

ENGLAND AND WALES / JUDGMENT

LHR Ltd v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00434 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2025/0105 Decided without a hearing Decision given on: 26 March 2026 Before JUDGE HARRIS Between LHR LTD 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 Escalating Penalty Notice (“EPN”) under section 41 of the Act by the Pensions Regulator (“the Regulator”). 2. In directions dated 1 October 2025, I indicated that the Tribunal was minded to strike out the reference under Rule 8(2)(a). This is on the basis that the Tribunal does not have jurisdiction to consider the reference because no review has been undertaken by the Regulator. I therefore invited the Appellant either to withdraw the reference or provide representations as to why it should not be struck out by 22 October 2025. The Appellant advised the Tribunal by email dated 15 October 2025 that they still wished to appeal, and asked the Tribunal not to take action until after 3 November 2025 as the Appellant would be away and unable to deal with correspondence in that time. The Tribunal advised the Appellant by email dated 16 October 2025 that any stay of the appeal should be requested on form GRC5. No further correspondence has been received from either party since that date. © CROWN COPYRIGHT 2025
3. 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”
4. 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 period for a written application for a review under section 43(1)(a) is 28 days from the date of the notice.

5. 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)).
6. The Regulator issued the Appellant with an FPN on 31 May 2023 and an EPN on 30 June 2023. The Appellant requested a review of the EPN. On 22 August 2023 the Regulator declined to conduct a review because it had been received outside the 28-day time frame for doing so and declined to conduct a review on its own initiative. The Appellant has not provided evidence that a review of the FPN was requested.
7. The Appellant made a reference by way of form GRC1 which was dated 3 April 2026. Its grounds for appeal gave the following reasons why the decision was wrong: “The initial penalty was raised as payment was thought to be unpaid. The payment was made on time but was not confirmed to the pension regulator due to an issue with the Nest scheme. The payment was allocated to an exception schedule (issue with their system of which I was unaware). As soon as possible I dealt with the issue by providing bank statements as evidence that the payment had been made on time. This was verified by Nest and accepted by the Pension regulator. I do accept that the time limit was exceeded, but was unaware and did put every effort into resolving the issue as soon as I could. There was a gap in any correspondence between August 2023 and a debt recovery notice dated 22 March 2025. During this time, I was under the impression that no further action was required. I responded immediately to this notice and it was explained that sometimes there is a delay. It is worth noting that the amount shown on this notice was incorrect. I do not think the original penalty should have been issued as the payment was made on time and I was unaware of any issues on departure.” 8. It appears to me Tribunal does not have jurisdiction because the conditions in section 44(2) of the Pensions Act 2008 are not met. The Tribunal only has jurisdiction when a review under section 43 has been undertaken by the Regulator and it appears from the evidence provided there was no review in this case. 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.
9. This means that the conditions of Section 44 of the Pensions Act are not met. There is no issue relating to receipt of notices. 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: 19 March 2026

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