

VALUATION TRIBUNAL FOR ENGLAND



Council tax liability appeal; Class N exemption in dispute; definition of a student; part-time course which fulfilled the criteria for a full-time course; appeal allowed.

Re: Apartment 209, 3 Parr Street, Liverpool L1 4JN

APPEAL NUMBER: VT00000387

BETWEEN Mr A Michaelides Appellant
and
Liverpool Council Respondent

PANEL: Miss E Antrobus (Senior Member), Ms J Morton

CLERK: Mrs L Horne

SITTING AT: Liner Hotel, Liverpool

ON: Wednesday 26 February 2020

APPEARANCES: Mr A Michaelides, the appellant
Mr S Wilkinson, representing Liverpool Council

Summary of decision

- 1 Appeal allowed. The panel determined that the appellant meets the criteria for an exemption under Class N of the Council Tax (Exempt Dwellings) Order 1992.

Introduction

- 2 This appeal is brought in respect of a decision made by the Billing Authority not to award an exemption to Mr A Michaelides in respect of Apartment 209, 3 Parr Street, with effect from 10 September 2018.

- 3 Mr Michaelides made his appeal to the Tribunal on the grounds that his “part-time” legal practice course meets the criteria for a full-time course.
- 4 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Evidence and submissions

- 5 Mr Michaelides provided the panel with a copy of his appeal and supporting documents, which included: course details provided by The University of Law; guidance from Liverpool City Council’s website regarding council tax exemption; and extracts from section 4(1) of the Local Government Finance Act, Article 2(1) of the Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558), and paragraphs 3 and 4 of Schedule 1 to the Council Tax (Discount Disregards) Order 1992 (SI 1992 No. 548).
- 6 With reference to the Court of Appeal judgment in *Jagoo v Bristol City Council* [2019] EWCA Civ 19, Mr Michaelides submitted that the title of his course is irrelevant, as under the regulations, he satisfies the definition of a full-time student.
- 7 Mr Wilkinson confirmed that he was attending on behalf of his colleague, Miss Mendez, who had prepared the case. He presented a bundle which included: the case for the Billing Authority; correspondence with the appellant; and a copy of *Jagoo v Bristol City Council*.
- 8 Mr Wilkinson contended that the regulations state the course must be full-time, and the appellant does not qualify for an exemption as he is a part-time student, as confirmed by The University of Law. He also disputed the relevance of *Jagoo v Bristol Council*, as that case referred to a specific point of law regarding additional study hours for a student with disabilities.

Decision and reasons

- 9 The issue under appeal is whether the appellant is entitled to exemption under Class N of the Council Tax (Exempt Dwellings) Order 1992, as amended. This class provides exemption for a dwelling occupied only by students, or school and college leavers.
- 10 The definition of a student for council tax purposes is set out in Schedule 1 to the Local Government Finance Act 1992. There are three types of student outlined in that definition, the relevant one to the subject appeal being a person undertaking a full-time course of education.

11 Paragraph 4 of Schedule 1 to the Order provides:

4 (1) A full-time course of education is, subject to paragraphs (2) and (3), one –

- (a) which subsists for at least one academic year of the educational establishment concerned or, in the case of an educational establishment which does not have academic years, for at least one calendar year;
- (b) which persons undertaking it are normally required by the educational establishment concerned to undertake periods of study, tuition or work experience (whether at premises of the establishment or otherwise) –
 - (i) of at least 24 weeks in each academic or calendar year (as the case may be) during which it subsists, and
 - (ii) which together amount in each such academic or calendar year to an average of at least 21 hours a week.

12 The panel referred to the letter from The University of Law, which confirmed the following:

- Mr Michaelides is undertaking a “Part-Time Evening Legal Practice Course with LLM”.
- The course commenced on 10 September 2018 and is due to end on 25 July 2020.
- Students are required to devote, on average, 22.5 hours per week to the course.

13 In response to a question, Mr Michaelides confirmed that the course consists of two academic years, the first year is 41 weeks and the second is 45 weeks in duration.

14 Although Mr Wilkinson acknowledged that the appellant’s course requires study of at least 21 hours per week, the case for the Billing Authority relied upon the fact it is a part-time course, as stated by the University of Law. Mr Wilkinson further submitted that the regulations state that the course must be full-time.

15 The panel could not find any reference in the regulations to support the Billing Authority’s contention that the course must be full-time. The regulations provide the criteria for a full-time course, which the panel compared with the appellant’s course:

Undertaking a course with a prescribed educational establishment?	Yes
The course must last at least one academic year of the educational establishment, or in the case of an educational establishment which does not have academic years for at least one calendar year.	Yes, it is a two year course
The student must undertake at least 24 weeks of study, tuition or work experience in each academic or calendar year.	41 weeks in year one 45 weeks in year two
Study, tuition and work experience must average at least 21 hours per week during term time.	22.5 hours required per week

- 16 As each of the criteria is satisfied, the panel held that the appellant is a student as defined in the regulations, and therefore he qualifies for an exemption under Class N.
- 17 The panel considered that the Billing Authority had relied upon the title of the course, as provided by the University of Law. However, it was necessary to refer to the regulations to establish whether the appellant's course met the criteria for a full-time course.
- 18 Mr Wilkinson disputed the appellant's reference to *Jagoo v Bristol City Council*, as this was a case which been determined on different facts to the subject appeal. The panel found that the facts of the case were indeed different, however, Mr Michaelides highlighted that the relevance to his appeal is that a part-time student can be fully exempt based on the definition of a full-time student within the relevant legislation.
- 19 In consideration of the facts of the case, and the requirements for a full-time course, the panel decided that the appellant is entitled to Class N exemption, and therefore the appeal is allowed.

Order

- 20 Under the provisions of Regulation 38(1) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the Tribunal orders the Billing Authority to award a Class N exemption in respect of Apartment 209, 3 Parr Street, Liverpool L1 4JN, with effect from 10 September 2018, and to alter its records accordingly within two weeks of the date of this order.

Date: 17 March 2020

Appeal Number: VT00000387