

Social Security Chamber
First-tier Tribunal for Scotland



Adult Disability Payment

Ref: ~~XXS/SSC/XX/XX/XX/XX~~

ORDER

IN THE CASE OF

~~Greg Rex~~ XX

Appellant

- and -

Social Security Scotland

Respondent

TRIBUNAL CONVENER: Joy Hosie

WHEREAS

- ~~Greg Rex~~ ("the Appellant") has requested an in-person hearing in relation to his application for Adult Disability Payment made on 16 March 2023. As indicated by the Appellant's representative, ~~John Park, Welfare Rights Adviser of Dundee City Council Advice Services~~, the Appellant claims that refusal of an in-person hearing would breach his human rights under Article 6 of the European Convention on Human Rights ("ECHR") and would affect his ability to have a fair hearing in relation to his appeal.
- Social Security Scotland ("the respondent") has not made any representations in relation to the Appellant's request for an in-person hearing.

NOW THEREFORE I DIRECT or the Tribunal ORDERS that:

- The appeal should be listed for hearing by video link or by telephone at the earliest available date. This can be conducted with the support of the Appellant's representatives at their office if necessary. An in-person hearing can only take place if there are exceptional circumstances. The Respondent's default position for hearings is by telephone. To satisfy the requirements for exceptional circumstances for an in-person hearing, clear evidence of exceptional circumstances supported by additional evidence such as medical evidence is likely to be required.

2. The Appellant indicates in his application that he has communication difficulties due to his diagnosis of ADHD and that he also suffers from anxiety and depression. It may therefore assist the Appellant to have a remote hearing where evidence and questions can be dealt with using the expertise of the skilled Tribunal. No additional evidence has been provided to explain why the Appellant would be unable to engage with a hearing by video link or by telephone.
3. The Tribunal does not accept that a remote hearing would be inherently unfair or that it would breach Article 6 ECHR. Whilst it is accepted that a person with ADHD can experience processing differences, there is no indication on the evidence presented that the Appellant would be unable to engage by telephone or video with any necessary support he requires, due to processing difficulties. The Tribunal does not accept that a remote hearing would prevent the Appellant from presenting his appeal accurately with the support of his representative and his partner if required and using the specialist expertise of the Tribunal.
4. In reaching this decision the Tribunal has taken account of Rule 2 (2) (c) of The First-Tier Tribunal for Scotland Social Security Chamber Rules of Procedure 2018 which requires the Tribunal to deal with cases fairly and justly and to ensure that parties are able to effectively participate in the proceedings. The Appellant ought to be able to fully participate with a remote hearing with the support and assistance of his representatives and his partner.
5. The Appellant is reminded that he may wish to consider if there is any further medical evidence he wishes to rely on such as GP records and available specialist reports including psychiatric reports which may assist the Tribunal. These should be provided to the Tribunal as soon as possible and in advance of any scheduled hearing.

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Convener

Date of Issue: 31 January 2024