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

Case No: VT00027827

Sitting remotely using Microsoft Teams

Date: 16 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

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

Before:
MS TM BLADES
MR SC KAMALAN

Between:

NICHOLAS RICHARDSON — **Appellant**

- and -

AMANDA HITCHINGS (VALUATION OFFICER) — **Respondent**

Regarding:
103-105, ALBERT ROAD, COLNE, BB8 0BS
(the "subject property")

Tina-Suzanne Davies, representing the respondent valuation officer
Hearing date: 29 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

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

Introduction

3. This appeal concerns a penalty of £100 imposed by the VOA as a result of the appellant's failure to respond to the request for information. The penalty notice was issued on 19 November 2024, and the completed Form of Return (FoR) received by the VOA on 26 November 2024.

4. An appeal was made to this Tribunal on 10 January 2025 and accepted under Schedule 9 to the Local Government Finance Act 1998 (the '1988 Act').

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

Background

6. The VO issues forms of return 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.

7. 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 13 August 2024 and reminders sent on 12 September 2024 and 26 September 2024.

8. The FoR was issued to the appeal property and there was no reason to believe that it had not been delivered in the normal course of the post.

9. The appellant received the penalty notices and provided the requested information shortly afterwards. He does not dispute that he returned the form late, but he considered that, as it was a 'first offence', some leniency should be shown to him.

Preliminary issue

10. The parties had been advised that this appeal had been allocated the 10:00 am appointment time. The appellant had not appeared by 10:02 am and so the clerk contacted him by telephone to see if he was having difficulties. He advised that he could not access via the Teams link, and it was agreed that the clerk would call him to let him enter the meeting that way. The appellant was told that this call would be made immediately. Two calls were made in quick succession, but neither was answered. The clerk left a voicemail in each case. A final call was made at 10:15 am and a further voicemail in which the appellant had advised that the panel had determined to proceed to hear the case in his absence.

11. Regulation 32 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations") 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.”

12. In determining whether it was in the interests of justice to proceed in the appellant’s absence, the panel considered Regulation 3 of the Tribunal Procedure Regulations, which provides –

“3 Discharge of VTE’s functions: general
In giving effect to these Regulations and in exercising any of its functions under these Regulations, 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;

…

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

…

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

13. The panel was satisfied that the appellant had been notified of the date and time of the hearing. He had been emailed a hearing link and offered assistance if required. He had been telephoned a total of four times on the morning of the hearing and had failed to pick up any calls after the first one. Taking account of these facts, the panel considered that it was in the interests of justice to hear the appeal in the appellant’s absence having regard to the information and evidence he had previously provided.

14. Following the hearing the appellant emailed the clerk to apologise for not taking the telephone calls, stating that he believed them to be sales calls.

Relevant Law

15. 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.

16. 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

17. The panel noted that there was no indication that the form or reminders had been returned undelivered by the Royal Mail, nor had the appellant suggested that this was the case.

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

19. 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.

20. 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. The fact that it was a ‘first offence’ was not a reasonable excuse.

Determination

21. As the appellant had not demonstrated to the panel’s satisfaction that he had a reasonable excuse for not complying with the requirements of the Form of Return the appeal was dismissed.

Right of further appeal

22. 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.

23. 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/.

Ms TM Blades, Senior Member (Presiding)

Mr SC Kamalan, Senior Member

16 May 2025

Mrs D Davies
Clerk to the Tribunal
Date issued to the parties: 16 May 2025