

ENGLAND AND WALES / JUDGMENT

Max KR Ltd v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00751 (GRC) Appeal Number: FT/PEN/2025/0272 Heard on: 19 May 2026. Decision given on: 21 May 2026 First-tier Tribunal (General Regulatory Chamber) Pensions Before Judge Brian Kennedy KC Between: MAX KR LTD and THE PENSIONS REGULATOR Appellant Respondent Decision:

1. The appeal is dismissed.
2. The Fixed Penalty Notice dated 14 October 2025 is confirmed.

Background:

REASONS

1. This appeal concerns a Fixed Penalty Notice (“FPN”) issued under section 40 of the Pensions Act 2008 on 14 October 2025 in the sum of £400.
2. The FPN was issued following alleged non-compliance with an Unpaid Contributions Notice (“UCN”) dated 19 August 2025.
3. The UCN required the Appellant to pay outstanding pension contributions for the period 1 February 2025 to 30 June 2025 and provide evidence of compliance by 29 September 2025.
4. The Appellant did not comply with those requirements by the specified deadline. Findings of fact:
5. On 4 August 2025 the Respondent received a report from NEST indicating that pension contributions remained outstanding for the relevant period.
6. The Respondent issued the UCN on 19 August 2025, requiring full compliance by 29 September 2025.
7. A reminder email was sent on 8 September 2025 emphasising the impending deadline.
8. The Appellant did not comply by 29 September 2025.
9. The Respondent issued the FPN on 14 October 2025.
10. Contributions for February–May 2025 were only received between 7 and 10 November 2025.

11. The Tribunal find that the Appellant failed to comply with the UCN by the statutory deadline. Reasonable excuse:
12. The Appellant relies on alleged difficulties with a direct debit mandate and the pension provider.
13. The Tribunal reject that explanation as constituting a reasonable excuse.
14. The Appellant has produced no documentary evidence of any direct debit failure or bank engagement.
15. There is no evidence of contemporaneous contact with either the bank or the pension provider to resolve the issue.
16. Repeated warnings from NEST were issued over several months without effective action being taken.
17. The Appellant's accountant accepted that no records were retained of attempts to resolve the issue.
18. The Tribunal find that the Appellant's case is unsupported by evidence and amounts to a bare assertion.
19. In *Keith's Rubbish Clearance Ltd v The Pensions Regulator* (PEN/2020/0203), it was emphasised that a bare assertion of difficulty is insufficient to establish a reasonable excuse.
20. The Tribunal adopt that reasoning. Service:
21. The Appellant asserts that it did not receive the UCN until a later date.
22. The Respondent issued the UCN to the Appellant's registered office address as recorded at Companies House.
23. Statutory presumptions of service apply where notices are properly addressed and sent.
24. The Appellant has provided no corroborative evidence of non-receipt, no evidence of postal disruption, and no evidence of misdirection.
25. The submission amounts to a bare denial.
26. The Tribunal find that the Appellant has failed to rebut the statutory presumption of service.
27. The reasoning in *London Borough of Southwark v Akhter* [2017] UKUT 150 and *Keith's Rubbish Clearance* confirms that a bare assertion is insufficient to displace the presumption. Late compliance:
28. The Appellant relies upon the fact that contributions were eventually paid.
29. That submission does not avail the Appellant.

30. The statutory question is whether the Appellant complied with the UCN by 29 September 2025.
31. It did not.
32. The payments in November 2025 occurred only after the FPN was issued.
33. Subsequent compliance does not negate liability for an FPN lawfully issued following earlier non-compliance. Other grounds:
34. The Appellant submits that it is a small business and that the penalty is harsh.
35. The penalty amount is fixed by statute at £400 and cannot be varied by the Tribunal.
36. That submission is therefore legally irrelevant to liability.

Conclusion:

37. The evidential position is clear:
 - a) the Appellant failed to comply with the UCN by the prescribed date;
 - b) no reasonable excuse has been established;
 - c) the statutory presumptions of service have not been rebutted;
 - d) later compliance is legally irrelevant to liability.
38. There is no material factual dispute capable of affecting the outcome.
39. The Respondent acted within its statutory powers in issuing the FPN. Decision:
40. The Burden is on the Appellant to establish a reasonable excuse and where relevant, to rebut statutory presumptions. The Tribunal is not satisfied that burden has been discharged.
41. In the circumstances the appeal is dismissed.
42. The Fixed Penalty Notice is confirmed. Judge Brian Kennedy KC 19 May 2026.

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