

ENGLAND AND WALES / JUDGMENT

Salt and Vine Limited v Pensions Regulator

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Neutral citation number: [2026] UKFTT 00728 (GRC) First-tier Tribunal General Regulatory Chamber Pensions Case Reference: FT/PEN/2025/0232 Heard: on the papers in Chambers Heard on: 14 May 2026 Decision given on: 20 May 2026 Before TRIBUNAL JUDGE HAZEL OLIVER Between SALT AND VINE LIMITED and PENSIONS REGULATOR Appellant Respondent Decision: The proceedings are struck out under Rule 8(3)(c) because there is no reasonable prospect of the Appellant's case, or part of it, succeeding.

REASONS

1. This is an appeal against a Fixed Penalty Notice issued on 18 June 2025 under section 40 of the Pensions Act 2008 (the Act) and an Escalating Penalty Notice issued on 18 July 2025 under section 41 of the Act.
2. Under section 43(1) of the Act, 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 to review under section 43(1)(a) is 28 © CROWN COPYRIGHT 2026 days from the date of the notice (Regulation 15(1) of the Employers’ Duties (Registration and Compliance) Regulations 2010). The Regulator cannot review a notice under section 43(1)(b) more than 18 months from the day the notice was issued (Regulation 15(2)).
3. Under section 44 of the Act, 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)).
4. This means that the Tribunal’s powers to consider a reference are limited. If the Regulator has not completed a review, a person needs to have made an application for a review under section 43(1)(a). This means an application within the 28-day time limit. If an application has been made outside the time limit, and the Regulator has decided not to conduct a review, the Tribunal does not have jurisdiction to consider a reference.
5. Under Rule 8(2)(a) 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 does not have jurisdiction in relation to the proceedings or that part of them. Under Rule 8(3)(c) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory

Chamber) Rules 2009, the Tribunal may strike out the whole or part of the proceedings if the Tribunal considers there is no reasonable prospect of the appellant's case, or part of it, succeeding.

6. The Regulator made an application to strike out the appeal on 13 January 2026. The Regulator submits that the appeal should be struck out under Rule 8(2) because the conditions in section 44(2) of the Act are not met.
7. The Regulator says that no review of the Fixed Penalty Notice or the Escalating Penalty Notice was sought by the Appellant within the required 28 days. The Appellant did make a written application for a review, but this was not received until 17 October 2025. This is outside the 28-day time limit, and the Regulator did not exercise discretion to conduct a review out of time.
8. The GRC5 application form completed by the Regulator confirms that the Appellant was sent a copy of the application. The Appellant has had the opportunity to respond to the application but has not sent any representations to the Tribunal. The Appellant was given a further opportunity to provide representations by directions of Judge Scherbel-Ball dated 17 March 2026 but has not responded by the deadline of 10 April 2026.
9. Having considered the papers, I agree that it appears the Tribunal may not have jurisdiction to hear this appeal. The conditions in section 44(2) of the Act must be met before a reference can be made to the Tribunal about the issue of a notice. The Regulator did not receive a valid written application for a review within 28 days from the date of the notices. The written application for a review was sent 121 days after the date of the Fixed Penalty Notice, and 91 days after the date of the Escalating Penalty Notice.
10. The Appellant's appeal says that they did not receive any correspondence or formal notice from the Regulator by post or email, and they first became aware of the matter when their accountant informed them of the need to complete the pension declaration. I took this into account in my decision of 29 December 2025 to accept the appeal out of time.
11. If the Appellant can show that they did not receive the penalty notices and rebut the presumption of service, the Tribunal may have jurisdiction to hear the appeal. The Regulator explains in their application that all correspondence was correctly posted to the registered office address. The Regulator says that the Appellant's accountants did not dispute that the correct address had been used. I note that the same address is given by the Appellant on the appeal form. It appears that the Regulator sent both penalty notices (and other related correspondence) to the correct registered office address (which is also the last notified address). This means that the presumptions of service apply.
12. The Appellant has provided no explanation as to why the penalty notices may not have been received, despite being sent to the correct address. They have given no indication that they have evidence to rebut the presumption of service.

13. I have considered whether it would be appropriate to strike out the appeal for lack of jurisdiction. I have decided not to do so because the Appellant did raise the argument that the penalty notices were not received by them.
14. I am, however, striking out the appeal because there is no reasonable prospect of the case succeeding.
15. I have taken into account the Upper Tribunal's decision in HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation) [2014] UKUT 0329 (TCC), which considered strike out under Rule 8(3)(c): "The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a "mini-trial". As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all."
16. Having considered the application from the Regulator and the limited information from the Appellant, I consider that there is no realistic prospect of the Appellant succeeding at a full hearing. I am satisfied that the Appellant has had a fair opportunity to respond to the strike-out application and to show that the appeal has a reasonable prospect of success. I note that the Appellant has chosen not to communicate with the Tribunal at all since submitting the appeal. I consider that it is not necessary to have a hearing on this issue and it is appropriate to strike out on the papers.
17. For these reasons the proceedings are struck out. Signed: Judge Hazel Oliver Date: 14 May 2026 4

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Prepared on 28 October 2026 · Esheria