

THE VALUATION TRIBUNAL FOR ENGLAND



*Council tax valuation list appeal; the Listing Officer raised at the hearing the issue of the proposal being invalid; the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009; the proposal raised none of the permitted grounds where an interested person can make a valid proposal; the panel held that the proposal was invalid and dismissed the appeal.*

RE: 21 Bowman Drive, Hexham NE46 3BU

APPEAL NUMBER: VT00006964

BETWEEN:	Mr S Cunningham	Appellant
	and	
	Mr R Roberts (Listing Officer)	Respondent

PANEL: Mrs A Fielder (Senior Member)  
Mr J Percival

CLERK: Ms R Muller

HEARING: Remote Hearing No. 1, 29 November 2021

APPEARANCES: Miss L Cunningham, representative of the Appellant  
Ms A Pearson, representative for the Respondent

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## Summary of decision

1. The appeal was dismissed. The panel holds that the appellant's proposal to alter the valuation list was invalid.

## Introduction

2. The President of the Valuation Tribunal for England (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.

3. 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 practice.
4. The VTE conducted the hearing of this appeal remotely via a Microsoft Teams conference call using an audio/video-link. The panel was satisfied that both parties were able to fully participate in the hearing.
5. This appeal had been brought in respect of the following: 21 Bowman Drive, Hexham NE46 3BU (the appeal property). Mr S Cunningham submitted a proposal to alter the band within the Valuation List on 12 October 2020 in which he sought a reduction in the appeal property’s band C entry to band A with effect from 13 October 2006.
6. 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 an indication that that statement or item of evidence has been overlooked by the panel.

## **Issue**

7. The issue in dispute was the correct band to be applied to the appeal property. However, the LO at the hearing raised the preliminary matter that the proposal was invalid due to the fact that the appellant had first become the taxpayer of the appeal property on 13 October 2006. Therefore, in the first instance, the panel considered the validity of the proposal.

## **Evidence and submissions**

8. The LO submitted a bundle of evidence, which contained submissions from both parties, which included the following:
  - A copy of the proposal and appeal form with supporting evidence;
  - The original decision from the LO with supporting documents;
  - An extract of Regulation 2(5) of The Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009; and
  - Email correspondence between the parties.

## **Decisions and Reasons**

9. Regulation 4(5) of the 2009 Regulations states the following:

“no proposal may be made ... where:

- (a) six months has expired since the day on which the person first became the taxpayer;

10. Ms Pearson stated that originally, the proposal had been deemed valid by the LO, as the appellant had stated on the proposal that he had been liable for the Council Tax as of 5 July 2020. However, the panel noted that it was also stated on the proposal form that Mr S Cunningham had been the owner for many years, but the appeal property had been rented out on various occasions. Ms Pearson informed the panel that this statement on the proposal form had not been picked up when the proposal had been lodged as valid, therefore an invalidity notice had never been issued.
11. It was only when the appeal had been listed to a hearing that Ms Pearson had noted that Mr S Cunningham had first become liable for Council Tax back in 2006 with regards to the appeal property.
12. Miss L Cunningham informed the panel that according to Regulation 4(5) of the 2009 Regulations, it stated that a liable party had six months in which to submit a proposal to the LO to request a reduction in the band of a property. Miss L Cunningham stated that Mr S Cunningham had only resided at the appeal property for the following periods, as the rest of the time, the appeal property had been rented out to tenants, who were liable for Council Tax during their tenancies:
- When he first purchased the property on 13 October 2006 to 30 October 2006; and
  - Again on 6 September 2011 to 30 November 2011
13. As such, Miss L Cunningham stated that Mr S Cunningham had not been liable for Council Tax for a period of more than six months. In total he had been liable for Council Tax for a total period of less than two months. Therefore, according to the Regulations above, Mr S Cunningham had still around four and a half months in which to submit a proposal now that the appeal property was his permanent place of residence.
14. The panel considered the wording within Regulation 4(5) of the 2009 Regulations (a). The panel held that the taxpayer had to have submitted a proposal within six months of when they had 'first' become the taxpayer, not that they had to be resident at a property for less than six months in order to submit a proposal. However, the panel understood as to why Mr S Cunningham may have misunderstood the wording of the regulation and had submitted a proposal when he had moved into the appeal property on a permanent basis.
15. The panel held that Ms Pearson was correct to raise the preliminary issue that the proposal was invalid. In reaching that conclusion, the panel noted that the regulations do not provide it any discretion in this particular respect. It can only make a finding of fact when a person first became a taxpayer. However, the facts in this case are clear and agreed: Mr S Cunningham first became the taxpayer for the appeal property on 13 October 2006 and did not serve his proposal on the LO until 12 October 2020. The proposal has therefore been served outside the statutory time period and was therefore invalid.
16. In view of the foregoing, the panel had no alternative but to dismiss the appeal.

**Date:** 7 December 2021

**Appeal number:** VT00006964