

ENGLAND AND WALES / JUDGMENT

Hamilton Quantity Surveying Limited v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00667 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2025/0260 Heard on: 30 April 2026 Heard by Cloud Video Platform Decision given on: 08 May 2026 Before JUDGE SIMON BIRD KC Between HAMILTON QUANTITY SURVEYING LIMITED and THE PENSIONS REGULATOR Appellant Respondent Representation: For the Appellant: Mr Andy Hamilton For the Respondent: Mr Neil Farrow Decision: The reference is Dismissed and the matter is remitted to the Respondent. The fixed penalty notice is confirmed and no further directions are required.

REASONS

1. This is the Appellant's appeal by way of reference in respect of a fixed penalty notice (FPN) with reference 172436820705 issued on 5 November 2025 under section 40 of the Pensions Act 2008 (PA 2008). The FPN was issued because the Respondent was of the opinion that the Appellant had failed to comply with a Compliance Notice (CN) issued under section 35 of the PA 2008 on 10 September 2025 with a deadline date of 21 October 2025. The Legal Framework
2. The Pensions Act 2008 and the Employer's Duties (Registration and Compliance) Regulations 2010 impose a number of legal obligations on employers in relation to the automatic enrolment of certain employees into occupational or workplace personal pension schemes. The Respondent has statutory responsibility for securing compliance with these obligations and may exercise certain enforcement powers. Each employer is assigned a staging date from which the timetable for compliance with their obligations is set. An employer must provide certain specified information to the Regulator in a "declaration of compliance" within five months of the staging date. If there is a failure to do this, the Regulator can issue a compliance notice (section 35 of the PA 2008). If there is a failure to comply with this, the Regulator may issue a FPN (section 40). Section 43 provides for the Regulator to review notices, including a compliance notice issued under section 35 and a fixed penalty notice issued under section 40. The penalty prescribed in the present case is £400.
3. The Tribunal's jurisdiction is derived from section 44 of the PA 2008. Where a person to whom a notice has been issued under section 40 has first made an application for review of the FPN, they may then make a reference to the Tribunal. The role of the Tribunal is to make its own decision on the appropriate action for the Regulator to take, considering all the

evidence before it. The Tribunal may confirm, vary or revoke a FPN and when it reaches a decision, it must remit the matter to the Regulator with such directions (if any) required to give effect to the decision.

4. The issue in this appeal is whether the FPN was issued and then received by the Appellant. Section 303 of the Pensions Act 2004, applied by section 144A of the PA 2008 to notices issued under its provisions, provides that: “...
 - (2) The notification of document may be given to the person in question –
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to at that address.
 - (6) For the purposes of this section and section 7 of the Interpretation Act 1978 (c.30) (service of documents by post) in its application to this section, the proper address of a person is –
 - (a) in the case of a body corporate, the address of the registered or principal office of the body, ...”
5. The Appellant is a body corporate and, therefore, section 303(6)(a) of the 2004 Act applies to the instant reference.
6. Section 7 of the Interpretation Act 1978, referred to in section 303(6), provides that: “Where an Act authorises or requires any document to be served by post (whether the expression “serve” or the expression “give” or “send” or any other expression is used) the, unless the contrary intention appears, the service is deemed effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post”.
7. Section 7 therefore provides for a rebuttable presumption that a notice which is contained in a letter which is properly addressed, pre-paid and posted is to be deemed served at the time the letter would be delivered in the ordinary post.
8. The Respondent is also able to rely on a second set of rebuttable presumption as to the issue and service of notices under the PA 2008 contained in regulation 15 of the Employer’s Duties (Registration and Compliance” Regulations 2010 (the 2010 Regs). Regulation 15 provides: “(3) The presumptions in paragraph (4) apply where notices to which section 43 applies are issued.....
 - (4) For the purposes of this regulation, it is presumed that –
 - (a) where a notice is given a date by the Regulator, it was posted or otherwise sent on that day;

- (b) if a notice is posted or otherwise sent to a person's last known or notified address, it was issued on the day on which that notice was posted or otherwise sent; and
 - (c) a notice was received by the person to whom it was addressed.” 9. In essence, once the Respondent has discharged the evidential burden of establishing that the relevant notice was issued and properly addressed, if an Appellant claims not to have received the relevant notice, they bear the onus of rebutting the regulation 15(4)(c) presumption that it was received by them. The presumptions have been described as strong statutory presumptions (*Keith's Rubbish Clearance Limited v The Pensions Regulator* PEN 2020 0203). Relevant Case Law (i) Evidence of issue of the notice as a matter of fact
10. In *J M Kamau Limited v The Pensions Regulator* [2025] UKFTT 00435 (GRC) the Chamber President held that in subsequent cases the Pensions Regulator was entitled to rely on the evidence given in that case, as to the system it operates for the issuing of notices such as FPNs, with no further requirement to produce a witness statement detailing the processes, unless a direction is made to that effect in a given reference. No such direction was given in the current reference. However, the Chamber President added the following caveats:
- (a) The ruling was predicated on the evidence given in that case continuing accurately to reflect the processes in place and it continuing to be the case that there have not been any adverse issues with the system that could cause doubt as to the reliability of the information it produces
 - (b) Where the Pensions Regulator intends to rely upon the evidence given in the Kamau case, this must be clearly identified in the Rule 23 response to the reference;
 - (c) To discharge the burden of demonstrating that the relevant was issued as a matter of fact, the Pensions Regulator can be expected to provide to the Appellant and the Tribunal with screenshots from the relevant tabs from its IT system relating to the particular Appellant; and
 - (d) Whilst this is likely to be sufficient for the Pensions Regulator to satisfy the burden placed upon it, it is not inevitable and each case will need to be determined on its own

facts.

(ii) Rebuttal of the statutory presumption of service

11. In *London Borough of Southwark v Akhtar* [2017] UKUT 150 (LC) the Upper Tribunal explained the effect of the presumption of receipt in the following terms: “82. A legal presumption like the one in s.7 has the effect of reversing the burden of proof. Once the landlord has proved that the notice was properly addressed, pre-[aid and posted, it has nothing further to do – unless the contrary is proved. If the contrary is proved, then the landlord must, as it were, go the long way round and actually prove service without the help of the presumption and must therefore convince the tribunal on the balance of probabilities that the notice was actually received. But it is only required to do that if the contrary is

proved and not if the contrary is merely asserted”.

12. In Keith’s Rubbish Clearance Limited the Tribunal further emphasised that a bare denial or receipt of the relevant notice was insufficient to discharge the presumption of service. (iii) Service requires no collaboration of reciprocal act from the intended recipient
13. In Kamau, the Chamber President found at [122] that the fact that a notice had not come into the hands of the Appellant was not sufficient to rebut the presumption that the notices were as a matter of law received. H held that there was nothing in section 303 of the PA 2004 or 15(4) of the 2010 Regs which supported a conclusion that service is only effected once there is some collaboration or some reciprocal action on the part of the intended recipient. He added that: “121. As a matter of practical reality, if this were not the case it is difficult to see how the system could sensibly function. An intended recipient could deliberately choose not to pick up mail on the assumption that some of the mail would be the bearer of bad news. In doing so, they could legitimately rebut the presumption of service”. Factual Background
14. The material facts from which this reference arises are not in dispute. The Appellant’s case is that he did not receive any of the correspondence and notices which the Respondent says it sent him and, in his reference, put the Respondent to proof of their issue and service.
15. The undisputed facts are that the Appellant’s duties’ staging date was 6 March 2025, meaning that the deadline for making a declaration of compliance was 5 August 2025.
16. The Respondent’s IT system screenshot data show that it sent three reminders to the Appellant (28 May 2025, 2 June 2025 and 22 July 2025). A fourth letter was sent on 26 August 2025 notifying the Appellant that it had missed the deadline, but extending it until 9 September 2025.
17. There having been no contact from the Appellant, the screenshot data shows that a Compliance Notice was issued on 10 September 2025 requesting the Appellant to complete and submits its declaration and providing a further extension of the deadline until 21 October 2025. The Compliance Notice stated that a £400 penalty may be imposed if the Appellant failed to comply by that date.
18. The Appellant did not submit its Declaration of Compliance by the extended deadline of 21 October 2025 and, on 5 November 2025, the Respondent issued the FPN requiring a penalty payment of £400 and compliance with the Compliance Notice no later than 3 December 2025.
19. On 12 November 2025, the Appellant lodged a review request stating that he had not received any notices to enrol its employee, that its sole proprietor had recently moved house and that their main residence (also their registered office) was being refurbished. Despite use of Royal Mail’s mail forwarding service, post was not getting through.
20. Also on 12 November 2025, the Appellant submitted its declaration of compliance.

21. On 19 November 2025, the Respondent notified the Appellant's accountant that it had conducted a review but had upheld the issuing of the FPN. On the same day the Appellant appealed to the Tribunal. The Appellant's Case
22. In summary, the Appellant argues that it did not receive any of the letters or a copy of the Compliance Notice from the Respondent and put it to proof that the notices were issued. It also contends that the Appellant's registered office, which was also the home of its sole proprietor, was being refurbished over the relevant period and mail was not being forwarded by the Royal Mail to his temporary address, despite use of its mail forwarding service.
23. The Appellant also raised the possibility that an inaccuracy in the address of its registered office recorded at Companies House, might also have been a factor contributing to the non-receipt of the Compliance Notice.
24. The Appellant stressed that it was a company with one employee, it had complied immediately it became aware of the issue of non-compliance and it would have had no reason not to have complied earlier.
25. The Appellant also stressed that it could not afford to pay the penalty which was a large sum for a small company. The Respondent's Response
26. The Respondent relied on the evidence which had been given in Kamau as to the robustness of its automated systems for issuing correspondence and notices and confirmed that that evidence remained sound, that there had been no issues with the system which would undermine that evidence and that it had, in its Rule 23 Response to the reference, supplied the Appellant with a copy of the relevant screenshots.
27. The Compliance Notice had been issued to the Appellant at its proper address.
28. The Respondent relied on the statutory presumptions in relation to service and receipt, arguing that they had not been rebutted by evidence. Rather, the Appellant's claims amounted to nothing more than bare assertions of non-receipt, which were not sufficient to rebut the strong presumptions.
29. In so far as there was an inaccuracy in the address of the registered office of the Appellant, the fault lay with the Appellant which was under a legal duty (section 86 Companies Act 2006) to ensure that its registered address was at all times an appropriate address i.e. one which deliveries there would in the ordinary course of events come to the attention of a person acting on behalf of the Company. It would be inequitable to allow the Appellant to rely on its own default to excuse its failure to comply on these grounds. Findings and Reasons
30. Two main and, in this case, related issues fall for determination by the Tribunal: (i) (ii) Did the Appellant receive the Compliance Notice? Has it provided a reasonable excuse for its failure to comply with its employer duties? Receipt of the Notice

31. I have read the Chamber President's assessment and conclusions on the evidence as to the Respondent's process for the issuing of statutory notices set out in the Kamau decision. I am satisfied that, subject to being satisfied that the caveats set out by the Chamber President are met, it provides a strong evidential basis to support the Respondent's case that the CN was issued to the Appellant.
32. I am further satisfied that the caveats are met in this case and that the Kamau evidence has been shown to remain robust, with no identified issues with the system. The relevant screenshots were provided to the Appellant with the Respondent's response as required and no challenge was made to their content.
33. The screenshots show that Respondent posted the Compliance Notice to the Appellant on 10 September 2025 and the notice itself shows on its face that it was addressed to the Appellant's registered office, which is the "proper address" for the purposes of section 303 of the PA 2008.
34. I am therefore satisfied that the Respondent has shown that it is more likely than not that it issued the Compliance Notice to the Appellant. It is, therefore, entitled to rely on the presumptions contained in section 7 of the Interpretation Act 1978 and regulation 15(4) of the 2010 Regs and, in particular the presumption contained in Regulation 15(4)(c), that the Compliance Notice was received by the Appellant.
35. The burden therefore passes to the Appellant to rebut the presumption that the Compliance Notice was served.
36. At the hearing, the Appellant fairly acknowledged that it had "no hard evidence" to show that it had not received the Compliance Notice or the letters which preceded its issue. Instead it identified possible reasons as to why the Compliance Notice may not have come into the hands of its sole proprietor.
37. In relation to the failure of the Royal Mail's mail forwarding arrangements which were in place whilst its registered office was being refurbished, the Appellant accepted at the hearing that it had not investigated with Royal Mail whether they might have been responsible for its non-receipt of the Compliance Notice. There is no therefore no evidence before the Tribunal that it was, or which would support the inference that it was, responsible.
38. There are many reasons why post which is delivered to a building under refurbishment might not reach the hands of the intended recipient, but where the building remains the registered office of a body corporate it is the address which that body is holding out will ensure that post sent to it would be expected to come to the attention of a person acting on behalf of the company. If that is not the case or ceases to be the case, then it is the responsibility of the body corporate to change its registered address to one which does satisfy section 86 of the Companies Act 2006. That did not happen in this case.

39. As was held in *Kamau* and I agree, service is not a reciprocal act. On the facts of this case, the Compliance Notice was sent to the proper address and, even though it did not reach the hands of a person acting on behalf of the Appellant, the Appellant's evidence that the registered office was being refurbished and un evidenced assertions as to the effectiveness of the Royal Mail forwarding service which the Appellant relied upon, are not sufficient to rebut the presumptions.
40. As to the misdescription of the address of the Appellant's registered office recorded at Companies House, in fairness, the Appellant did not put this at the forefront of its submissions. It was raised as a possible reason why post sent to it might not have been received. However, at the hearing it was accepted that the misdescription had not prevented receipt of letters etc from Companies House and there was no evidence that the address entered on the register had given rise to any material issues with the receipt of post generally. Indeed, it was the address to which the FPN was sent which there is no dispute was received by the Appellant.
41. I am therefore satisfied that the address of the registered office was one which, at all material times, met the requirements of "an appropriate address" for the purposes of the section 86 of the Companies Act 2006 and the misdescription provides no basis for a rebuttal of the presumption of receipt.
42. On the facts of this case, the Compliance Notice was sent to the proper address of the Appellant, it was not returned to the Respondent as undelivered mail and, even though I accept the evidence that it did not reach the hands of a person acting on its behalf, the Appellant has not produced sufficient evidence to rebut the presumption that the notices were not, as a matter of law, received. Applying section 7 of the Interpretation Act 1978, I find that the CN was received by the Appellant at the time that it would be delivered in the ordinary course of post. Reasonable Excuse
43. There is a relationship between the issue of receipt of the notice and whether the Appellant has provided a reasonable excuse for its failure to comply with the Compliance Notice. As Appellant has failed to rebut the presumption of receipt and the absence of receipt was the ground relied upon for non-compliance with the notice, I am not satisfied that the Appellant has established there was a reasonable excuse for its failure to comply with the Compliance Notice.
44. The timely provision of information to the Respondent, so that it can ascertain whether an employer has complied with its duties under the 2008 Act, is crucial to the effective operation of the automatic enrolment scheme. The issue of the FPN was therefore an appropriate step for the Respondent to take.
45. As to the level of the penalty, this is prescribed by 2010 Regulations and the Tribunal has no power to vary it.

46. However, as I have said, I accept the evidence given by the Appellant that the Compliance Notice did not reach the hands of a person acting on its behalf and, although I have found that the Appellant has nonetheless failed to rebut the presumption of receipt, I have some sympathy for the Appellant's submission that a £400 penalty represents a large sum for a small company in such circumstances and one which it will struggle to pay. In that context, I was pleased to hear from the Respondent that it is under a duty to ensure that its actions do not cause financial distress to an company and that the impact of a penalty is a matter which its debt recovery team is required to consider in making a decision as to whether to recover the sum involved. That is not a matter for Tribunal, but it may be a route for some mitigation of the penalty which the Appellant can explore.
47. For the above reasons, I am satisfied that the Compliance Notice was issued, served and received and that the Appellant has not provided a reasonable excuse for non-compliance with it. I determine that issuing the FPN was the appropriate action to take in this case. I remit the matter to the Regulator and confirm the FPN. No directions are necessary. Signed Simon Bird KC Date: 6 May 2026 8

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