failed to provide adequate reasons as to why no other scoring descriptor from the remainder of the activities within Schedule 6 to the UC Regs applied to the Appellant's circumstances and the second as to whether the Tribunal's approach to paragraph 4 to Schedule 9 to the UC Regs 2013 was adequate. The Secretary of State has been directed to provide a response to the appeal.

2. All three grounds (potentially interconnected as highlighted by Judge Wright) relate to the adequacy of the Tribunals statement of reasons, and the Respondent would concur that the document when taken as a whole fails to establish or give a clear explanation as to the reasons why the Tribunal reached its decision.

3. The Tribunal appear to have approached their statement of reasons as if they were required to respond only to the issue disputed by the Appellant; that she was found to have LCW but not to have LCWRA and there was no dispute between the parties as to whether the claimant had LCW. However, this appeal was lodged against a decision given by the Respondent that the claimant did not have and could not be treated as having LCW. The Tribunal allowed the appellant's appeal in part, so the unsuccessful party in this case was the Secretary of State as his decision was set aside by the Tribunal's findings.

4. In CIB/4497/1998 Commissioner Rowland found:

"The minimum requirements [of a statement of reasons] are that the unsuccessful party must know why his or her principal submissions have been rejected and that the process of the tribunal's reasoning must be sufficiently clearly outlined to avoid any reasonable suggestion that the tribunal have made an error of law."

5. It follows therefore that the statement should have explained the basis for the Tribunal's different choice of descriptor to the Respondent for activities three and thirteen, including the evidence relied upon and where there were conflicts in the evidence, the reasons for the Tribunal's weighting.

6. Any reader of this statement would be forgiven for some degree of confusion as to the basis for the Tribunals reasoning for their choice of descriptors. With regard to activity three, there appears to be a complete absence of rationale.

7. The Tribunal state at paragraph 19 "The Tribunal has found that the appellant cannot raise either arm above her head as if the reach for something" but reference only the claimant's choice of tick box on her UC50 questionnaire ("She reports difficulties raising her arms above her head"), in relation to their reasoning as to why the Schedule 7 criteria for this activity is not satisfied. No other evidence is cited in support of their finding that descriptor 3c is satisfied.

8. This finding would appear to conflict significantly with the majority of the evidence relating to the Appellant's shoulder complaint in the appeal papers. The medical examination recorded in the UC85 report took place on a face-to-face basis and a clinical examination of the Appellant's upper limb function took place. Those findings (FtT bundle 105 – 106) observed normal shoulder external rotation and shoulder abduction bilaterally, with the claimant observed to be able to raise both arms away from side as normal and able to put both hands fully behind their neck. The only abnormal finding recorded related to the claimant having a restriction in placing her hands behind her back, with both hands only able to reach the small of their back (FtT bundle page 91); consistent with her oral evidence that she had difficulties in putting on her own bra.

9. The Tribunal's choice of descriptor suggests a significant degree of upper limb restriction, impacting both arms but this appears inconsistent with the available medical evidence. The Appellant stated during the medical

examination that she had no current or historic secondary input since sustaining the injury to her shoulder 7 years previously, and the UC113 completed by her GP, stated shoulder pain would not in their opinion affect ability to work (FtT bundle page 58).

10. The oral evidence provided by the Appellant during the medical examination, also appears inconsistent with the Tribunal's choice of descriptor. The Appellant is recorded as dressing independently on a daily basis, able to put a jumper over her head, and able to wash her hair when she showers on a twice weekly basis. It is also stated she is able to reach for items from upper shelves in the supermarket (FtT bundle page 87). It is submitted all of these tasks would likely require at least one arm to be lifted above a person's head to complete successfully.

11. The statement does not record what evidence the Tribunal relied upon in making their finding. It is possible that the Appellant offered further oral evidence at the hearing that the Tribunal placed greater weight upon, or that the award of the PIP daily living descriptor 4d by a panel of the First-tier Tribunal on appeal (that the Appellant needs assistance to be able to wash either their hair or body below the waist) was deemed pertinent. However, the statement is silent on this matter.

12. The statement is further silent as to why the Appellant did not satisfy descriptor 3(b) cannot raise either arm to top of head as if to put on a hat. The statement addresses only why descriptor 3a was not satisfied, on the basis the Appellant did not claim such restriction in her UC50 questionnaire. However, form UC50 does not ask the claimant whether they are able to raise either arm to the top of their head; only whether they can reach the top pocket of a coat or lift at least one arm above their head, and as such records no evidence to base such a finding.

13. Although the Tribunal is entitled to give weight to whatever evidence it chooses, where there is conflicting evidence, it must in the first instance explore, consider it in a holistic manner and then provide sufficient reasons explaining why it preferred the evidence that it did. Therefore, it is submitted that the Tribunal's failure to articulate the basis for their findings amounts to an error in law, and that error is material in that a different choice of descriptor may have altered the outcome of this appeal.

14. The Respondent is further of the view that the reasons outlined for the choice of descriptor 13c of Schedule 2 are also likely inadequate. The Tribunal did for this activity provide a slightly more detailed precis of the evidence upon which they relied, noting "the appellant is distracted, with rapid speech and struggles to manage her finances and finish tasks". This evidence, however, makes no attempt to explain why the Tribunal considered the Appellant to be restricted for the majority of the time as opposed to frequently.

15. It is further noted that the evidence they relied upon to reject the Schedule 7 descriptor and also cited when concluding that a requirement to engage in work related activities would not present a substantial risk might conflict with the award of descriptor 13b. The Tribunal found as fact the Appellant is able to care for her children without the involvement of social services on a daily basis. She prepares meals for the family, completes the school run and manages the situation regarding her eldest child's nonattendance at school. They also found she travels independently by bus

and uses a washing machine. The UC85 report further records she is independent in self-care on a daily basis, completes her own housework, goes to the supermarket on a daily basis, planning meals and buying the required items and manages her own medication without prompting. All of these tasks, that the Tribunal found the Appellant able to undertake would appear likely to involve two or more interlinked personal actions to successfully complete and appear to be undertaken on a daily basis. The Tribunal's reasons for why they concluded that the Appellant would be unable to complete such personal actions for the majority of the time have not been articulated.

16. The Respondent would also concur with Judge Wright, that the Tribunal's failure to address in their rationale why no scoring descriptor applied from the remaining activities recorded in Part 2 of Schedule 6 to the Universal Credit Regulation 2013, arguably represents inadequate findings of fact.

17. As highlighted by Judge Wright, the Appellant's grounds of appeal do not appear to be restricted only to activities 3 and 13, and in her UC50 questionnaire she records her ability varies in relation to all these activities with the exception of activity 17. The Tribunal's summary of their findings in relation to the remaining Schedule 7 descriptors at paragraph 28 activities is arguably deficient when considering whether the Appellant was able to complete these tasks for the majority of the time, rather than at all.

18. In relation to activity 16 the Tribunal found as fact the Appellant is able to "interact with her family, other parents at school; sales staff in shops; she conducted the medical assessment alone." but did not address the potential conflict in these findings with the outcome of her PIP appeal which concluded that descriptor 9c of the daily living activities applied and the Appellant needs social support to be able to engage with other people. No reasons have been provided as to why weight was not placed on this evidence. The Respondent also notes that the Tribunal at paragraph 28, rely in part on the Appellant's ability to drive and use a sat nav in their findings in relation to the remaining mental health activities, a point clearly disputed by the Appellant and her representative.

19. With regard to that first ground of appeal, the Respondent does not have access to the recording cited by the representative, as a copy is not available on the HMCTS Manage Cases system and no transcript of the proceedings have been provided in the papers. This notwithstanding, the Respondent has no reason to doubt this represents an accurate representation of the proceedings, noting that the quotes seem largely consistent with description of driving provided in the PA4 medical report which was also before the Tribunal.

20. In that report it is recorded that the Appellant had not been a regular driver since an accident two years previously as she feels on edge and she had not driven since the previous year (FtT bundle page 176). It is also recorded that she is unable to use a sat nav (or map) due to literacy problems (FtT bundle page 179). It is also perhaps notable that whilst the UC85 report does state the claimant is a driver and drives a manual car recently, the typical day evidence only records her walking or taking the bus, with the example of her driving to an unfamiliar place and using a sat nav seemingly largely hypothetical as the Appellant stated she had not travelled anywhere unfamiliar recently (FtT bundle pages 87-88).

21. It is submitted therefore, that the question of whether the Appellant was a regular driver and able to use a sat nav was clearly marked by conflicting

evidence, and in finding this to be the case, it was incumbent on the Tribunal to record their rationale as to why they had reached this conclusion. Their failure to do so likely represents an error in law.

22. It is submitted there may be some question as to whether this error was material, noting that when making their findings in relation to the risk posed from a requirement to travel to work related activity, the Tribunal also found the claimant able to use public transport, a fact not seemingly in dispute between the parties. However, in view of the fact that the Tribunal also appeared to rely on this fact in relation to their findings in relation to activity 13 and their more general findings for the mental health descriptors, the Respondent is of the view it is likely the error may be material.

23. With regard to the third potential error identified by Judge Wright, if my submission that the error(s) in law already outlined at paragraphs 7-21 are material to the outcome of this case are accepted, it is submitted this alone should be sufficient for the matter to be remitted for rehearing by a freshly constituted First-tier Tribunal. Accordingly, this matter may be subsumed into any rehearing.

24. It is submitted that the Tribunal's failure to provide adequate reasons for their decision and address clear conflicts in the evidence before them amount to an error in law and these error(s) are material. As such it is respectfully requested the appeal be remitted and reheard by a different tribunal."

13. Although I can see the force in the Secretary of State's arguments for why the FTT *also* erred in law in not providing an adequate explanation for the Schedule 6 points which it did award, it is arguable that the Secretary of State needed (but failed) to seek permission to appeal on those separate grounds in his response to the appeal: see paragraphs 24(1B) and (1C) of the Tribunal Procedure (Upper Tribunal) Rules 2008 an *HMRC v SSE Generation Ltd* [2021] EWCA Civ 105 at paragraph [77] in particular. As the appeal is being allowed on other grounds, I need not consider this point any further. The new FTT to which the appeal is being remitted to be redecided will no doubt play close regard to all the points raised by the Secretary of State in the submission set out in paragraph 12 above.
14. As I have stated above, I am satisfied the FTT materially erred in law on all three grounds which I identified when giving permission to appeal.
15. The first ground concerning whether Miss Bell was driving (and therefore was able to drive) in October 2024, shows that the FTT failed to grapple with the evidence before it and explain why it concluded, as it seemingly did, that Miss Bell was driving in October 2024 (the date of the Secretary of State's decision under appeal to the FTT). Although there may have been another basis in the evidence on which the FTT may have been able to conclude that Miss Bell did not satisfy any of the descriptors in Schedule 7 to the UC Regs, its reasoned basis for so concluding was founded, inter alia, on Miss Bell driving and being able to use a sat nav in October 2024. If the FTT wished to rely on this finding, it needed to resolve the obviously contrary evidence which was before on this issue, and it failed to do so. That was an error of law.
16. Further, and in any event, the FTT erred in law in not adequately addressing (the logically prior issue of) *the extent to which* Miss Bell satisfied descriptors under

Schedule 6 to the UC Regs. As I stated when giving permission to appeal, on the face of it Miss Bell's grounds of appeal were not limited to activities 3 and 13 in Schedule 6. Moreover, the PIP award very arguably brought activity 16 in Schedule 6 into issue on the appeal. No explanation is given by the FTT for why it only awarded the points it did under Schedule 6. Moreover, the extent of Miss Bell's limitations was also relevant to the FTT's proper consideration of risk under paragraph 4 in Schedule 9 to the UC regs: per *KW v SSWP* [2015] UKUT 131 (AAC) and *Michael Monaghan v Secretary of State for Work and Pensions (UC)* [2026] UKUT 325 (AAC).

17. Yet further, I am satisfied that the FTT also erred in law in the adequacy of its explanation for why, even ignoring the second ground of appeal, there was no substantial risk to Miss Bell's (or another's) health in October 2024 if she had to engage in work-related activity.
18. The FTT's Decision Notice of 16 June 2025 sets out that no representative or witness for the Secretary of State attended the hearing of Miss Bell's appeal before the FTT.
19. That left the Secretary of State's evidence concerning work-related activity to that found at paragraph 5.8 of the Secretary of State's appeal response before the FTT and pages 168-172 of the FTT appeal bundle.
20. The FTT addressed that evidence in this way:

"34. There is a requirement of a person who is placed in the LCW group that they should attend work focused interviews or other sessions. These may involve a face to face meeting or may be conducted over the telephone or via the internet. The respondent has provided details at documents 168-169 of the type of work related activity which might be required of the appellant.

35. The respondent has confirmed that it will adhere to the principles of the Upper Tribunal decision *KC & MC v SSWP(ESA)* [2017] UKUT 94.

36. The respondent has specified the types of work related activity which the appellant might reasonably be expected to undertake. It is confirmed that her work coach will take into account her conditions and how they affect her.

37. Examples are given [o]f the least demanding types of work related activity which the appellant might be expected to undertake: to get up and dressed by a certain time each day and keep a log to chart progress, or to research bus times and local transport routes and keep a log.

38. Examples of the most demanding type of work related activity could be to look at the expert patient program online and list the reasons it would benefit the appellant, or to improve digital skills, set up an email account, browse the internet and keep a log to chart progress.

39. It is accepted that requirements can be adapted to individual circumstances (for example work related activity may be done online or

over the telephone. It is also possible for the appellant to take someone with her to work related activity for support.”

21. It is not apparent from the written evidence where, for example, *Miss Bell’s work coach confirmed* that they would take into account Miss Bell’s conditions (per paragraph 36 of the FTT’s reasons); or where the Secretary of State had specified which types of work-related activity *Miss Bell* might reasonably be expected to undertake (para. 36 of the FTT’s reasons); or why the most demanding work-related activity *Miss Bell* might be required to undertake would have been to set up an email account (per para. 38 of the reasons).
22. All paragraph 5.8 of the Secretary of State’s appeal response before the FTT said was:

“Should the Tribunal decide that Kirsty Bell does have LCW; I request that they decide whether Kirsty Bell has LCWRA. The Tribunal are referred to paragraphs 48 and 116 regarding the Upper Tribunal decision *KC & MC v SSWP (ESA)* [2017] UKUT 94 (AAC) and the Jobcentre Plus Offer which specifies how demanding each activity is considered to be, contained within the bundle at pages 168-172.”
23. Pages 168-172 of the FTT bundle contains a list of work-related activities and a summary of what was decided in *KC and MC*. None of that is evidence tailored to, or about, Miss Bell. Moreover, the list of work-related activities in the FTT bundle includes also as a most demanding (i.e., “hard”) activity “*attending a work placement*”. It is not apparent why the FTT excluded this as a work-related activity which Miss Bell might have been required to undertake. Nor can I find anywhere else in the FTT bundle evidence from Miss Bell’s work coach about work-related activity she may have been required to undertake.
24. At the very least, the FTT has failed in my judgment to provide a sufficient explanation about the evidential basis for the findings of fact contained in paragraph 36 of its reasons. See further and more generally as to what is needed in such cases *GB v The Secretary of State for Work and Pensions (UC)* [2026] UKUT 280 (AAC).
25. For the reasons set out above, I allow the appeal in the terms described above.
26. The Upper Tribunal is not able (nor is it asked) to re-decide the first instance appeal. The appeal will therefore have to be re-decided afresh by a differently constituted FTT, after an oral hearing.
27. Miss Bell’s success on this appeal to the Upper Tribunal on error of law says nothing one way or the other about whether her appeal will succeed on the facts before the new FTT, as that will be for that tribunal to assess in accordance with the law and once it has properly considered all the relevant evidence.

Stewart Wright
Judge of the Upper Tribunal

Authorised for issue on 24th September 2026