

THE VALUATION TRIBUNAL FOR ENGLAND



Council Tax Liability Appeal; definition of student; The Council Tax (Discount Disregards) Order 1992; Class N of The Council Tax (Exempt Dwellings) Order 1992; appeal dismissed.

RE: 406 Bereys Buildings, 33 George Street, Liverpool L3 9LU

APPEAL NUMBER: VT00004734

BETWEEN:	Miss Holly Baines and Liverpool City Council (Billing Authority)	Appellant Respondent
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PANEL: Mr AN Backway (Senior Member)
Dr PAR Thomson

CLERK: Mrs H Beresford

REMOTE
HEARING ON: 15 October 2021

APPEARANCES: Miss H Baines (Appellant)
Ms C Mendez (Respondent's representative)

Summary of decision

1. The appeal dwelling does not qualify for exemption under Class N of The Council Tax (Exempt Dwellings) Order 1992 as the appellant was not a full-time student for the purposes of paragraph 4 of Schedule 1 to the Local Government Finance Act 1992 having regard to paragraphs 3 and 4 of Schedule 1 to The Council Tax (Discount Disregards) Order 1992.

Introduction

2. This was a council tax liability appeal which was made in accordance with Section 16 of the Local Government Finance Act 1992. The appellant was aggrieved by the billing authority's determination that she was the liable person for the council tax on the appeal dwelling for the

period 31 August 2019 to 3 September 2020. The appellant had appealed to the tribunal on the basis that although she was on a one-year work placement she continued to study and was mentored by the Royal Institute of British Architects (RIBA).

3. The President of the VTE is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.
4. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated “remote hearings” as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal’s Consolidated Practice Statement has been amended to reflect this.
5. With the agreement of the parties and to assist the appellant, the panel varied Practice Statement 8 (the Model Hearing Procedure) and invited the respondent’s representative to present her evidence first.
6. This decision document is not and does not purport to be a verbatim record of proceedings, but the parties can be assured that all of their evidence and arguments have been taken into account. For the avoidance of doubt, this document contains the tribunal panel’s full written reasons for its decision.

Issue

7. The issue was whether the appellant could be considered to be a full-time student having regard to The Council Tax (Discount Disregards) Order 1992 as amended.

Evidence and submissions

8. The billing authority had provided a bundle of evidence which included: reference to the relevant legislation; a background and details of the appeal; and reasons for their decision.
9. The billing authority argued that the appellant was not a student for the purposes of Class N because she was not enrolled on a full-time course of education with a prescribed educational establishment for the period in dispute.
10. The appellant had provided: a full written statement explaining the background to her appeal; a certificate evidencing the fact that she had graduated from Liverpool University in 2019; a letter of employment with ‘Ryder Architecture’ for a fixed term from 2 September 2019 to 31 August 2020; the RIBA student membership for the period in dispute; the Architects Registration Board (ARB) guidance and information leaflet; the RIBA Professional Experience and Development Record (PEDR) guidance; the appellant’s professional experience and development quarterly record sheets for the period in dispute which had been signed off by a mentor; an invoice for the RIBA mentoring; general advice on funding architectural studies; evidence of student finance for 2018/19 and 2020/21; University or College Payment Advice for 2018/19 and 2020/21; and a memo from Joanne Parry of the RIBA which stated that:

“During the earlier Stage 1 of Practical Experience, commonly taken between the Part 1 and Part 2 academic stages, students are encouraged to gain a broad introduction to professional practice and the construction industry, which can include periods of experience within a related construction profession.

It is correct to say that practical experience is a mandatory part of an architect’s training.

The RIBA’s view is that students who are part of a formal monitoring scheme during their year of practical work experience between Parts 1 and 2, and whom are completing a log of their experience on the RIBA’s Professional Experience and Development Record (PEDR) website, should be strongly considered for council tax exemption by their local authorities.

This formal monitoring can take different forms; but the experience can form a prerequisite of entry to a Part 2 course, and in all cases the completion of practical experience is an essential requirement of progressing to qualification as an architect, as demonstrated above.”

11. The appellant argued that she should be considered to be a full-time student because the traditional route to qualify as an architect is a seven-year full-time education programme involving five years study at university and two years integrated work experience. She contended that this programme is chosen by the majority of architectural students and that to become an architect, the student must achieve the RIBA’s Part 1, 2 and 3 qualifications.

Decision and reasons:

12. The relevant legislation is as follows:

The Council Tax (Discounts Disregards) Order 1992

Article 4

4 Students, etc

For the purposes of paragraph 4 of Schedule 1 to the Act—

“apprentice” has the meaning given by paragraph 1 of Schedule 1 to this Order;

“student” means a person, . . . , who is to be regarded as—

- (a) a foreign language assistant, by paragraph 2 of Schedule 1 to this Order;
- (b) a person undertaking a full-time course of education, by paragraphs 3 and 4 of that Schedule; or
- (c) a person undertaking a qualifying course of education, by paragraph 5 of that Schedule.

The Council Tax (Exempt Dwellings) Order 1992

Class N:

- (1) A dwelling which is either—

- (a) occupied by one or more residents all of whom are relevant persons;
 - (b) occupied only by one or more relevant persons as term time accommodation;
- (2) for the purposes of paragraph (1)—
- (a) “relevant person” means—
 - (i) a student;
 - (ii) a student’s spouse, civil partner or dependant being in[each case a person who is not a British citizen and who is prevented, by the terms of his leave to enter or remain in the United Kingdom, from taking paid employment or from claiming benefits; or
 - (iii) a person to whom Class C (school and college leavers) of regulation 3(1) of the Council Tax (Additional Provision for Discount Disregards) Regulations 1992 applies;
 - (b) a dwelling is to be regarded as occupied by a relevant person as term time accommodation during any vacation in which he—
 - (i) holds a freehold or leasehold interest in or licence to occupy the whole or any part of the dwelling; and
 - (ii) has previously used or intends to use the dwelling as term time accommodation;

Schedule 1 paragraphs 3 and 4

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A person is to be regarded as undertaking a full-time course of education on a particular day if—

- (a) on the day he is enrolled for the purpose of undertaking such a course with a prescribed educational establishment within Part I of Schedule 2 to this Order, and
- (b) the day falls within the period beginning with the day on which he begins the course and ending with the day on which he ceases to undertake it,

and a person is to be regarded as ceasing to undertake a course of education for the purpose of this paragraph if he has completed it, abandoned it or is no longer permitted by the educational establishment to undertake it.

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- (1) A full-time course of education is, subject to subparagraphs (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 taken together amount in each such academic or calendar year to an average of at least 21 hours a week.

13. The billing authority argued that to qualify for a class N exemption you must first be registered as a full-time student undertaking a full-time course with a prescribed educational establishment. The panel referred to the following legislation:

“Under Schedule 1, Part II, paragraph 3 of the above Statutory Instrument, as amended by Statutory Instrument 2011 No 948 - The Council Tax (Discount Disregards) (Amendment) Order (*see Appendices 4 & 5*), a person is to be regarded as undertaking a full-time course of education on a particular day if: -

- (a) on the day he is enrolled for the purpose of undertaking such a course with a prescribed educational establishment within Part I of Schedule 2 to this Order, and
- (b) the day falls within the period beginning with the day on which he begins the course and ending with the day on which he ceases to undertake it, and a person is to be regarded as ceasing to undertake a course of education for the purposes of this paragraph if he has completed it, abandoned it or is no longer permitted by the educational establishment to undertake it”.

14. Schedule 2 (Prescribed Educational Establishments), Part I defines establishments for students.

1. Subject to paragraphs 2 and 3 below, an institution is a prescribed educational establishment within this Part if it is—

- (a) a university (including a constituent college, school or other institution of a university);
- (b) a central institution or college of education in Scotland within the meaning of the Education (Scotland) Act 1980(1);
- (c) a college of education in Northern Ireland within the meaning of the Education and Libraries (Northern Ireland) Order 1986(2);
- (d) an institution within the PCFC funding sector for the purposes of the Education Reform Act 1988(3);
- (e) a theological college;
- (f) any other institution in England or Wales established solely or mainly for the purpose of providing courses of further or higher education;
- (g) any other institution in Scotland or Northern Ireland established solely or mainly for the purpose of providing courses of further education.

2. In paragraph 1 above—

“further education” with respect to an educational establishment in England or Wales has the same meaning as in the Education Act 1944(4), with respect to an educational establishment in Scotland has the same meaning as in the Education

(Scotland) Act 1980(5), and with respect to an educational establishment in Northern Ireland has the same meaning as in article 5(c) of the Education and Libraries (Northern Ireland) Order 1986(6);

“higher education” has the meaning given by section 120(1) of the Education Reform Act 1988.

3. A Ministry of Defence training establishment for the armed forces is not a prescribed educational establishment within this Part of this Schedule.

15. Paragraph 5 of Schedule 1 to The Local Government Finance Act 1992 deals with student certificates.

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(1) An institution shall, on request, supply a certificate under this paragraph to any person who is following or, subject to sub-paragraph (3) below, has followed a course of education at that institution as a student or student nurse.

(2) A certificate under this paragraph shall contain such information about the person to whom it refers as may be prescribed by order made by the Secretary of State.

(3) An institution may refuse to comply with a request made more than one year after the person making it has ceased to follow a course of education at that institution.

(4) In this paragraph—

“institution” means any such educational establishment or other body as may be prescribed by order made by the Secretary of State; and

“student” and “student nurse” have the same meanings as in paragraph 4 above.

16. The appellant argued that she was studying a seven-year course which included twenty-four months of work placement, one year in the middle and one year at the end. The appellant had spent three years at Liverpool University studying for a Bachelor of Arts degree in architecture. She had graduated from Liverpool University in 2019 and had obtained a position at Ryder Architecture for one year. On completion of the one-year work placement she had registered with Sheffield University to commence a postgraduate master’s degree in architecture in 2020. Both of these degree courses had been accredited by the RIBA.

17. The panel noted that throughout the time Miss Baines was employed she had been a student member of the RIBA and had been monitored and continued to study. However, the RIBA is a professional membership body and unfortunately, not an educational establishment, consequently, Miss Baines had been unable to provide the billing authority with a ‘student certificate’.

18. The panel gave careful consideration to all of the evidence which had been placed before it but found itself to be bound by Schedule 1, Part II, paragraph 3 of The Council Tax (Discount Disregards) Order 1992. Regardless of the fact that Miss Baines had continued to study and was following an educational programme, she was not officially enrolled on a full-time course of education with a prescribed educational establishment for the period in dispute.

19. In view of the foregoing, the appellant was not a student for the purposes of the Council Tax (Discount Disregards) Order 1992 and therefore the appeal dwelling did not qualify for exemption under Class N of the Council Tax (Exempt Dwellings) Order 1992. The appeal is therefore dismissed.

Date: 29 October 2021

Appeal number: VT00004734