

**IN THE UPPER TRIBUNAL**  
**ADMINISTRATIVE APPEALS CHAMBER**

**B E T W E E N:**

- (1) CAF/3206/2013 ENT/00328/2010
- (2) CAF/3211/2013 ENT/00129/2010
- (3) CAF/3214/2013 ENT/00078/2010
- (4) CAF/3217/2013 ENT/00723/2010
- (5) CAF/3226/2013 ENT/00279/2010
- (6) CAF/3226/2013 ENT/00279/2010
- (7) CAF/3229/2013 ENT/00039/2008
- (8) CAF/3232/2013 ENT/00658/2008
- (9) CAF/3237/2013 ENT/00054/2010
- (10) CAF/3242/2013 ENT/00751/2007

- (1) LEONARD ABDALE
- (2) DARRYL BEETON
- (3) TREVOR BUTLER
- (4) DEREK HATTON (Deceased)
- (5) ERNEST HUGHES
- (6) BRIAN LOVATT
- (7) DAWN PRITCHARD (Deceased)
- (8) LAURA SELBY
- (9) DENIS SHAW
- (10) JEAN SINFIELD

Appellants

-and-

SECRETARY OF STATE FOR DEFENCE

Respondent

**AND**

**B E T W E E N:**

- (1) CAF/3059/2013 ENT 00176/2010
- (2) CAF/2055/2013 ENT 00088/2010

- (1) DONALD BATTERSBY (Deceased)
- (2) ANNA SMITH

Appellants

-and-

SECRETARY OF STATE FOR DEFENCE

Respondent

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**ORDER**

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**UPON** hearing from Mr Ter Haar QC on behalf of the Hogan Lovells' Appellants, Gp Cpt Ades on behalf of Ms Battersby and Mrs Smith, and Ms Mulcahy QC on behalf of the Secretary of State for Defence at an oral hearing on 1 December 2014;

The Upper Tribunal (Administrative Appeal Chamber) having issued its Decision in the above mentioned appeals dated 22 October 2014, on 5 November 2014, now further decides as follows:

1. The decisions of the First-tier Tribunal in all of the appeals listed above be SET ASIDE and REMITTED in accordance with the directions set out below:
  - i. There will be a complete rehearing of these appeals.
  - ii. The membership of the new Tribunal must not include anyone who was a member of the Tribunal whose decisions have been set aside. The President of the War Pensions and Armed Forces Compensation Chamber, shall, if appropriate, ask the Senior President of Tribunals to request that a High Court or Circuit Judge chair the new Tribunal.
  - iii. The new Tribunal will decide the appeal afresh.
  - iv. The previous Tribunal's decision, as well as its findings, are irrelevant and must not be taken into account.
  - v. Upon the Upper Tribunal indicating that it would refuse an application for permission to appeal, any application for permission to appeal should be made directly to the Court of Appeal.
  - vi. The new Tribunal shall not hear the remitted appeals before the period for making an application for permission to appeal to the Court of Appeal has expired unless during that period all possible applications for permission to appeal have been dismissed by the Court of Appeal. After the expiry of that period, the Tribunal shall not hear the remitted appeals if any application for permission to appeal has not been finally determined by the Court of Appeal or if an application for permission to appeal to the Court of Appeal has been granted and that appeal not yet determined.
  - vii. The Appellants shall file with the First-tier Tribunal and serve on the Respondent a Statement of Case for the remitted hearing setting out the possibilities and/or certainties for which the Appellants contend and identifying the evidence on which they wish to rely, by no later than 4pm on 19 March 2015.
  - viii. The Respondent shall file with the First-tier Tribunal and serve on the Appellants a Statement of Case in response to the Appellants' Statement(s) of Case and identifying the evidence on which the Respondent wishes to rely, by no later than 4pm on 30 April 2015.
  - ix. In the event of an appeal or application for permission to appeal to the Court of Appeal, there be liberty to Apply to the War Pensions and Armed Forces Compensation Chamber President in respect of vii and viii above.
  - x. Dr Busby may not give expert evidence (whether in writing, orally or otherwise) at the remitted hearings.

**(Signed on the original)**

**Charles J**

**President of the UT(AAC)**

**(Dated)**

**4 December 2014**