

ENGLAND AND WALES / JUDGMENT

R (LH) v The First-tier Tribunal

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Neutral Citation Number: [2026] UKUT 72 (AAC) Appeal Nos. UA-2025-000440-CIC, UA-2025-000441-CIC IN THE UPPER TRIBUNAL ADMINISTRATIVE APPEALS CHAMBER On an application for judicial review from the First-tier Tribunal (Social Entitlement Chamber) (Criminal Injuries Compensation) Between: R (LH) – v – The First-tier Tribunal and The Criminal Injuries Compensation Authority Applicant Respondent Interested Party Before: Upper Tribunal Judge L. Joanne Smith Determination date: 13 February 2026 Decided on consideration of the papers Representation: Applicant: Respondent: Interested Party: Unrepresented Unrepresented CICA Legal Team SUMMARY OF DECISION The decision of the First-tier Tribunal in respect of the Applicant's claim for Criminal Injuries Compensation was made in error of law as it made insufficient findings of fact and gave inadequate reasons for its decision in respect of the Applicant's claim for loss of earnings. The decision is quashed and the matter is remitted to a differently constituted panel of the First-tier Tribunal for re-determination. 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 judge follow. Keywords: (Criminal Injuries Compensation – claims (70.1). Criminal Injuries compensation Scheme 2012 – paragraph 43 – loss of earnings award R (LH) v FTT, CICA (CIC) Appeal Nos: UA-2025-000440-CIC, UA-2025-000441-CIC NCN: [2026] UKUT 72 (AAC) NOTICE OF DECISION ON AN APPLICATION FOR JUDICIAL REVIEW This application for judicial review succeeds. Under section 15 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”), I make a quashing order in respect of the decision of the First-tier Tribunal made on 20 November 2024 (reference numbers CI003/23/00089 and CI003/23/00070). Under section 17 of the 2007 Act, I remit this matter to the First-tier Tribunal for re-determination in accordance with the directions below. DIRECTIONS

- (1) The First-tier Tribunal must re-determine LH's appeal against CICA's review decisions dated 29 August 2023 and 24 July 2023, in relation to her application for compensation under the Criminal Injuries Compensation Scheme 2012;
- (2) The tribunal panel that re-determines LH's appeal must not include any member of the panel whose decision has been quashed in these proceedings;
- (3) The First-tier Tribunal must hold a hearing before determining LH's appeal;
- (4) The First-tier Tribunal must consider all the issues in the appeal afresh, not just those that were found to be made in error of law. REASONS FOR DECISION The parties to these judicial review proceedings 1. 2. The Applicant is referred to her in this judgement using her initials in order to protect her privacy and to preserve her anonymity. The First-tier Tribunal

("FtT") is technically the Respondent to the application. Formally, the Criminal Injuries Compensation Authority ("CICA") is the Interested Party. Background to the case 3. 4. LH made two claims for criminal injuries compensation. The first was on 24 November 2017 in respect of sexual and physical abuse at the hands of her ex- husband between 1 January 1991 and 1 June 2002 (FtT ref. ending 00089). On this claim, CICA made an award of £22,000 on 12 January 2023 (tariff B12), which was not changed on review. The second claim was made on 24 October 2018 in respect of sexual and physical abuse at the hands of the Applicant's foster carers between 1 December 1966 and 31 December 1972 (FtT ref. ending 00070). For this, CICA made an award of £28,650 comprising £27,000 (tariff B13) for sexual abuse as a child and £5,500 for physical abuse as a child (tariff B6) (reduced to R (LH) v FTT, CICA (CIC) Appeal Nos: UA-2025-000440-CIC, UA-2025-000441-CIC NCN: [2026] UKUT 72 (AAC) £1,650 amounting to 30% of the tariff for a second award arising from the same incident). On review, CICA increased this to £28,860, retaining the £27,000 for sexual abuse and substituting £5,500 for £6,200 to reflect partial deafness arising from the physical abuse (reduced to £1,860 amounting to 30% of the tariff for the second award).

5. On appeal before the FtT, LH challenged the tariffs, arguing that she was deserving of greater sums. She also submitted that she was eligible for a "loss of earnings" award. The FtT dismissed the Applicant's appeal, confirming the awards of CICA. Ground for judicial review
6. The Applicant disputed the decision of the FtT, dated 20 November 2024, and applied to the Upper Tribunal for permission to bring judicial review proceedings. She did not highlight any potential errors of law but simply expressed "shock and disbelief" at how the case had been handled given the extent of the abuse she was the victim of at the hands of her foster carers and her ex-husband.
7. On 24 July 2025, having undertaken my own scrutiny of the FtT papers, I granted permission to judicially review the decision of the FtT decision. I found it arguable that the FtT did not adequately deal with the Applicant's claim to be eligible for a "loss of earnings" award, in accordance with paragraph 43 of the Criminal Injuries Scheme 2012. 8. 9. The Legal Team for CICA, in a succinct written submission dated 10 September 2025, acknowledged that this ground for judicial review was made out stating that "the First-tier Tribunal (FtT) made insufficient findings of fact to determine that the Applicant did not meet the full award conditions in paragraph 43". The Upper Tribunal is invited to quash the decision of the FtT and remit the matter for re-determination before a different panel. The parties are therefore agreed that the FtT erred in law and that I should quash its decision. Neither party seeks an oral hearing of this appeal therefore I can deal with it on the papers before me. Why the claim for judicial review is successful
10. On consideration of the FtT decision and Statement of Reasons ("SOR") dated 18 February 2024, I find that the FtT provide detailed reasons for how and why it agrees with the substantive awards made by CICA in respect of both claims. The FtT applied the correct legislation, identifying the requirements to increase the awards to the next tariff, and making sufficient findings of fact to justify its reasons for not being able to increase the

tariffs in the circumstances of the Applicant's case. R (LH) v FTT, CICA (CIC) Appeal Nos: UA-2025-000440-CIC, UA-2025-000441-CIC NCN: [2026] UKUT 72 (AAC)

11. However, I find that the FtT did not adequately deal with the Applicant's claim to be eligible for a "loss of earnings" award, the conditions of which are set out in paragraph 43 of the Criminal Injuries Scheme 2012: "43.(1) The first condition is that as a direct result of the injury for which the applicant is eligible for an injury payment they have no or very limited capacity for paid work.
- (2) The second condition is that the applicant: (a) was in paid work on the date of the incident giving rise to the injury, or, in the case of a series of incidents, at any time during the series; (b) had been in regular paid work for a period of at least three years immediately before the date of the incident giving rise to the injury; or (c) had a good reason for not having been in regular paid work for the period mentioned in paragraph (b).
- (3) For the purpose of this paragraph, a person will be considered to have a good reason for not having been in regular paid work if, for example, they were unable to work because they were in full time education, or by reason of their age or caring responsibilities."
12. The FtT found that after separating from her husband, LH suffered from a number of physical health conditions, listed at paragraph 24 of the SOR, and that none of these conditions were the result of the abuse. It also found that LH suffered from depression and CPTSD which, on the balance of probabilities, were caused by the abuse. It found that "the depression and CPTSD... caused [LH] ongoing difficulties throughout her adult life and are severe in nature" (paragraph 24 of the SOR), requiring the care of Adult Mental Health Services for the most of her adult life. It concluded that LH's mental injury is "permanent and severely disabling" (paragraph 25 of the SOR).
13. The FtT also found that the Applicant had been the carer for her son following a 2007 accident, and for her first husband from 2004, and outlined a number activities this involved such as shopping, trips to the hospital and visits to friends and family. It found that she had been in receipt of Disability Living Allowance, and later enhanced rate Personal Independence Payment, as well as receiving Employment and Support Allowance (with Limited Capability for Work Related Activity) between November 2017 and April 2024 (see paragraph 26 of the SOR). It went on to conclude that LH did not have "no or very limited capability for work" but if she does, this is due to the medical conditions which did not arise as a result of the abuse, i.e., the physical medical conditions (see paragraph 36 of the SOR).
14. I find that the FtT irrationally discounted the possibility that the Applicant's "permanent and severely disabling" mental injury arising from the abuse claimed, was insufficient to warrant a finding that she did not meet the "no or very limited capability for work" condition under paragraph 43 of the 2012 Scheme. This is particularly so given that LH has been claiming high level R (LH) v FTT, CICA (CIC) Appeal Nos: UA-2025-000440-CIC, UA-2025-000441-CIC NCN: [2026] UKUT 72 (AAC) awards of benefits designed to support those with a limited ability to undertake work and to independently manage daily living, for

a considerable period of time, coupled with input from adult mental health support. I find that the FtT made insufficient findings of fact to determine that the Applicant did not meet the full award conditions in paragraph 43 and provided insufficient reasons to justify its conclusion in respect of the loss of earnings aspect of the Applicant's claim.

Conclusion

15. Having found that the FtT's decision dated 20 November 2024 was made in error of law, I quash the decision and, in accordance with the Directions given above, I remit LH's appeal, against CICA's review decisions on her claims for compensation under the 2012 Scheme, for re-determination before a differently constituted panel. L. Joanne Smith Judge of the Upper Tribunal (authorised for issue on) 13 February 2026 5

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Prepared on 23 October 2026 · Esheria