

ENGLAND AND WALES / JUDGMENT

SCS Cleaning Limited v The Pensions Regulator

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Neutral citation number: [2026] UKFTT 00496 (GRC) First-tier Tribunal (General Regulatory Chamber) Pensions Case Reference: FT/PEN/2025/0215 Decided without a hearing Decision given on: 07 April 2026 Before JUDGE HARRIS Between SCS CLEANING 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 Escalating Penalty Notice (“EPN”) under section 41 of the Act by the Pensions Regulator (“the Regulator”). In directions dated 19 February 2026 the Tribunal indicated that it was minded to strike out the reference. This is on the basis that the Tribunal does not have jurisdiction because no review has been undertaken by the Regulator and thus there is no reasonable prospect of the reference proceeding.
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” © CROWN COPYRIGHT 2026
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 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 the Appellant, including the information provided in response to the potential strike-out of the reference.

6. The Regulator issued the Appellant with an EPN on 17 July 2025, but it is not apparent from the documents sent in by the Appellant when the FPN was issued. The Appellant requested a review of the EPN on 21 August 2025. The Respondent 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.
7. The Appellant made a reference by way of form GRC1 which was dated 18 September 2025. Its grounds for appeal gave the following reasons why the decision was wrong: “The late payment of contributions for the period 9 December 2024-9 March 2025 was not due to wilful non-compliance but to payroll software failures which prevented me from submitting data to NEST on time. Once the technical issue was resolved, I made full payment of all contributions (final payments completed on 5 August 2025). I am now fully compliant and able to submit contributions promptly without difficulty. The purpose of the penalty regime under the Pensions Act 2008 is to secure compliance. That purpose has been achieved in this case. The total fine of £2,900 is wholly disproportionate to the circumstances, particularly for a very small business, and risks causing serious financial harm despite the fact that all contributions have been paid. I therefore submit that the decision to impose these penalties was wrong in law and fact and I ask the Tribunal to set aside or reduce the penalties to a proportionate level.” 8. It appears to me that that the Tribunal does not have jurisdiction because the conditions in section 44(2) of the Pensions Act 2008 are not met. The decision in *Mosaic Community Centre Limited v Pensions Regulator* (PEN/2015/0004) shows that the Tribunal only has jurisdiction when a review under section 43 has been undertaken by the Regulator. It is apparent from the documents submitted by the Appellant that 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. The Appellant raises no issues in relation to receipt and/or service of the relevant documents. 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.
10. It is clear from the information provided by the Appellant that no request for a review of the EPN was made within the 28-day time limit. The Regulator refused to conduct any review for this reason. No evidence has been provided of any review being carried out in respect of the FPN. 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: 26 March 2026 3

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