

INTRODUCTORY NOTE

The Upper Tribunal (Administrative Appeals Chamber)

The Upper Tribunal is a court of record with jurisdiction throughout the United Kingdom. With effect from 3 November 2008 the functions of the Social Security and Child Support Commissioners were transferred by statute to the Administrative Appeals Chamber of the newly created Upper Tribunal, and the Commissioners became judges of the Upper Tribunal.

This publication contains both decisions made by Commissioners before 3 November 2008 and decisions made by the Upper Tribunal in social entitlement cases since that date. These include appeals against decisions of the First-tier Tribunal on matters relating to social security benefits, tax credits, child support maintenance, war pensions and the armed and reserve forces compensation scheme.

The Administrative Appeals Chamber of the Upper Tribunal also has jurisdiction in England and Wales to judicially review procedural decisions of First-tier Tribunals where there is no right of appeal and criminal injuries compensation appeals decided by the First-tier Tribunal. Cases may also be transferred to the Upper Tribunal from the High Court and Court of Session. In addition the judges decide cases referred to them under the Forfeiture Act.

The Administrative Appeals Chamber has three offices: two (in London and Cardiff) run by the Ministry of Justice and one in Edinburgh run by the Justice Department of the Scottish Executive.

Upper Tribunal (Administrative Appeals Chamber)
5th Floor Chichester Rents
81 Chancery Lane
London
WC2A 1DD

Tel: (020) 7911 7085

The Upper Tribunal (Wales)
Cardiff Civil Justice Centre
2 Park Street
Cardiff
CF10 1ET

Tel: 029 2037 6488

Upper Tribunal (Administrative Appeals Chamber) in Scotland
George House
126 George Street
Edinburgh
EH2 4HH

Tel: (0131) 271 4310

Further information about the Upper Tribunal judges and about the procedure for appealing to the Upper Tribunal may be obtained from the appropriate office or from the Internet: www.administrativeappeals.tribunals.gov.uk or www.ossesc.gov.uk.

Reported Decisions of Commissioners and Upper Tribunal Judges

Commissioners' and Upper Tribunal decisions on questions of legal principle are treated as binding on tribunals and on decision-makers acting on behalf of Government departments and local authorities. This means that the principles of law laid down in the decisions must be applied in other cases. Reported decisions are those decisions that are published in this official series to give them greater prominence. Published with them are decisions of superior Courts on appeal from or on judicial review of decisions of Commissioners and Upper Tribunal judges and decisions of the European Court of Justice arising out of proceedings before Commissioners and Upper Tribunal judges.

An editorial board of Upper Tribunal judges selects those decisions that are to be reported. They take into account the views of other judges and of anybody else who has commented on the suitability of a decision for reporting. (Any such comments should be sent to the secretary of the editorial board at the London office of the Administrative Appeals Chamber, jill.walker@justice.gsi.gov.uk).

Guidelines for selection of decisions for reporting were issued in 2006 and updated in June 2009 and are reproduced after this note.

Each reported decision is given a headnote in which the decision is summarised and which identifies the Commissioner, Upper Tribunal judge or Court who gave the decision, the date of the decision and the original file number. The headnotes are not part of the decisions and do not share the authority of the text. They are written by the Legal Information Officers and Registrars in the Upper Tribunal offices.

The Legal Information Officers, Miranda Bayliss and Maggie Phelps, have acted as editors of the text supplied by the Upper Tribunal offices for this volume.

The Numbering of Commissioners' and Upper Tribunal Decisions

All decisions of Commissioners and judges of the Administrative Appeals Chamber have file numbers beginning with a "C", eg CIB/1664/2002. Scottish cases are identified by an "S" after the "C", eg CSIB/877/2001. When there was a separate Commissioners' office in Wales, Welsh cases were identified by a "W" after the "C". The other letters indicate the type of case, generally by reference to the benefit under consideration. The first set of numbers represents the individual file number. The final digits identify the year in which the file was opened at the Commissioners'/Upper Tribunal office.

Letters which are, or have been, used to indicate the type of case are listed in Appendix 2.

When a decision is selected for reporting it is given a new number beginning with an "R": eg CH/51/2008 is reported as R(H) 2/09. The letters in brackets again identify the type of case. Scottish decisions are not expressly identified as such. Until 1999, the final digits identified the year in which the decision was selected for reporting. Since 2000, they have identified the year in which the decision was published by the Department for Work and Pensions (formerly the Department of Social Security).

Decisions are usually listed alphabetically by type of case, and then numerically by year.

Decisions of the Upper Tribunal that appear on the website of the Administrative Appeals Chamber are given a title (anonymous pending review) and a neutral citation number. See the Senior President's Practice Statement *Form of decisions and neutral citation: First-tier Tribunal and Upper Tribunal on or after 3 November 2008* on the Tribunals Service website page www.tribunals.gov.uk/Tribunals/Rules/rules.htm. Decisions of the Upper Tribunal reported in this series during 2009 will continue to be given an 'R' number, but with the addition of the title and neutral citation number, and published in sequence with Commissioners' decisions, eg CH/3160/2007 becomes *AH v Mendip District Council and the Secretary of State for Work and Pensions* [2008] UKUT 18 (AAC), R(H) 3/09 and should be so cited.

Practice Statements and Directions

Practice Statements and Directions relevant to the new Upper Tribunal (Administrative Appeals Chamber) can be found on the Tribunals Service website page www.tribunals.gov.uk/Tribunals/Rules/rules.htm.

APPENDIX 1

GUIDELINES FOR REPORTING

Why decisions are reported

The key reasons why decisions are reported is that they (i) decide difficult issues, (ii) contribute to the coherent development or operation of the law or (iii) give practical guidance to decision-makers or appeal tribunals.

Decisions of single Upper Tribunal Judges

Whether a particular decision should be reported is based on these criteria -

- if it is of value as a precedent. This requires that the decision commands the broad assent of a majority of the Upper Tribunal Judges. Relevant factors include: whether the decision decides an issue for the first time; whether it modifies a reported decision; whether the decision resolves a conflict or settles a doubtful point; whether it has been overtaken by amendments to the legislation; and the number of cases in which it is likely to be relevant.
- if it extends existing principles to new areas of the Upper Tribunal Judges' jurisdiction.
- for comments that are not essential to the decision but contribute to the coherent development of the law.
- as an illustration of how the law applies if the issue commonly arises and there is no other reported decision.
- if it gives practical guidance to decision-makers or appeal tribunals.

Decisions of three Judge Panels of Upper Tribunal Judges

A decision of a three Judge Panel of Upper Tribunal Judges should be reported in the absence of exceptional reasons for not doing so.

Court judgments

Court judgments should be reported if (i) they satisfy the criteria for reporting a decision by a single Upper Tribunal Judge, except the broad assent of the Upper Tribunal Judges and (ii) deal with an area of law within the Upper Tribunal Judges' jurisdiction. They should not be reported if they deal with other areas of law, even if they relate to the Upper Tribunal Judges' jurisdiction.

Judgments on permission to appeal are only reported if they contain useful analysis.

Editing

In some rare cases, it may be appropriate for a case to be edited so that not all paragraphs appear in the reported version. If so, this will be indicated in the report and a full copy of the original decision be available on our website.

Editorial Board June 2006 (Up-dated June 2009)

APPENDIX 2

Letters used to indicate type of case (unreported and reported decisions)

A	Attendance allowance
AF	War pensions and the armed and reserve forces compensation scheme
CR	Compensation recovery
CS	Child support
CTF	Child trust fund
DLA	Disability living allowance
DWA	Disability working allowance
F	Family allowance (now child benefit)
FC	Family credit
FG	Forfeiture – general (bereavement benefit and widow's benefit)
FP	Forfeiture – pension (retirement pension)
G	General (bereavement benefit, carer's allowance, child's special allowance, death grant, guardian's allowance, invalid care allowance, maternity benefit and widow's benefit, including forfeiture cases before 2003)
H	Housing benefit and council tax benefit

HR	Home responsibilities protection
I	Industrial accidents and diseases and industrial injuries benefits (injury benefit, disablement benefit, reduced earnings allowance and industrial death benefit)
IB	Incapacity benefit
IS	Income support and social fund payments
JSA	Jobseeker's allowance
M	Mobility allowance
P	Pension (retirement pension, including forfeiture cases before 2003)
PC	Pension credit
S	Sickness benefit, invalidity benefit and severe disablement allowance
SB	Supplementary benefit
SSP	Statutory sick pay
TC	Tax credits
U	Unemployment benefit

**JUDGES OF THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)**

Senior President of Tribunals

Sir Robert Carnwath CVO

Chamber President

Mr Justice Hickinbottom (to 20 April 2009)

Mr Justice Walker (from 21 April 2009)

Upper Tribunal Judges

Judge D J May QC

Judge M Rowland

Judge J Mesher

Judge P L Howell QC

Judge S J Pacey

Judge J P Powell

Judge H Levenson

Judge D Williams

Judge E Jacobs

Judge A Lloyd-Davies

Judge E A L Bano

Judge C Turnbull

Judge E A Jupp

Judge A J Gamble

Judge S M Lane

Judge C G Ward

Judge N J Wikeley