



**IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A NON-DOMESTIC PENALTY-FOR
APPEAL**

Case No: VT00027069

Sitting remotely using
Microsoft Teams

Date: 14 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

*Non Domestic Rating Penalty Appeal; Schedule 9 to the Local Government Finance Act 1988;
Appeal dismissed.*

**Before:
MRS A FIELDER
MR A HUSSAIN**

Between:

SWINTON BUFFET LIMITED

Appellant

- and -

**AMANDA HITCHINGS
(VALUATION OFFICER)**

Respondent

**Regarding:
SWINTON BUFFET, 516 BOLTON ROAD, SWINTON M27 4DL
(the “subject property”)**

Ms T Davies for the **Respondent**

Hearing date: 2 May 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal was dismissed.
2. The panel dismissed the appeal as the Valuation Office Agency (VOA) had withdrawn the penalty notice.

Introduction

3. This appeal was brought in respect of a penalty of £100 imposed by the VOA on 11 November 2024, because the appellant failed to respond to the VOA's request for information. The appeal was accepted by the Tribunal under Schedule 9 to the Local Government Finance Act 1998 (the '1988 Act').

Background

4. The VO issue forms of return (FoR) in order to gather the information necessary to maintain and defend the Rating List. The requested information should be provided within 56 days of the request having been issued.
5. The 56-day timescale is not rigidly imposed, and time is allowed for postage. Two reminder notices are issued before the penalty notice is applied. For this appeal, the FoR was issued on 23 April 2024 and reminders sent on 23 May 2024 and 6 June 2024.

Preliminary issue

6. The appellant did not attend the hearing, therefore the panel had regard to regulation 32 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations"). This provides –

“32 Hearing in a party’s absence

If a party fails to attend a hearing the VTE panel may proceed with the hearing if–

- (a) it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) it considers it is in the interests of justice to proceed with the hearing.”

Regulation 3 of the Tribunal Procedure Regulations, provides –

“3 Discharge of VTE’s functions: general

In giving effect to these Regulations and in exercising any of its functions under this legislation, the VTE must have regard to–

- (a) dealing with appeals in ways which are proportionate to the importance of the appeal, the complexity of the issues, the anticipated costs and the resources of the parties;

...

- (e) avoiding delay, so far as compatible with proper consideration of the issues.”

7. The panel was satisfied that the appellant, was aware of the hearing as a notice of hearing had been issued on 19 February 2025. The clerk had emailed and telephoned the appellant on 28 April 2025 but had not received a response or a request for an adjournment by the appellant. Even though the VOA had settled the appeal, and the clerk had issued a Teams link and an appointment time to the parties, as the appellant had not withdrawn the appeal.
8. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Relevant Law

9. Paragraph 5 of Schedule 9 to the 1988 Act, as amended states (as far as relevant to this appeal):
 - (1) A valuation officer may serve a notice on a person who is an owner or occupier of a hereditament requesting him to supply to the officer information-
 - (a) which is specified in the notice, and
 - (b) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part.
 - (1A) A notice under sub-paragraph (1) must state that the officer believes the information requested will assist him in carrying out functions conferred or imposed on him by or under this Part.
 - (1B) ...
 - (1C) ...
 - (1D) ...
 - (2) A person on whom a notice is served under this paragraph sub-paragraph (1) shall supply the information requested . . . in such form and manner as is specified in the notice . . .
 - (2A) ...
 - (3) ...
 - (4) If a notice has been served on a person under this sub-paragraph (1), and in supplying information in purported compliance with sub-paragraph (2) above he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale or to both.
10. Civil penalties were introduced to the 1988 Act by the Local Government Act 2003. After paragraph 5 was inserted (5A):
 - (1) If a person on whom a notice is served under paragraph 5 above fails to comply with paragraph 5(2) [or (2A)] within the period of 56 days beginning with the day on which the notice is served, he shall be liable to a penalty of £100.
 - (2) Where a person becomes liable to a penalty under sub-paragraph (1) above, the valuation officer shall serve on him a notice (a “penalty notice”) stating-
 - (a) that he has failed to comply with paragraph 5(2) above within the period mentioned in sub-paragraph (1) above;
 - (b) that he is liable to a penalty of £100;
 - (c) the effect of sub-paragraphs (3) and (4) below; and

- (d) that he has a right of appeal under paragraph 5C below.
- (3) If the person on whom a penalty notice is served fails to comply with paragraph 5(2) within the period of 21 days beginning with the day on which the notice is served, he shall be liable-
- (a) to a further penalty of £100, and
 - (b) subject to sub-paragraph (4) below, to a further penalty of £20 for each day in respect of which the failure continues after the end of that period.
- (4) The amount to which a person shall be liable under this paragraph in respect of a failure to comply with a notice served under paragraph 5 above shall not exceed the greater of-
- (a) the rateable value of the hereditament concerned for the day on which the penalty notice is served, and
 - (b) £500.
- (5) For the purposes of sub-paragraph (4)(a) above-
- (a) the hereditament concerned is the hereditament in respect of which the notice under paragraph 5 above was served, and
 - (b) a list compiled under this Part shall be used to find the rateable value of the hereditament for the day concerned.
- (5B) A valuation officer may mitigate or remit any penalty imposed under paragraph 5A above.
- (5C)
- (1) A person may appeal to a valuation tribunal if he is aggrieved by the imposition on him of a penalty under paragraph 5A above;
 - (2) An appeal under this paragraph must be made before the end of the period of 28 days beginning with the day on which the penalty notice is served;
 - (3) An appeal under this paragraph shall not prevent liability to any further penalty or penalties arising under paragraph 5A(3) above;
 - (4) An appeal under this paragraph shall be treated as an appeal against the penalty imposed under paragraph 5A(1) above and any further penalty which may be imposed under paragraph 5A(3) above;
 - (5) On an appeal under this paragraph the valuation tribunal may mitigate or remit any penalty under paragraph 5A above if it is satisfied on either or both of the grounds specified in sub-paragraph (6) below;
 - (6) Those grounds are:
 - (a) that the appellant had a reasonable excuse for not complying with paragraph 5(2) above, or
 - (b) that the information requested is not in the possession or control of the appellant.

Discussion

11. On the appeal form sent to the Valuation Tribunal, the appellant had stated that Swinton Buffett Limited had ceased trading. The VOA therefore, had subsequently confirmed to the Valuation Tribunal prior to the hearing that the penalty notice had been withdrawn. However, up to the hearing date, the appellant had not withdrawn the appeal.

Determination

12. In view of the above findings and conclusions, the panel was satisfied that the penalty notice had been withdrawn by the VOA and the panel dismissed the appeal.

Right of further appeal

13. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) within **four weeks** of the date this decision and statement of reasons is issued.
14. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions*" available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Mrs AE Fielder, Senior Member (Presiding)

Mr Amran Hussain, Senior Member

14 May 2025

Clerk to the Tribunal: Ms R Muller

Date issued to the parties: 14 May 2025