



DECISION OF

Lady Poole

**IN AN APPEAL
IN THE CASE OF**

Social Security Scotland

Appellant

- and -

PV

Respondent

FTS Case Reference: FTS/SSC/AE/24/01277

Representation

Appellant: Samuel Bingham, Scottish Government Legal Directorate

Respondent: Motherwell & Wishaw Citizens Advice Bureau

19 June 2025

DECISION

The Upper Tribunal for Scotland (“**UTS**”) makes procedural orders dispensing with requirements for a written response and reply under rules 5 and 6 of the Upper Tribunal for Scotland Social Security Rules of Procedure 2018 (the “**Upper Tribunal Rules**”), and thereafter **ALLOWS** the appeal, quashes the decision of the First-tier Tribunal for Scotland (“**FTS**”) dated 13 November 2024, and remakes it in the same terms other than substituting paragraphs 1 and 2 as follows:

“1. The appeal is allowed. The appellant is entitled to the enhanced rate of the daily living component and the enhanced rate of the mobility component of Adult Disability Payment with effect from 17 November 2022.



2. The appellant's award of adult disability payment is for a fixed period until 8 November 2027".

REASONS FOR DECISION

1. This is a further appeal about the correct start date of a higher level of an award, in the context of adult disability payment ("ADP"). As parties are in agreement about the outcome of the appeal, it is dealt with on the papers and with short reasons.
2. The background to the appeal is that the respondent ("PV") was in receipt of personal independence payment ("PIP"). He informed the Department of Work and Pensions, which administers PIP, of a change of circumstances on 17 November 2022. The intimation of a change of circumstances triggered a transfer to ADP, with a transfer determination being made on 1 March 2023, so that entitlement to the daily living component at the standard rate continued. PIP stopped on 28 February 2023, and ADP started on 1 March 2023. But the change of circumstances intimated to the DWP still had to be considered by SSS. That was done in a review determination on 4 January 2024, with SSS initially deciding the change of circumstances had no effect on the level of the award, and then on re-determination finding no award was due at all.
3. PV appealed to the FTS. On 13 November 2024, the FTS found that PV was entitled to the enhanced rate of both components of ADP. The FTS, in making its award, found that it should run from 1 March 2023 (the date of the transfer from PIP to ADP) to 8 November 2027. SSS appealed and permission was granted on the following ground:

"The Tribunal has misdirected itself in law as to the effect of paragraph 12(4) of schedule 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022 ("**the ADP Regulations**") and so has erred in its conclusion as to the date on which the respondent's entitlement to assistance increases".

4. Under paragraph 12(4)(a)(iii) of schedule 2 of the ADP Regulations, the FTS should have concluded that entitlement to the enhanced rates of daily living and mobility components began from the date that PV notified the change of circumstances to the DWP, being 17 November 2022, essentially for reasons given in the case of *Social Security Scotland v AM* [2025] UT 29.
5. Parties have made a joint application to the UTS. The effect of the application is that the UTS is requested to dispense with further procedure, other than the UTS proceeding straight to a decision on the papers. The UTS is requested to remake the decision so that it reflects entitlement to higher rates from the date PV intimated the relevant change of circumstances to the DWP, 17 November 2022.



6. The UTS is satisfied that it is appropriate to exercise its case management powers under rule 8 of the UTS Rules to regulate its own procedure, and dispense with any requirement for any written response or reply under rules 5 and 6. Thereafter, the UTS finds that the FTS erred in law by misapplying paragraph 12 of schedule 2 of the ADP Regulations. Under section 47 of the Tribunals (Scotland) Act 2014, the UTS quashes the decision of the FTS dated 13 November 2024, and re-makes it in identical terms other than altering paragraphs 1 and 2 to reflect the date on which PV became entitled to higher rates as 17 November 2022.

Lady Poole

*A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within **30 days** of the date on which this decision was sent to him or her. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.*