

ENGLAND AND WALES / JUDGMENT

Concorde Construction Ltd v The Pensions Regulator

COURT

First-tier Tribunal

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Source record**Neutral citation number:** [2026] UKFTT 00750 (GRC)**Appeal Number:** FT/PEN/2025/0233**First-tier Tribunal****(General Regulatory Chamber)****Pensions****Before Judge Brian Kennedy KC**

Between: Heard on: 19 May 2026.
Decision given on: 21 May 2026
CONCORDE CONSTRUCTION LTD
and
THE PENSIONS REGULATOR
Appellant
Respondent

Decision: DECISION NOTICE
The Tribunal refuse the application to adjourn the oral hearing and dismiss the appeal
as the Tribunal does not have jurisdiction to determine this appeal. The appeal is therefore struck out pursuant to rule 8(2)(a) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. In the alternative, if the Tribunal had jurisdiction, the appeal would be dismissed and the Fixed Penalty Notice confirmed.

REASONS FOR DECISION

Introduction:

1. This is an appeal against a Fixed Penalty Notice (“FPN”) in the sum of £400 issued under section 40 of the Pensions Act 2008 arising from failure to comply with a Compliance Notice requiring submission of a Declaration of Compliance (“DoC”).
2. The Tribunal heard the appeal orally. The Appellant was represented by a director, Mr Josh Farleigh, who advanced submissions on receipt of communications, internal administrative error, and proportionality Application to Adjourn:
3. At the outset, the Appellant sought an adjournment however there was no justification for an adjournment, and the Appellant was represented with sufficient information to properly address the issues and did so with dignity and competence.
4. Accordingly, the Tribunal refused that application. The Appellant was present and able to advance its case. No sufficient basis was demonstrated to justify vacating the hearing, and it was fair and proportionate to proceed. Factual Background:
5. The material chronology is not in dispute:
 - a) The Appellant failed to submit the DoC by the statutory deadline.
 - b) A Compliance Notice was issued requiring compliance by a specified extended deadline.
 - c) That deadline was not met.
 - d) The Respondent issued the FPN.
 - e) A request for review was made outside the prescribed 28-day period. Statutory Framework:
6. The Tribunal’s jurisdiction is governed by sections 43 and 44 of the Pensions Act 2008.
7. An appeal lies to the Tribunal only where:
 - a) a review has been carried out; or
 - b) a valid application for review has been made and the Respondent has decided not to conduct one.
8. A request for review must be made within 28 days of the notice, subject only to limited statutory discretion exercisable by the Respondent.
9. Where jurisdiction is absent, the Tribunal must strike out the proceedings. Jurisdiction:
10. It is common ground that:
 - a) no review was carried out; and

- b) the Appellant's request for review was made outside the statutory time limit.
- 11. Accordingly, the statutory gateway to the Tribunal is not satisfied.
- 12. The Tribunal has no residual discretion to confer jurisdiction where Parliament has imposed mandatory preconditions. Appellant's Submissions:
 - 11. Mr Farleigh submitted:
 - a) that the Appellant did not receive two earlier communications from the Respondent;
 - b) that the Appellant's bookkeeper missed the relevant deadline for responding;
 - c) that the breach was administrative and not deliberate; and
 - d) that it would be disproportionate to uphold the penalty in all the circumstances.
 - 12. The Tribunal accepts that these matters were advanced candidly and in good faith.
 - 13. However, such matters cannot establish jurisdiction where the statutory conditions are not met. Conclusion on Jurisdiction:
 - 14. In the circumstances the Tribunal finds that it has no jurisdiction to determine the appeal.
 - 15. The appeal must therefore be struck out pursuant to rule 8(2)(a). Alternative Decision on the Merits: (Given in the event that the Tribunal's conclusion on jurisdiction is wrong.) Breach:
 - 16. The Tribunal would find that the Appellant failed to comply with its statutory obligations by not submitting the DoC within:
 - a) the original statutory deadline; and
 - b) the extended deadline in the Compliance Notice.
 - 17. A breach is therefore clearly established. Receipt of Communications:
 - 18. The Appellant asserts that earlier communications were not received.
 - 19. The Tribunal would find that:
 - a) communications were issued to the Appellant's registered address;
 - b) the usual statutory presumptions of service apply; and
 - c) no sufficient evidence has been produced to rebut those presumptions.
 - 20. An internal administrative failure or oversight by a bookkeeper does not displace proper service or the Appellant's statutory responsibility nor the obligation to respond within clear time limits. Proportionality:
 - 21. The Tribunal has carefully considered the submission that enforcement is disproportionate in the circumstances.

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22. While the Tribunal recognises:
- a) the Appellant's subsequent compliance; and
 - b) the absence of any identified substantive loss,
23. The penalty is fixed by statute, and its purpose is to secure compliance with the regulatory regime.
24. The Tribunal has no power to substitute a lesser penalty or to disapply it on general equitable grounds. Respondent's Position:
25. The Respondent indicated that any available mitigation lies not in cancelling the penalty, but potentially in allowing time to pay where genuine financial hardship is demonstrated.
26. In the circumstances that is a matter for the Respondent and not for the Tribunal.
- Conclusion on Merits:
27. The statutory preconditions for issuing the FPN were satisfied.
28. The Respondent acted lawfully and in accordance with the statutory scheme.
29. The appeal would therefore be dismissed and the FPN confirmed. Decision:
27. The Tribunal determines that:
- a) it has no jurisdiction to determine the appeal;
 - b) the appeal is therefore struck out; and
 - c) in any event, the appeal would have been dismissed on its merits. Signed: Brian Kennedy
Tribunal Judge Brian Kennedy KC Date: 19 May 2026.
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