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- Loan taken out while on income support – exception where accommodation more suited to needs of disabled person – whether applies when no link between move and acquisition
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RH v South London and Maudsley NHS Foundation Trust and Secretary of State for Justice [2010] EWCA Civ 1273 [2011] AACR 14
- Funeral payment – Article 14 – whether conditions for funeral payments unlawfully discriminate against prisoners
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RM v Secretary of State for Work and Pensions (IS) [2010] UKUT 220 (AAC) [2011] AACR 8
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- Non-discrimination – removal of income support for lone parents with children aged 12 or over
VL v Secretary of State for Work and Pensions (IS) [2011] UKUT 227 (AAC)
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AS v Secretary of State for Work and Pensions (CA) [2015] UKUT 592 (AAC)
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- Whether 104-week rule for past presence in Great Britain discriminatory – Article 14
MM & SI v Secretary of State for Work and Pensions (DLA) [2016] UKUT 149 (AAC)
- [2016] AACR 38
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- [2013] AACR 7
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Income support – prescribed categories of persons entitled – removal of entitlement for lone parents with children aged 12 or over – parent educating children at home – whether legislation *ultra vires* as in contravention of Education Act 1996
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Scott v Secretary of State for Work and Pensions [2011] EWCA Civ 103 [2011] AACR 23

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- Industrial disease – prescribed disease A14 osteoarthritis of the knee in coal miners – definition of osteoarthritis of the knee – whether includes kneecap
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- Edem v Information Commissioner & Financial Services Authority [2014] EWCA Civ 92** [2014] AACR 19
- Data protection – monetary penalty notice – whether text messages caused “substantial damage” or “substantial distress”
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- Data protection – section 2(g) and Schedule 2 Data Protection Act 1998 – “sensitive personal data” – balancing exercise
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- Environmental information – definition of environmental information in Environmental Information Regulations regulation 2(1)(c) and (e)
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- Environmental information – exceptions – proper approach to information protected by legal professional privilege
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- Environmental information – meaning of “held” in regulation 3(2)(a) Environmental Information Regulations 2004
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- Environmental information – whether companies public authorities in context of certain functions, responsibilities and services
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Environmental information – whether privatised water company is “public authority” for purposes of the Environmental Information Regulations 2004
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Cross v Information Commissioner and the Cabinet Office [2016] UKUT 153 (AAC) [2016] AACR 39

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Savic v Information Commissioner, Attorney General and Cabinet Office [2016] UKUT 534 (AAC) [2016] UKUT 535 (AAC) [2017] AACR 26

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Freedom of Information – exempt information – public interest – application of Article 3 of United Nation Convention on the Rights of the Child
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Freedom of information – public authorities – interpretation of the Freedom of Information (Designation as Public Authorities) Order 2011
The University and Colleges Admissions Service v The Information Commissioner and Lord Lucas [2014] UKUT 557 (AAC) [2015] AACR 25

Freedom of information – public interest test – constitutional conventions – environmental information
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- [2015] UKUT 313 (AAC) [2015] AACR 38
- Freedom of information– public interest test – right of access
William Harrison Jones v Information Commissioner and the Department of the Environment (Northern Ireland) [2016] UKUT 82 (AAC) [2016] AACR 33
- Freedom of information – public interest test – significance of other forms of accountability
London Borough of Camden v Information Commissioner &YV [2012] UKUT 190 (AAC) [2013] AACR 2
- Freedom of information – public interest test – whether right to publish names of journalists involved in Operation Motorman investigation following Leveson inquiry
Information Commissioner v Colenso-Dunne [2015] UKUT 471 (AAC) [2016] AACR 9
- Freedom of information – qualified exemptions – prejudice to the prevention of crime – social and financial costs
London Borough of Camden v Information Commissioner &YV [2012] UKUT 190 (AAC) [2013] AACR 2
- Freedom of information – whether late reliance on sections 12 and 14 permissible – broad approach to “request” under section 14 FOIA
McInerney v Information Commissioner [2015] UKUT 47 (AAC) [2015] AACR 32
- Information Rights – Aarhus Convention – Disclosure - Exceptions
Highways England Company Ltd v Information Commissioner and Henry Manisty [2018] UKUT 423 (AAC) [2019] AACR 17
- Jurisdiction of Information Commissioner and tribunal – whether extends to determination of public law questions of reasonableness
OFCOM v Morrisey and another [2011] UKUT 116 (AAC) [2012] AACR 1
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Birkett v Department for the Environment, Food and Rural Affairs [2011] EWCA Civ 1606 [2012] AACR 32
- Whether body is public authority a matter for appeal not judicial review – water companies are public authorities – application of test in Case C-279/12; [2014] AACR 11
Fish Legal and Emily Shirley v Information Commissioner, United Utilities plc, Yorkshire Water Services Ltd, Southern Water Services Ltd and the Secretary of State for the Environment, Food and Rural Affairs [2015] UKUT 52 (AAC) [2015] AACR 33

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- Employment, Skills and Enterprise Scheme – whether authorisation of provider to issue notices must be in writing
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- Failure to sign – claimant makes contact within prescribed time but does not show good cause – should sanction apply or does entitlement cease?
LDG v Department for Social Development (JSA) [2015] NICom16 [2016] AACR 37
- Jobseeker’s Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 – required information – need for a published policy – whether the regulations were *ultra vires* or contrary to Article 4 ECHR
R (Reilly & Wilson) v Secretary of State for Work and Pensions [2013] UKSC 68 [2014] AACR 9

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AA v Secretary of State for Work and Pensions (JSA) [2012] UKUT 100 (AAC) [2012] AACR 42

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AEKM v Department for Communities (JSA) [2016] NICom 80 [2017] AACR 39

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GM v Secretary of State for Work and Pensions (JSA) [2010] UKUT 221 (AAC) [2011] AACR 9

Remunerative work – self-employed seasonal worker – whether or not in work after the end of a cycle of work
Saunderson v Secretary of State for Work and Pensions [2012] CSIH 102 [2013] AACR 16

Standard form of jobseeker’s agreement 2012 – non-compliance with Jobseeker’s Allowance Regulations 1996 – effect must be given to the rights a claimant ought to have been advised about
CH v Secretary of State for Work and Pensions (JSA) [2015] UKUT 373 (AAC) [2016] AACR 28

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Jeffrey and Bevan v Secretary of State for Work and Pensions [2016] EWCA Civ 413 [2017] AACR 14

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AB v Secretary of State for Work and Pensions (JSA) [2018] UKUT 43 (AAC) [2018] AACR 20

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Mandatory transfer – costs – principles to be adopted
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Scope of judicial review of refusal of permission to appeal by Upper Tribunal in England and Wales – standard to be applied
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Scope of judicial review of refusal of permission to appeal by Upper Tribunal in Scotland – whether standard to be applied the same as in England and Wales
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Jurisdiction of Information Commissioner and tribunal – whether extends to determination of public law questions of reasonableness
OFCOM v Morrissey and another [2011] UKUT 116 (AAC) [2012] AACR 1

Jurisdiction – whether the President of the Appeals Tribunal had statutory jurisdiction to refuse to re-list

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- Scope of right of appeal to Upper Tribunal against interlocutory decisions – meaning of “decision” in Tribunals, Courts and Enforcement Act 2007
LS v London Borough of Lambeth (HB) [2010] UKUT 461 (AAC) [2011] AACR 27
- Tribunal jurisdiction in mental health cases – whether application lapses when community treatment order made
AA v Cheshire and Wirral Partnership NHS Foundation Trust and others [2009] UKUT 195 (AAC) [2011] AACR 37
- Tribunal jurisdiction in mental health cases – whether application on revocation of community treatment order lapses when new community treatment order made
PS v Camden and Islington NHS Foundation Trust [2011] UKUT 143 (AAC) [2011] AACR 42
- Tribunal jurisdiction – interpretation of section 15(1) of the Tribunals, Courts and Enforcement Act 2007 – whether right of appeal lies to the Upper Tribunal or the Court of Session – application of *forum non conveniens* doctrine
R (MB) v First-tier Tribunal & Criminal Injuries Compensation Authority (CIC) [2012] UKUT 286 (AAC) [2013] AACR 10
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- Tribunal jurisdiction – revision on ground of official error – whether right of appeal against refusal to revise
AS v Secretary of State for Work and Pensions (CSM) [2012] UKUT 448 (AAC) [2013] AACR 18
- Tribunal jurisdiction – whether tribunal entitled to consider issues not considered by the Secretary of State when superseding an award
MC v Secretary of State for Work and Pensions (ESA) [2014] UKUT 125 (AAC) [2014] AACR 35
- Whether First-tier Tribunal’s jurisdiction limited to issue (or issues) decided by Criminal Injuries Compensation Authority
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AMA v Greater Manchester West Mental Health NHS Foundation Trust and others [2015] UKUT 36 (AAC) [2015] AACR 30
- Deferred conditional discharge with condition of residence in a care home – whether conditional discharge lawful if conditions amount to detention
Secretary of State for Justice v RB and Lancashire Care NHS Foundation Trust [2011] EWCA Civ 1608 [2012] AACR 31
- Detention under Mental Health Act – patient with personality disorder – relevance of refusal to engage in treatment
DL-H v Partnerships in Care and the Secretary of State for Justice [2013] UKUT 500 (AAC) [2014] AACR 16
- Detention under Mental Health Act – section 72(3) – whether tribunal had power to defer the discharge of a detained patient beyond the date of the order authorising detention

JMcG v Devon Partnership NHS Trust [2017] UKUT 348 (AAC) [2018] AACR 11

Detention under Mental Health Act – whether existence of Mental Capacity Act 2005 relevant to exercise of powers under Mental Health Act

AM v South London & Maudsley NHS Foundation Trust and Secretary of State for Health [2013] UKUT 365 (AAC) [2014] AACR 13

Discharge from guardianship – approach to be taken by First-tier Tribunal

KD v A Borough Council, the Department of Health and others [2015] UKUT 251 (AAC) [2015] AACR 41

Extra-statutory recommendation by First-tier Tribunal – whether there is a right to make representations in support of a request for a recommendation

C v Birmingham and Solihull Mental Health NHS Trust [2013] EWCA Civ 701 [2013] AACR 1

Mental Health Act 1983 – Community Treatment Orders – whether defined degree of imminence of likely relapse required in order to justify not discharging a patient from a Community Treatment Order – what is to be expected of the First-tier Tribunal’s reasons in such a case

LW v Cornwall Partnership NHS Trust and Associated Cases [2018] UKUT 408 (AAC) [2019] AACR 16

Mental disorder—tribunal—discharge of patient—indefinite detention in hospital under post-conviction restriction order— consent – power of tribunal to order discharge on conditions involving deprivation of liberty

Secretary of State for Justice v MM [2018] UKSC 60) SC [2019] AACR 7

Mental health – capacity to bring proceedings – adequate reasons

VS v St Andrew’s Healthcare [2018] UKUT 250 (AAC) [2019] AACR 4

Relationship between Mental Health Act and Mental Capacity Act

DN v Northumberland Tyne and Wear NHS Foundation Trust [2011] UKUT 327 (AAC) [2012] AACR 19

Restriction order – patient convicted of manslaughter relatively unlikely to reoffend – whether adequate reasons given for maintaining restriction order

RH v South London and Maudsley NHS Foundation Trust and Secretary of State for Justice [2010] EWCA Civ 1273 [2011] AACR 14

Tribunal procedure – appointment of legal representative – role of legal representatives appointed under rule 11(7) of Tribunal Procedure Rules

YA v Central and North West London NHS Trust and others [2015] UKUT 37 (AAC) [2015] AACR 31

See also: Human rights

Jurisdiction

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PERSONAL INDEPENDENCE PAYMENT

Assessment of activity – daily living activity 9: engaging with other people face to face – whether “social support” must be contemporaneous with engagement – relationship between “prompting” and “social support”

Secretary of State for Work and Pensions v MMcK [2017] CSH 57 [2017] AACR 38

Assessment of activity – interpretation of “safely” in regulation 4(2A) and (4) – assessment of likelihood of harm - interpretation of “safety” for the purpose of supervision in Part 1 of Schedule 1

RJ, GMcL and CS v Secretary of State for Work and Pensions (PIP) [2017] UKUT 105 (AAC) [2017] AACR 32

Assessment of activity – proper interpretation of regulation 4(2A)

PE v Secretary of State for Work and Pensions (PIP) [2015] UKUT 309 (AAC) [2016] AACR 10

Assessment of activity – whether descriptor satisfied where claimant unable to perform relevant activity

- for part of day
TR v Secretary of State for Work and Pensions (PIP) [2015] UKUT 626 (AAC) [2016] AACR 23
- Daily living activity – activity 1: preparing food – preparing and cooking a simple meal – objective test of ability without reference to any cultural or religious requirements
ZI v Secretary of State for Social Security (PIP) [2016] UKUT 572 (AAC) [2018] AACR 1
- Daily living activity 2: taking nutrition – physical and mental acts needed to eat and drink, not the nutritious quality of food and drink
MM and BJ v Secretary of State for Work and Pensions (PIP) [2016] UKUT 490 (AAC) [2017] AACR 17
- Daily living activity 3d – whether time period applies to the help needed or to the therapy – whether assistance provided can be taken into account under more than one activity
MF v Secretary of State for Work and Pensions (PIP) [2015] UKUT 554 (AAC) [2016] AACR 20
- Daily living activity 4: washing and bathing – “or” in descriptor 4e is disjunctive – reference is to an unadapted bath or shower
SP v Secretary of State for Work and Pensions (PIP) [2016] UKUT 190 (AAC) [2016] AACR 43
- Daily living activity 5: managing toilet needs or incontinence – assistance to self-catheterise by itself not therapy for the purposes of activity 3
AS v Secretary of State for Work and Pensions (PIP) [2017] UKUT 104 (AAC) [2017] AACR 31
- Daily living activity 6: dressing and undressing – an aid need not be designed, manufactured or sold for purpose of overcoming a limitation or function – must be needed to carry out the activity not merely to carry it out in a particular manner
CW v Secretary of State for Work and Pensions (PIP) [2016] UKUT 197 (AAC) [2016] AACR 44
- Daily living activity 6: dressing and undressing – danger of defining out of consideration the effects of the claimant’s disabilities
PE v Secretary of State for Work and Pensions (PIP) [2015] UKUT 309 (AAC) [2016] AACR 10
- DLA – PIP – Transfer case – Evidence relating to previous award
CH and KN v Secretary of State for Work and Pensions (PIP): [2018] UKUT 330 (AAC) [2019] AACR 11
- Mobility activity 1 – ability to follow the route of a journey without another person – whether a need to be accompanied to avoid overwhelming psychological distress is relevant
MH v Secretary of State for Work and Pensions [2016] UKUT 0531 (AAC) [2018] AACR 12
- Mobility activities - ‘planning and following journey’ descriptors – psychological distress – judicial review of amending regulations – whether disability discrimination objectively justified – expert evidence – UN Convention on the Rights of Persons with Disabilities 2006
R (on the application of RF) v Secretary of State for Work and Pensions [2017] EWHC 3375 (Admin) [2018] AACR 13
- Social security - Personal Independence Payment - Daily living component - Daily Living Activities - Engaging with other people face to face - Social support
Secretary of State for Work and Pensions v MM [2019] UKSC 34 [2019] AACR 26
- Transfer from Disability Living Allowance to Personal Independence Payments - whether the Personal Independence Payments award can be back-dated to date of claim – whether the Transitional Provision Regulations are discriminatory under Article 14 ECHR
Worley v Secretary for Work and Pensions [2019] EWCA Civ 15 [2019] AACR 15

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- Civil penalty – whether discretionary
VT v Secretary of State for Work and Pensions (IS) [2016] UKUT 178 (AAC) [2016] AACR 42
- Entitlement decision properly made but not communicated to the claimant – whether recoverability decision based on that decision ineffective
Hamilton v Department for Social Development [2010] NICA 46 [2011] AACR 40
- Evidence – whether evidence of telephone call recording systems required
AS v Secretary of State for Work and Pensions (CA) [2015] UKUT 592 (AAC) [2016] AACR 22
- Failure to disclose – claimant lacking capacity to understand materiality of fact – whether recovery of the overpayment was a breach of claimant’s human rights
B v the United Kingdom Application no 36571/06 [2012] AACR 39
- Failure to disclose material fact – whether recovery unjust and unreasonable
JS v Secretary of State for Work and Pensions (IS) [2015] UKUT 306 (AAC) [2016] AACR 13
- Misrepresentation – whether cause of overpayment continued beyond interview under caution
AH and VH and MH v Secretary of State for Work and Pensions (DLA) [2015] UKUT 108 (AAC) [2015] AACR 40

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RESIDENCE AND PRESENCE CONDITIONS

- Free movement and citizenship of the Union – residence and presence conditions for incapacity benefit in youth – whether conditions precluded by European law
Lucy Stewart v Secretary of State for Work and Pensions Case C-503/09 [2012] AACR 8
- Free movement of workers – application and interpretation of the worker registration scheme
Miskovic and Blazej v Secretary of State for Work and Pensions [2011] EWCA Civ 16 [2012] AACR 11
- Free movement of workers – right of permanent residence pursuant to Article 16(1) of Directive 2004/38/EC – whether period of five years completed before 30 April 2006 to be taken into account – effect of absence of less than two years after completion of that period
Secretary of State for Work and Pensions v Lassal Case C-162/09 [2011] AACR 33
- Free movement of workers – right of residence – meaning of “registered as a job-seeker”
Secretary of State for Work and Pensions v Elmi [2011] EWCA Civ 1403 [2012] AACR 22
- Free movement of workers – whether an EU citizen formerly in self-employment has a right of residence when caring for a dependant child
Secretary of State for Work and Pensions v Czap and Punakova C-147/11 and C-148/11 [2013] AACR 6
- No right to reside for formerly self-employed primary carers
RM v Secretary of State for Work and Pensions (IS) [2014] UKUT 401 (AAC) [2015] AACR 11
- Persons subject to immigration control – indefinite leave to remain given following successful immigration appeal under Rules and Article 8 – R(PC) 1/09 distinguished
SJ v Secretary of State for Work and Pensions (PC) [2015] UKUT 505 (AAC) [2016] AACR 17
- Right to reside – claimant entering and staying in the United Kingdom for purpose of taking up offer of employment actually made
Secretary of State for Work and Pensions v RR (IS) [2013] UKUT 21 (AAC) [2013] AACR 20
- Right to reside – residence for the initial 3 months and as a jobseeker counts towards the subsequent acquisition of a permanent right of residence under domestic UK law
GE v Secretary of State for Work and Pensions (ESA) [2017] UKUT 145 (AAC) [2017] AACR 34

- Right to reside – rights as worker under Article 21.1 of the Treaty on the Functioning of the European Union – qualifications
Mirga v Secretary of State for Work and Pensions [2016] UKSC 1 [2016] AACR 26
- Right to reside – whether a claimant satisfies the right to reside test is assessed down to the date of the decision not as at the date of claim
GE v Secretary of State for Work and Pensions (ESA) [2017] UKUT 145 (AAC) [2017] AACR 34
- Right to reside – whether an illegal contract of employment prevents an employee being a worker under Article 7 of Directive 2004/38/EC
JA v Secretary of State for Work and Pensions (ESA) [2012] UKUT 122 (AAC) [2013] AACR 15
- Right to reside – whether claimant was self-employed at date of claim for jobseeker’s allowance for the purposes of Council Directive No. 2004/38/EC
RJ v Secretary of State for Work and Pensions [2011] UKUT 477 (AAC) [2012] AACR 28
- Right to reside – whether condition contrary to Article 3 Regulation (EEC) No 1408/71
Patmalniece v Secretary of State for Work and Pensions [2011] UKSC 11 [2011] AACR 34
- Right to reside – whether conditions of entitlement to child benefit in regulation 27 of the Child Benefit (General) Regulations 2006 discriminatory on the grounds of nationality
The Commissioners for Her Majesty’s Revenue and Customs v Spiridonova [2014] NICA 63 [2017] AACR 11
- Right to reside – whether estranged child of EEA national who has left the UK entitled to income support
Slezak v Secretary of State for Work and Pensions [2017] CSIH 4 [2017] AACR 21
- Right to reside – whether residence permit confers a right of residence – whether five years’ residence as a worker before 30 April 2006 confers a right of permanent residence under Article 18(1) of the EC Treaty
Secretary of State for Work and Pensions v Dias Case C-325/09 [2012] AACR 36
- Right to reside – Zambrano carers – whether non-EU citizen responsible for British child entitled to social assistance on same basis as EU citizens lawfully resident in UK
Sanneh and others v Secretary of State for Work and Pensions and others [2015] EWCA Civ 49 [2015] AACR 18

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REVISION AND SUPERSESSION

- Revision– late request for mandatory reconsideration – whether right of appeal to First-tier Tribunal against Secretary of State’s refusal to admit or whether judicial review appropriate – access to justice – *Saleem v Secretary of State for the Home Department* [2000] EWCA Civ 186 considered.
R(CJ) and SG v Secretary of State for Work and Pensions (ESA) [2017] UKUT 324 (AAC) [2018] AACR 5
- Supersession and conversion – tribunal’s duties when medical reports, previous tribunal decisions and other similar materials not provided
FN v Secretary of State for Work and Pensions (ESA) [2015] UKUT 670 (AAC) [2016] AACR 24
- Supersession – decision on appeal must make findings on ground on which supersession decision made and date from which it properly took effect
DS v Secretary of State for Work and Pensions (PIP) [2016] UKUT 538 (AAC) [2017] AACR 19

Supersession – defects in decisions of the Department – factors which an appeal tribunal should consider
BMcD v Department for Social Development (DLA) [2011] NICom 175 [2013] AACR 29

Supersession – whether there is a requirement under regulation 6(2)(g) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 for the tribunal to consider papers
JC v Department for Social Development (IB) [2011] NICom 177 [2014] AACR 30

SAFEGUARDING VULNERABLE GROUPS

Adults’ barred list – whether theft is “relevant conduct”
SA v Independent Safeguarding Authority [2013] UKUT 93 (AAC) [2013] AACR 21

Children’s barred list – public confidence a material consideration
Independent Safeguarding Authority v SB [2012] EWCA Civ 977 [2013] AACR 24

Children’s barred list – standard of proof – decision not to apply Stage 3 of structured judgement process – error of law
AP v Independent Safeguarding Authority (ISA) [2012] UKUT 412 (AAC) [2013] AACR 17

Children’s barred list – standard of proof – fair hearing
XY v Independent Safeguarding Authority [2011] UKUT 289 (AAC) [2012] AACR 13

Children’s barred list – transferability of offences – no automatic presumption in favour of barring – failure to apply structured judgement process an error of law
SR v Disclosure and Barring Service [2013] UKUT 103 (AAC) [2013] AACR 31

Disclosure and Barring Service – reporting restriction order – application by third party to vary order
Re X (Reporting restriction order: Variation) [2015] UKUT 380 (AAC) [2016] AACR 6

Function of and relationship between Independent Safeguarding Authority and Upper Tribunal
Independent Safeguarding Authority v SB [2012] EWCA Civ 977 [2013] AACR 24

See also: Jurisdiction

SCOTS LAW

*See: Capital
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SPECIAL EDUCATIONAL NEEDS

Education Health and Care Plan (EHC Plan) – a local authority has no power to pay for a child’s health provision where the NHS has refused to do so
East Sussex County Council v KS (SEN) [2017] UKUT 273 [2018] AACR 3

Education otherwise than in a school – parents wishing education partly at school and partly at home – meaning of “education in a school”
MS v London Borough of Brent (SEN) [2011] UKUT 50 (AAC) [2011] AACR 29

Naming of school – parental preference – whether general obligation to have regard to parental preference operates independently of obligation to comply with parental preference in special educational needs cases – meaning of “public expenditure”
CM v London Borough of Bexley (SEN) [2011] UKUT 215 (AAC) [2012] AACR 4

Naming of school – “type” of school not restricted to statutory categories
R (LR) v First-tier Tribunal (HESC) and Hertfordshire County Council (SEN) [2012] UKUT 213 (AAC) [2013] AACR 26

Naming of school – unreasonable public expenditure – calculation of cost at maintained school
EH v Kent County Council (SEN) [2011] EWCA Civ 709 [2011] AACR 36

Naming of school – unreasonable public expenditure – meaning of “public expenditure” in section 9 of the

Education Act 1996 – wide and narrow interpretations considered
Haining v Warrington Borough Council [2014] EWCA Civ 398 [2014] AACR 28

Naming of school – unreasonable public expenditure – travel costs to the preferred school not the nearest suitable one
Dudley Metropolitan Borough Council v Shurvinton [2012] EWCA Civ 346 [2012] AACR 40

Naming of school – unreasonable public expenditure – whether reasonableness limited to educational benefits
K v London Borough of Hillingdon (SEN) [2011] UKUT 71 (AAC) [2011] AACR 31

Naming of school – whether place funding for children with special educational needs an additional cost under section 9 of the Education Act 1996
London Borough of Hammersmith & Fulham v L and others (SEN) [2015] UKUT 523 (AAC) [2016] AACR 18

The Children and Families Act 2014 – Special Educational Needs and Disability Regulations 2014 – Education Health and Care (‘EHC’) plan – Naming school or other institution in EHC Plan – Education Act 1996 – Powers of the First-tier Tribunal
London Borough of Hillingdon v SS and TS and ES (SEN) [2017] UKUT 250 (AAC) [2019] AACR 9

Statement – whether provision specified in statement to address child’s harmful sexualised behaviour properly classed as non-educational
H v A London Borough (SEN) [2015] UKUT 316 (AAC) [2016] AACR 2

Tribunal practice and procedure – lack of consistency between order contemplating the possibility of justifying non-compliance or providing for automatic barring - delegation of judicial functions to staff – whether an order in the name of a judge but issued by a clerk without judicial consideration purporting to bar a party from further participation in proceedings has any effect – whether it is a ground for deciding that a school is unsuitable that it could not offer an immediate placement
LB Enfield v NH and another (SEN) [2019] UKUT 1 (AAC) [2019] AACR 19

See also: Jurisdiction
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TAX CREDITS

Child care element – provider of child care outside the UK – whether existing scheme for authorised providers of child care outside the UK intra vires – whether restriction of eligible child care to authorised providers in the UK contrary to EU law.
NB v Her Majesty’s Revenue and Customs (TC) [2016] NI COM 47 [2018] AACR 26

Claims and payments – how regulation 5(4) and (8) of the Tax Credits (Claims and Notification) Regulations to be applied
ZM v Her Majesty’s Revenue and Customs (TC) [2013] UKUT 547 (AAC) [2014] AACR 17

Indirect discrimination against fathers by payment of child tax credit solely to principal carer – whether objectively justified
Humphreys v The Commissioners for Her Majesty’s Revenue and Customs [2012] UKSC 18 [2012] AACR 46

Joint and single claims – section 3(3)(a) Tax Credits Act 2002 - meaning of ordinary residence in the United Kingdom
Arthur v Her Majesty’s Revenues and Customs [2017] EWCA Civ 1756 [2018] AACR 10

Main responsibility – nature – proper approach to deciding which parent
PG v Her Majesty’s Revenue and Customs and NG (TC) [2016] UKUT 216 (AAC) [2016] AACR 45

Penalties – proper approach when imposing non-fixed penalties
SP v Her Majesty’s Revenue and Customs (TC) [2016] UKUT 238 (AAC) [2016] AACR 46

- Power of First-tier Tribunal to admit late tax credits appeals
VK v Her Majesty's Revenue and Customs (TC) [2016] UKUT 331 (AAC) [2017] AACR 3
- Section 16 appeal to a First-tier Tribunal lapses when a section 18 decision has been made
LS and RS v Commissioners for Her Majesty's Revenue and Customs (TC) [2017] UKUT 257 (AAC) [2018] AACR 2
- Working tax credit – childcare element
AS v Her Majesty's Revenue and Customs (TC) [2017] UKUT 361 [2018] AACR 14
- Working tax credit – definition of “self-employed” in the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 – relevance of “profitability” and “genuine and effective”
JW v Her Majesty's Revenue and Customs (TC) [2019] UKUT 114 (AAC) [2019] AACR 23

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TRANSPORT

- Traffic Commissioner – licence – revocation – whether transport manager can be volunteer – starting point of period of grace – use of Welsh language at public inquiry
Tacsis Gwynedd Ltd [2015] UKUT 668 (AAC) [2016] AACR 30
- Traffic Commissioner – licence – termination by law, withdrawal or surrender – application of Goods Vehicles (Licensing of Operators) Act 1995 to partnerships
Ian Phillips (trading as T and R Phillips Haulage) [2016] UKUT 156 (AAC) [2016] AACR 40
- Traffic Commissioners – operators’ licences – conduct – disqualification – reputation – surveillance
Catch22Bus Ltd and Philip Higgs v The Secretary of State for Transport [2019] EWCA Civ 1022 [2019] AACR 29

TRIBUNAL PRACTICE AND PROCEDURE

- Anonymity – whether practice of anonymising decisions appropriate
Adams v Secretary of State for Work and Pensions and Green (CSM) [2017] UKUT 9 (AAC) [2017] AACR 28
- Case management of successive applications to First-tier Tribunal by patients subject to sections 2 and 3 of the Mental Health Act 1983 – effect of community treatment order on reference to First-tier Tribunal
KF and others v Birmingham and Solihull Mental Health Foundation Trust and another [2010] UKUT 185 (AAC) [2011] AACR 3
- Consent order – whether a “decision” which can be re-opened
R (LR) v First-tier Tribunal (HESC) and Hertfordshire County Council (SEN) [2012] UKUT 213 (AAC) [2013] AACR 26
- Costs – case transferred from High Court to UT – UT to apply approach taken under rule 44.2 of the Civil Procedure Rules
R (MM and DM) v Secretary of State for Work and Pensions (Costs) [2015] UKUT 566 (AAC) [2016] AACR 12
- Criteria for suspension of effect of tribunal decision
Carmarthenshire County Council v M and JW (SEN) [2010] UKUT 348 (AAC) [2011] AACR 17
- Direction barring teacher from work with children – nature of appeal – admissible evidence
Secretary of State for Education v JN [2010] UKUT 248 (AAC) [2011] AACR 10
- Equality Act 2010 does not apply to judicial functions – whether F-tT’s rejection of an agreed submission was appropriate
R (JDR) v First-tier Tribunal and Criminal Injuries Compensation Authority (CIC) [2014] UKUT 478 (AAC) [2015] AACR 13

- Evidence – presumption of regularity – party failing to comply with direction to provide document – whether tribunal entitled to conclude that burden of proof was not satisfied
Secretary of State for Work and Pensions v DC (JSA) [2017] UKUT 464 (AAC) [2018] AACR 16
[2017] UKUT 464 (AAC)
- Extension of time for appeal against cancellation of registration as childcare provider – review of decision to extend time for appeal
OFSTED v AF [2011] UKUT 72 (AAC) [2011] AACR 32
- Extension of time for appeal – correct application of Tribunal Procedure Rules
R (KS) v First-tier Tribunal and the Criminal Injuries Compensation Authority (CIC) [2012] UKUT 281 (AAC) [2013] AACR 9
- Extension of time for appeal – whether tribunal should have regard to CPR rule 3.9
R (CD) v First-tier Tribunal (CIC) [2010] UKUT 181 (AAC) [2011] AACR 1
- Fair hearing
JM v Secretary of State for Defence (AFCS) [2015] UKUT 332 (AAC) [2016] AACR 3
- Fair hearing – medical examination by tribunal members – duty to put any new findings from examination to the claimant for comment
MB v Department for Social Development (II) [2010] NICom 133 [2011] AACR 41
- Fair hearing – role of representative appointed by tribunal – review by tribunal judge of his/her own decision
AA v Cheshire and Wirral Partnership NHS Foundation Trust and others [2009] UKUT 195 (AAC) [2011] AACR 37
- Fair hearing – strike outs
William Harrison Jones v Information Commissioner and the Department of the Environment (Northern Ireland) [2016] UKUT 82 (AAC) [2016] AACR 33
- Fair hearing – surveillance of appellant under Regulation of Investigatory Powers Act 2000 – whether authorisation required at First-tier Tribunal
BS v Secretary of State for Work and Pensions (DLA) [2016] UKUT 73 (AAC) [2016] AACR 32
- Fair hearing – tribunal membership and procedure – whether permissible for appeals for ESA and DLA to be heard together or consecutively or whether differently constituted tribunal required
MB and others v Secretary of State for Work and Pensions (ESA & DLA) [2013] UKUT 111 (AAC) [2014] AACR 1
- Fair hearing – tribunal not subject to the duty to make reasonable adjustments under the Equality Act 2010
LO v Secretary of State for Work and Pensions (ESA) [2016] UKUT 10 (AAC) [2016] AACR 31
- Fair hearing – whether a child should give evidence or attend a hearing
JP v Secretary of State for Work and Pensions (DLA) [2014] UKUT 275 (AAC) [2015] AACR 2
- Fair hearing – whether hearing in mental health case should be held in public at request of applicant
AH v West London Mental Health Trust and another [2010] UKUT 264 (AAC) and [2011] UKUT 74 (AAC) [2011] AACR 15
- First-tier and Upper Tribunals in England and Wales – whether courts for purpose of vexatious litigant orders – whether, if permission required, Upper Tribunal had power to give permission
IB v Information Commissioner [2011] UKUT 370 (AAC) [2012] AACR 26
- First-tier Tribunal Procedure Rules – rule 24
MN v Secretary of State for Work and Pensions (ESA) [2013] UKUT 262 (AAC) [2014] AACR 6
- First-tier Tribunal no power to remit case to Information Commissioner
Information Commissioner v E Malnick and The Advisory Committee on Business Appointments:

- [2018] UKUT 72 (AAC) [2018] AACR 29
- Inadequate notice of housing benefit decision – effect on time limits for appeal
LS v London Borough of Lambeth (HB) [2010] UKUT 461 (AAC) [2011] AACR 27
- Majority decision – decision notice and statement of reasons – whether tribunal obliged to record that decision not unanimous
Secretary of State for Work and Pensions v SS (DLA) [2010] UKUT 384 (AAC) [2011] AACR 24
- Mental health – appointment of legal representative – role of legal representatives appointed under rule 11(7) of Tribunal Procedure Rules
YA v Central and North West London NHS Trust and others [2015] UKUT 37 (AAC) [2015] AACR 31
- Natural justice – whether non-notification of wish to have oral hearing amounts to waiver of right to oral hearing
RGS v Department for Social Development (ESA) [2016] NCom 39 [2017] AACR 13
- Pensions Appeal Tribunals – whether and when a tribunal can change its mind after giving an oral decision
Secretary of State for Defence v PY (WP) [2012] UKUT (AAC) [2012] AACR 44
- Permission to appeal to Court of Appeal – grounds of appeal different from those argued before Upper Tribunal
Secretary of State for Work and Pensions v Cattrell [2011] EWCA Civ 572 [2011] AACR 35
- Permission to appeal to Court of Appeal – new issue raised after decision of Upper Tribunal
RH v South London and Maudsley NHS Foundation Trust and Secretary of State for Justice [2010] EWCA Civ 1273 [2011] AACR 14
- Power to amend reasons following review – interpretation and application of section 9(4)(b) of the Tribunals, Courts and Enforcement Act 2007
JS v Secretary of State for Work and Pensions (DLA) [2013] UKUT 100 (AAC) [2013] AACR 30
- Practice – weighing evidence and fact finding – the function and relationship between tribunals and appellate courts
Jones v First-tier Tribunal & Criminal Injuries Compensation Authority [2011] UKSC 19 [2013] AACR 25
- Proper course for First-tier Tribunal to strike out the proceedings under rule 8
LS and RS v Commissioners for Her Majesty’s Revenue and Customs (TC) [2017] UKUT 257 (AAC) [2018] AACR 2
- Section 28(4) of the Data Protection Act 1998 - Data subject’s right of access following death – Tribunal Jurisdiction
Campbell v Secretary of State: [2018] UKUT 372 (AAC); [2019] AACR 12
- Upper Tribunal – enforcement reference
MD v Secretary of State for Work and Pensions (Enforcement reference) [2010] UKUT 202 (AAC) [2011] AACR 5
- Upper Tribunal – enforcement reference – penalties
CB v Suffolk County Council (Enforcement reference) [2010] UKUT 413 (AAC) [2011] AACR 22
- Upper Tribunal – enforcement reference – tribunal jurisdiction – whether section 25 of the Tribunals, Courts and Enforcement Act 2007 requiring production of a document extends to a submission
AP v Her Majesty’s Revenue and Customs (TC – enforcement reference) [2014] UKUT 182 (AAC) [2014] AACR 37
- Upper Tribunal – judicial precedent – whether Upper Tribunal bound by decisions of the High Court exercising its supervisory role
Secretary of State for Justice v RB and Lancashire Care NHS Foundation Trust

- [2011] EWCA Civ 1608 [2012] AACR 31
- Upper Tribunal procedure – costs – summary assessment – rule 10(1)(b) of the Tribunal Procedure (First-tier Tribunal) (HESC) Rules 2008 – whether *inter partes* costs payable to a party funded through the legal help scheme
MG v Cambridgeshire County Council (SEN) [2017] UKUT 172 (AAC) [2017] AACR 35
- Upper Tribunal procedure – review under rules 45 and 46 of the Tribunal Procedure (Upper Tribunal) Rules 2008 where a legislative provision overlooked
Wychavon District Council v EM (HB) [2012] UKUT 12 (AAC) [2012] AACR 41
- Upper Tribunal procedure – rule 43 of Tribunal Procedure (Upper Tribunal) Rules 2008 – does not apply to procedural irregularities in First-tier Tribunals and does not allow challenges to Upper Tribunal’s decision or reasoning
SK v Secretary of State for Work and Pensions (AA) [2016] UKUT 529 (AAC) [2017] AACR 25
- Whether tribunal may treat letter as application
PS v Camden and Islington NHS Foundation Trust [2011] UKUT 143 (AAC) [2011] AACR 42
- Whether tribunal procedure rules may confer power to extend statutory time limit
VK v Her Majesty’s Revenue and Customs (TC) [2016] UKUT 331 (AAC) [2017] AACR 3
- Whether right of appeal against the imposition of a civil penalty
VT v Secretary of State for Work and Pensions (IS) [2016] UKUT 178 (AAC) [2016] AACR 42

UNIVERSAL CREDIT

- Child element – Regulation 4(2) and (4) – meaning of ‘normally living with’
MC v Secretary of State for Work and Pensions (UC) [2018] UKUT 44 (AAC) [2018] AACR 21

VACCINE DAMAGE PAYMENTS

- Assessment of award – whether should take account of future prognosis for applicant
Secretary of State for Work and Pensions v FG on behalf of John (a minor) [2016] EWCA Civ 61 [2017] AACR 20

WAR PENSIONS

- Armed Forces Compensation Scheme 2011 – article 11 – meaning of hazardous environment
Secretary of State for Defence v A (AFCS) [2016] UKUT 500 (AAC) [2017] AACR 18
- Armed Forces Compensation Scheme – bullying – whether injuries caused or predominantly caused by service
JM v Secretary of State for Defence (AFCS) [2015] UKUT 332 (AAC) [2016] AACR 3
- Armed Forces Compensation Scheme – correct approach to definition of “downgraded” in article 2(1) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011
EP v Secretary of State for Defence (AFCS) [2017] UKUT 129 (AAC) [2017] AACR 33
- Armed Forces Compensation Scheme – temporary awards – proper approach by tribunals
Secretary of State for Defence v FA (AFCS) [2015] NICom 17 [2016] AACR 27
- Armed Forces Compensation Scheme – whether injury due to travel – whether injury due to slipping, tripping or falling while participating in pursuance of a service obligation in an activity in a hazardous environment – whether injury caused by service
SM v Secretary of State for Defence (AFCS) [2017] UKUT 286 (AAC) [2018] AACR 4
- Armed Forces Compensation Scheme – whether service predominant cause of injury – meaning of “service” – claimant injured travelling to work
EW v Secretary of State for Defence (AFCS) [2011] UKUT 186 (AAC) [2012] AACR 3
- Constant attendance allowance – article 8(4) – meaning of phrase “attendance on two or more occasions per night”
WS v Secretary of State for Defence (WP) [2015] UKUT 557 (AAC) [2016] AACR 21

- Constant attendance allowance – eligibility when a need for attendance arises both from accepted conditions and from another condition
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