

ENGLAND AND WALES / JUDGMENT

Lavish London Limited v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00154 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2024/0038 Decided without a hearing Decision given on: 30 January 2026 Before JUDGE HARRIS Between LAVISH LONDON LIMITED and THE PENSIONS REGULATOR Appellant Respondent Decision: The proceedings are struck out under Rule 8(2)(a) because the Tribunal does not have jurisdiction to consider them.

REASONS

1. This is a reference against a fixed penalty notice (“FPN”) issued under section 40 of the Pensions Act 2008 (“the Act”) and an Escalating Penalty Notice (“EPN”) pursuant to section 41 of the Act by the Pensions Regulator (“the Regulator”). The Regulator has invited the Tribunal to strike out the reference under Rule 8(2)(a). This is on the basis that the Tribunal does not have jurisdiction to hear the reference.
2. Under Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, the Tribunal “must strike out the whole or a part of the proceedings if the Tribunal - (a) does not have jurisdiction in relation to the proceedings or that part of them; and (b) does not exercise its power under rule 5(3)(k)(i) (transfer to another court or tribunal) in relation to the proceedings or that part of them”
3. Under section 43(1) of the Pensions Act 2008, the Regulator may review a fixed penalty and escalating penalty notice, “(a) on the written application of the person to whom the notice was issued, or (b) if the Regulator otherwise considers it appropriate”. The prescribed © CROWN COPYRIGHT 2025 period for a written application for a review under section 43(1) (a) is 28 days from the date of the notice.
4. Under section 44 of the Pensions Act 2008, a person can make a reference to the Tribunal in respect of the issue or amount of a penalty notice. The conditions are that the Regulator has completed a review under section 43, or “the person to whom the notice was issued has made an application for the review of the notice under section 43(1)(a) and the Regulator has determined not to carry out such a review” (section 44(2)(b)). 5. I have considered the background information provided by both parties.

6. The Regulator issued the Appellant with a Compliance Notice under section 35 of the Act on 23 October 2023 because the Appellant had not completed the re-declaration of compliance by 15 December 2022 confirming that the Employer's Duties under the Act had been complied with by providing the prescribed information. The Appellant did not respond, so the Regulator issued an FPN on 19 December 2023.
7. The Regulator issued an EPN to the Appellant on 18 January 2024 and the Appellant completed their re-declaration of compliance on 23 January 2024. As the EPN was complied with, no penalty accrued as a result. The Appellant requested a review of the EPN on 23 January 2024 and the Regulator confirmed its EPN following a review on 31 January 2024. The Regulator states that no review was requested in relation to the FPN.
8. The Appellant made a reference by way of form GRC1 which was dated 1 February 2024. Its grounds for appeal gave the following reasons why the decision was wrong: "My firm Pennyhills (London) LLP are a firm of accountants and we have been instructed by Lavish London Limited to carry out all compliance for payroll related activities, which include HMRC, Nest and The Pensions Regulator compliance... Prior to the letter issued by The Pensions Regulator, dated 18 January 2024. We have not been in receipt of any other correspondence from The Pensions Regulator notifying us, of the redeclaration. So up until 18 January 2024, we were unaware of the redeclaration. Post receipt of this letter we:
 1. Redeclared
 2. Appeals the £400 penalty. appeal their decision, that sufficient time was provided. Time is not the consideration. There was no communication received from The Pensions Regulator to Lavish London Limited's address, requesting us to action the redeclaration. Otherwise we would have redeclared on the date requested, there is no reason not to."
9. The outcome sought by the Appellant from the reference is stated as follows: "1. Understanding that there was no intentional reason not to redeclare the workplace pension.
 2. Understand we were not in receipt of any communication to redeclare by a certain date.
 3. Overturn the £400 penalty levied on Lavish London"
10. The form GRC1 submitted bears the reference number for the EPN and a copy of the EPN and review decision for the EPN was submitted in support of this. However, as no penalty was imposed in relation to the EPN and the only penalty outstanding relates to the FPN the Regulator has proceeded on the basis that this is, in effect, an appeal against the penalty imposed in the FPN. I agree with that analysis, because the grounds of appeal are clear that the outcome sought is to overturn the penalty, which can only mean the penalty in the FPN. However, for completeness I deal with both the EPN and the FPN in this decision, because the issue in relation to service touches on both.

11. The Regulator applied by way of form GRC5 dated 4 March 2024 to strike out the Appellant's reference on the basis that the Tribunal does not have jurisdiction to deal with it. The reference was subsequently stayed to await the decision in *JM Kamau Limited v The Pensions Regulator* [2025] UKFTT 484 (GRC). Following the lifting of the stay, the Regulator wrote to the Tribunal with further submissions addressing the relevance of the decision in *Kamau* on 14 May 2025 and renewed the strike out application.
12. I have considered the strike-out application on the papers because both parties have provided written submissions and have had an opportunity to make representations. Rule 32(3) permits the Tribunal to deal with striking out a case under Rule 8 without the need for a hearing. Service of the notices
13. The Appellant asserts that prior to the issue of the EPN it was unaware of the requirement for re-declaration. The Notice of Appeal states "Our client Lavish London Limited's, registered office address is the same as our office address. Our office is a shared office, which we share multiple companies. Post is collected daily and the mail room notify us of post as and when it arrives. As accountants we are meticulous with post and we scan the post into our system with a date stamp"
14. Both the Compliance Notice and the FPN were issued to the Appellant's registered office address, so the Regulator asserts that both benefit from the statutory presumptions of service outlined in section 303(6)(a) of the Pensions Act 2004 and Regulation 15(4) of the Employers' Duties (Registration and Compliance) Regulations 2010 (the "2010 Regulations"). The Regulator submits that a mere assertion of no-receipt is insufficient to rebut those presumptions following the Upper Tribunal case of *London Borough of Southwark v (1) Runa Akhter (2) Stel LLC* [2017]. The Regulator submits that as no more than a bare assertion of non-receipt has been provided by the Appellant, the principles set out in *Philip Freeman Mobile Welders Ltd v The Pensions Regulator* [2022] UKUT 62 (AAC) should not be applied. The burden is on the Appellant to provide sufficient argument and evidence to prove that it did not receive the notices on balance of probabilities and the Regulator submits that it has not done so. The assertions as to shared office space and date stamping post do not provide sufficient evidence of this. It also notes that the EPN was received at the registered address and that it did not receive any notification of non-delivery in relation to the Compliance Notice and FPN.
15. In this respect I agree with the Regulator that the Appellant has not put forward any case that would potentially rebut the presumption of service because at the time the notices were issued they were issued to the Appellant's registered office. This means there is no evidence about receipt of the notices in this case that needs to be tested at a hearing before the First-Tier Tribunal.
16. In the Regulator's further submissions dated 14 May 2025, it addresses the issue of the notices in light of the decision of this Tribunal in *Kamau*. At paragraph 80 of that decision, Judge O'Connor held that the Regulator is entitled to rely on the evidence of Ms Cathy

Doherty (set out in paragraphs 32-55 of Kamau) as to the Regulator's systems and processes for issue of notices going forward without the need to produce further statements in each case. The Regulator further relies on paragraph 101 of Kamau, where Judge O'Connor held that when evaluating the evidence put forward by the Appellant in relation to non-receipt against the Regulator's evidence as the robustness of the processes which allow Notices to be issued meant, on balance of probabilities, the Notices were issued. The Regulator also relies on paragraph 83 of Kamau which states that a bare assertion that a notice was never issued is unlikely to be successful and contends that this case is analogous.

17. In response to this, in its submissions dated 8 January 2026, the Appellant states without further explanation that the facts of this case are materially different from those in Kamau and continues to assert that the Appellant did not receive the underlying Compliance Notice, so the FPN was issued without the necessary precondition.
18. The case of Kamau is not binding on me as it is also a decision of this Tribunal, but it is persuasive and I consider that it sets the law out clearly. Following Kamau, I have evaluated the assertions made by the Appellant as to non-receipt, which I consider to be unsupported by credible evidence, against the evidence of the Regulator's systems for issuing notices and I prefer the Regulator's evidence because it is cogent and supported by a statement of truth. I therefore give greater weight to that evidence. The burden is on the Appellant to provide evidence that the notices were not received, and I consider that it has failed to provide sufficient evidence to rebut the statutory presumptions of service set out above. I therefore find that on balance of probability the Compliance Notice, FPN and EPN were all issued by the Regulator and served on the Appellant at its registered office. This means there is no issue in relation to service of the notices which need to be determined at a hearing. No review of the FPN
19. The Regulator also says that the Tribunal does not have jurisdiction in relation to the FPN because the conditions in section 44(2) of the Pensions Act 2008 are not met. The Regulator refers to the decision in *Mosaic Community Centre Limited v Pensions Regulator* (PEN/2015/0004) as showing that the Tribunal only has jurisdiction when a review under section 43 has been undertaken by the Regulator. The Regulator says there was no review of the FPN in this case, although it accepts that a review was conducted of the EPN which confirmed that notice. There was also no refusal to carry out a review within the meaning of section 44(2) because the Appellant had not requested a review in the prescribed 28-day period which is set down in Regulation 15(1) of the Employers' Duties (Registration and Compliance) Regulations 2010. The Regulator therefore says that the necessary conditions in section 44 to permit a reference to the Tribunal are not met.

20. The Appellant asserts in their representations dated 8 January 2026 that a request for an internal review was made on 1 February 2024 or, in the alternative, that the notice informing them of the right to review was never effectively served. Having reviewed the documents submitted by the Appellant in support of their appeal, it is apparent that the review which was requested was in relation to the EPN, not the FPN.
21. It is clear from the information provided by both parties that no request for a review of the FPN was made within the 28-day time limit or at all. The Regulator did not conduct a review or refuse to conduct any review for this reason. This means that the conditions of Section 44 of the Pensions Act are not met. I have found above that there is no issue relating to receipt of notices.
22. I conclude therefore that the Tribunal does not have jurisdiction to consider this reference and so it is struck out under Rule 8(2)(a). Signed Judge Harris Date: 29 January 2026 5

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Prepared on 22 October 2026 · Esheria