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

Case No: VT00028786

Sitting remotely using Microsoft Teams

Date: 15 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating penalty appeal; Local Government Finance Act 1988; information sought by the valuation officer had not been provided within 56 days; appellant stated not received documents; correspondence address found to be correct; appeal dismissed.

Before:
MRS N CRAWSHAW
MRS A TAYLOR

Between:

GRAVITY FITNESS **Appellant**

- and -

KAREN GILES (VALUATION OFFICER) **Respondent**

Regarding:

6A XSCAPE 602, MARLBOROUGH GATE, CENTRAL MILTON KEYNES, MILTON KEYNES, MK9 3XA
(the "subject property")

Mrs E Mellors for the Respondent

Hearing date: 9 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed.

2. The Tribunal panel decided not to mitigate or remit the penalty.

Introduction

3. The appeal had been brought in respect of the following: The appellant had on 26 November 2024 been served a notice by the Valuation Officer in which information was sought with regards to the 2026 non-domestic rating revaluation in respect of 6a Xscape 602, Marlborough Gate, Central Milton Keynes, Milton Keynes, MK9 3XA, which is shown in the 2023 rating list.

4. On 25 February 2025, the respondent served a penalty notice for the amount of £100. Such notice can be appealed to this Tribunal within 28 days. An appeal was received on 12 March 2025.

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

Background

6. The Valuation Office Agency issue 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.

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 26 November 2024 and reminders sent on 27 December 2024 and 10 January 2025.

Preliminary issue

8. 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."

9. The panel was satisfied that the appellant, was aware of the hearing as a notice of hearing had been issued on 21 May 2025. As there was no telephone number provided for the appellant, the clerk emailed the appellant on 1 July 2025 and on 7 July 2025 requesting if the appellant was to join the hearing or if they wanted the appeal heard in absence with no reply by the appellant. The panel noted that there had not been a request for an adjournment by the appellant. Even though the Tribunal had not heard from the appellant, a Teams link had been issued with an appointment time to the parties.

10. 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.

11. 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.

12. Originally, it was noted that the appellant had written down his correspondence address as the appeal property, but the correct appeal property’s address was documented on the

Valuation Office Agency penalty notice which the appellant had submitted along with the appeal form. Therefore, this was changed on the Tribunals system to show the correct appeal property address as: 6a Xscape 602, Marlborough Gate, Central Milton Keynes, Milton Keynes, MK9 3XA.

Discussion

13. The appellant had lodged an appeal against the penalty notice on the grounds that the form had not been received, neither had the reminder notices. Though no proof of postage had been provided by the listing officer, the panel did note that the listing officer had used the same address for each of the letters issued to the appellant. Once the appellant had received the penalty notice, the FoR had been completed and sent to the Valuation Office Agency on 12 March 2025.

14. The appellant's appeal had been on the basis that the appellant had not received the original request with regards to the FoR or the reminder notices. However, the panel held that the correspondence address must have been correct for the appellant because the appellant had submitted an appeal against the penalty notice issued and then had completed the FoR on 12 March 2025. The panel considered that possibly one of the letters may have been lost in the post, but for all correspondence from the Valuation Office Agency to become lost prior to the penalty notice being issued would be unlikely.

15. Therefore, the panel was aware that the respondent was permitted to issue a penalty notice after 56 days and ultimately, the evidence provided confirmed that the form was not returned within this time frame.

16. In conclusion, for the reasons stated, the panel was not persuaded to remit or mitigate the penalty.

Determination

17. In view of the above findings and conclusions, the appeal was dismissed.

Right of further appeal

18. 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.

19. 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 N Crawshaw, Senior Member

Mrs A Taylor, Member

15 July 2025

Clerk to the Tribunal: Ms R Muller
Date issued to the parties: 15 July 2025