

Upper Tribunal for Scotland



2026UT56

Ref: UTS/AS/26/0023

DECISION OF

Sheriff Craig

ON AN APPLICATION FOR PERMISSION TO APPEAL (DECISION OF FIRST-TIER TRIBUNAL FOR SCOTLAND) IN THE CASE OF

BR

per GHSCP Welfare Rights

Appellant

- and -

Social Security Scotland

per Scottish Government Legal Directorate

Respondent

FTS Case Reference: FTS/SSC/AE/24/02090

30 June 2026

Decision

Permission to appeal is granted in relation to that part of the decision of the First tier Tribunal for Scotland ("FTS") issued on 14 November 2025 in so far as it relates to the assessment for Adult Disability Payment under Mobility Activity 2. The appeal on that point is allowed and that part of the decision of FTS issued on 14 November 2025 is quashed. The matter is remitted to a newly constituted tribunal for consideration of the appellant's claim under Mobility Activity 2 de novo.



Introduction

[1] This is an application for permission to appeal a decision of the FTS issued on 14 November 2025 in which the FTS determined the appellant's claim for ADP. The appellant criticised a number of findings made by the FTS, under a number of Activities, including Mobility Activity 2.

[2] The FTS refused the appellant's application for permission to appeal, and he now seeks permission from the UTS.

[3] That matter was heard by Webex hearing on 26 June 2026 when Alan Thomson from Glasgow City Health and Social Care Partnership appeared on behalf of the appellant and Orla Chambers from Scottish Government Legal Directorate on behalf of the respondent.

Grounds of appeal

[4] Read short, the appellant's grounds of appeal criticised the FTS's assessment of his entitlement to ADP under three heads - Daily Living Activities 5 and 9 and Mobility Activity 2. In respect of each, argued the appellant, the FTS decision was deficient, amounting to an error in law. While there had been a number of issues before it, including issues surrounding the appellant's mental health and how that manifested itself, the FTS had failed to explain, either at all or sufficiently adequately, why it reached the conclusions that it did.

[5] The FTS had focused on whether the appellant's conditions were diagnosed, and what those diagnoses were, rather than looking at the primary question – what limitations did he experience in consequence of those conditions. In so far as it was entitled to look for such diagnoses, argued the appellant, the FTS had failed, adequately, to deal with the substantial questions at issue.

[6] In as far as it was carrying out a weighing exercise of various factors, the FTS had failed to make sufficient findings in fact to enable an informed reader to understand its conclusions. That was an error in law.

[7] Relying on a number of authorities¹, the appellant argued that permission to appeal should be granted and, if I was persuaded of that, to quash the decision and remit the matter back to a newly constituted FTS for reconsideration.

¹ SSS v CB 2025UT63
KW v SSS 2024UT65
RR v SSS 2026UT53
SSS v RC 2026UT12



The response

[8] For the respondent, Ms Chambers argued I should refuse permission to appeal in relation to all but the FTS's assessment of Mobility Activity 2. On all other matters the FTS had made adequate findings of fact to support its conclusions. It was clear from the decision, read as a whole, that the FTS had carried out a weighing exercise. It was not necessary for it to detail, separately, every single point made by the appellant. However, it was necessary for it to determine whether there was a causal connection between a functional limitation and a condition relied on by an appellant.

[9] In relation to DLA 5, there was a factual dispute which the FTS resolved against the appellant. It was entitled to do so standing the GP's evidence (which was before them) that there was no condition relied on that required the use of incontinence pads. Even if the FTS accepted as a fact that such pads were used, the finding that there was no evidence of a related condition was one the FTS was entitled to make. Having made such a finding, it was entitled to make the assessment it did in relation to DLA 5.

[10] Similarly, argued Ms Chambers, in relation to DLA9 it was clear from the decision, read as a whole, that the FTS found, as fact, that the appellant's functionality was not limited by a mental health condition. That was so whether or not it accepted, as fact, that the appellant had, for example, panic attacks at night and could not breathe, because the appellant had failed to identify a mental health cause.

[11] However, argued Ms Chambers, it was accepted that the FTS's findings in relation to Mobility Activity 2 were deficient and that that amounted to an error in law. Its findings at paragraph 50 were not entirely consistent with the evidence about the extent to which the appellant's mobility was impacted. It had not adequately explained how it reached its conclusion about the score for that Activity against its findings in fact.

[12] It was therefore a matter of concession by the respondent that I should grant permission to appeal on that head and remit the matter back to a newly constituted FTS to reconsider that assessment of new.

Discussion and conclusion

[13] Standing the terms of the decision of the FTS, it is clear that when read as a whole there were sufficient findings made to support its conclusions under two of the three assessments criticised by the appellant. It is not the function of the FTS to analyse in minute detail each and every twist and turn in the submissions made by it. Instead, its function is, primarily, one of fact finding. It was clear that it had fulfilled that function in relation to the appellant's claims under DLA 5 and 9. While the appellant was not satisfied with those conclusions, they were for the FTS to make and no error of law has been identified. Permission to appeal those is refused.



[14] However, in relation to Mobility Assessment 2, it is a matter of concession (a concession properly made in my view) that there was error on the part of the FTS. It stated a conclusion that was not supported by the factual findings made. Leave to appeal is therefore granted in relation to that part of its decision, the appeal is allowed on that point and that part of the decision is quashed. The matter will now be considered afresh by a freshly constituted FTS.

Sheriff Craig
Member of the Upper Tribunal for Scotland