VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Penalty-FOR appeal: failure to provide information to the Valuation Officer; Schedule 9 to the Local Government Finance Act 1988; appeals dismissed.

APPEAL NUMBERS:	(a) VT00027473 (b) VT00027474 (c) VT00027475
RE:	(a) Blake Service Station, 9-11 Taunton Road, Bridgwater, TA6 3LP (b) 129 Caister Road, Great Yarmouth, NR30 4DL (c) BP, Broadway Service Station, Grays, RM17 6EW
	(the "appeal properties")

BETWEEN:	Nalliah Thayaparan	Appellant
	and	
	Mrs Joanne Moore (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	16 April 2025
BEFORE:	Mr JM Imperato, Presiding Senior Member Mrs F Cortese, Senior Member
CLERK:	Mrs D Davies
APPEARANCES:	Helen Scriven, representing the respondent valuation officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed.

2. The Tribunal panel upheld the decision by the valuation officer (VO) to impose penalties of £100 in each case because the appellant had not provided the requested information within the specified timescale.

Introduction

3. These appeals are brought in respect of three penalties of £100 imposed by the VOA as a result of the appellant's failure to respond to the request for information. The penalty notices were issued on 3 December 2024 in respect of appeals (a) and (b), and on 4 December 2024 for appeal (c).

4. The appeals were made to this Tribunal on 12 December 2024 and accepted under Schedule 9 to the Local Government Finance Act 1998 (the '1988 Act').

5. Prior to the hearing the appellant had requested that the appeals be heard in her absence, having regard to the papers already provided. The panel allowed the request in accordance with Practice Statement 11.

6. This statement of reasons is not and does not purport to be a verbatim record of proceedings.

Background

7. The VO issues forms of return (FoR) in order the 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.

8. 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 these appeals, the FoR was issued in July 2024 and reminders sent in August 2024 and September 2024.

9. For appeal (a) the FoR was issued to the appeal property, and for (b) and (c) the forms were issued to the address registered with Companies House. In each case the appellant stated that she had received neither the FoR nor the subsequent reminders.

10. The appellant received the penalty notices and provided the requested information shortly afterwards.

Relevant Law

11. 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.

12. 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

12. The panel noted that there was no indication that the forms or reminders had been returned undelivered by the Royal Mail.

13. The panel considered that the safe delivery and receipt of the penalty notices provided confirmation that the correct postal addresses had been used. The VOA retained proof of postage for the issued documents.

14. The panel could only allow the appeal on the grounds that the appellant had a reasonable excuse for not complying with the request for information, or that the information requested was not in the possession or control of the appellant.

15. Given that the appellant had provided the information around one week after receiving the penalty notices it appeared to the panel that the information requested was in the possession or control of the appellant.

Disposal

16. As the appellant had not demonstrated to the panel's satisfaction that she had a reasonable excuse for not complying with the Forms of Return the appeals were dismissed.

Date issued to parties: 1 May 2025

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice