



## VALUATION TRIBUNAL FOR ENGLAND

*Council Tax Liability appeal: Local Government Finance Act 1992; exemption for students under Class N of the Council Tax (Exempt Dwellings) Order 1992; definition of student for council tax purposes; appeal dismissed.*

APPEAL NUMBER: VT00020788

RE: 3 Eastfield, Scarborough Road, Rillington YO17 8JN  
(the "subject property")

BETWEEN:	L E	Appellant
	and	
	North Yorkshire Council (Billing Authority)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 08 July 2024

BEFORE: Mrs N Carman, Presiding Senior Member  
Mrs N C Yang, Senior Member

CLERK: Mrs A Sloan IRRV(Hons)

APPEARANCES: Mr A McCarten (representing the Billing Authority)

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### DECISION AND STATEMENT OF REASONS

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#### Decision

1. The appeal is dismissed.
2. The panel found that the appellant and her partner do not meet the criteria to be classed as a full-time student for council tax purposes.

#### Introduction

3. On 28 December 2023, the Valuation Tribunal for England (VTE) received this appeal under section 16 of the Local Government Finance Act 1992 ("the Act"). Section 16 establishes a right of appeal to this Tribunal for a person aggrieved with any calculation made by a Billing

Authority (BA) of an amount which they are liable to pay to the authority in respect of council tax or the BA's decision that the subject property is not an exempt dwelling. This appeal challenges the BA's decision of 30 October 2023 which refused to consider the subject property as an exempt dwelling.

4. After being notified of the hearing date on 23 April 2024, the appellant contacted the Tribunal to seek a postponement as she would be out of the country on the hearing day. On 8 May 2024, the Tribunal refused the postponement application and advised the parties to exchange their evidence under the Tribunal's standard directions. This was to ensure that all evidence had been exchanged, establishes whether the dispute can be resolved without a hearing, and facilitates a prompt re-listing if a postponement was required. The appellant was invited to re-apply for a postponement when the evidence disclosure process had been completed.
5. On 28 June 2024, the appellant requested that the appeal be heard in her absence. The panel was not aware of any postponement application and therefore found that it was in the interests of justice to proceed with the hearing in the appellant's absence as requested.
6. As part of their induction training, a new member of the tribunal was observing proceedings. It was explained to McCarten that it was the panel's intention to invite their colleague to accompany it to the retiring room. He was assured that the new member would not participate in the decision making exercise but would simply observe as part of their training. Mr McCarten had no issues or objections to this.
7. At the commencement of the hearing, the Presiding Senior Member declared that she had what may be viewed as a conflict of interest as she is married to the Assistant Chief Constable for West Midlands Police. She confirmed her impartiality and invited Mr McCarten to raise any objection. Mr McCarten confirmed he had no objection to the Presiding Senior Member hearing the appeal. The panel was satisfied, on balance, that a fair-minded and informed observer would not conclude, having regard to the facts, there to be a real possibility that the Presiding Senior Member, or indeed the panel, is biased. Accordingly, the panel proceeded to hear the appeal.
8. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

### **Background**

9. The appellant and her partner sought exemption from council tax on the basis that both were studying and should be exempt as full-time students. The appellant submitted that the course they were enrolled upon was a degree level 6 BSc (Honours) Professional Policing Practice course. In her written submissions, the appellant explained that the qualification is accomplished via a degree apprenticeship, whereby study is carried out while also obtaining industry experience. The BA contended that the qualification was an apprenticeship and did not meet the criteria for the appellant and her partner to be considered full-time students for council tax purposes.
10. The issue for the panel to decide was whether the appellant, and her partner who was also enrolled on the same course, qualified as a full-time student for council tax purposes and thus the subject property falls to be an exempt dwelling.

### **Relevant Law**

11. The Act makes provision for BAs in England to levy a tax, known as council tax, in respect of dwellings. Section 4 provides that council tax shall only be payable in respect of such dwellings which are not an “exempt dwelling”.
12. The Council Tax (Exempt Dwellings) Order 1992 (the “Exempt Dwellings Order”) makes provision for the classes of dwelling which are an “exempt dwelling” for the purposes of section 4 of the Act. So far as is relevant to the proceedings on this appeal, Article 2 and 3 of the Exempt Dwellings Order provide:

**“2.**

*(1) For the purposes of this Order—*

*...*

*“student” means a person falling within the definition of student in paragraph 4 of Schedule 1 to the Act.*

*...*

**“3.** *A dwelling is an exempt dwelling for the purposes of section 4 of the Act on a particular day if on that day it falls within one of the following classes –*

*.....*

*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;*

*....*

*(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;”*

13. Schedule 1 to the Act provides for specified persons to be disregarded for the purposes of discount, which includes full-time students. Paragraph 4 states:

**“Students etc**

**4.** *(1) A person shall be disregarded for the purposes of discount on a particular day if—*

*(a) on the day he is a student, student nurse, apprentice or youth training trainee; and*

*(b) such conditions as may be prescribed by order made by the Secretary of State are fulfilled.*

*(2) In this paragraph “apprentice”, “student”, “student nurse” and “youth training trainee” have the meanings for the time being assigned to them by order made by the Secretary of State.”*

14. The Council Tax (Discount Disregards) Order 1992 (the “Disregards Order”) provides the definition of a student as:

**“4 Students, etc**

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

*....*

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

*.....*

*(b) a person undertaking a full time course of education, by paragraphs 3 and 4 of that Schedule; or*

*.....*

15. Paragraphs 3 and 4 of Schedule 1 to the Disregards Order provide:

*“3. 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.*

*4. (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.*

*(2) In determining whether a course falls within the definition in sub-paragraph (1)—*

*(a) in applying paragraph (c) of that definition, a person is to be treated as undertaking work experience at any time if, as part of the curriculum of the course—*

*(i) he is at a place of employment of his and is providing services under his contract of employment, or*

*(ii) he is at a place where a trade, business, profession or other occupation which is relevant to the subject matter of the course is carried on, and he is there for the purposes of gaining experience of that trade, business, profession or other occupation,*

*and references in sub-paragraph (3) below to periods of work experience shall be construed accordingly;*

*(b) in applying paragraphs (b) and (c) of that definition, the first calendar year shall be treated as beginning with the day on which the course begins, and subsequent calendar years (if any) as beginning on the anniversary of that day;*

*(c) in applying those paragraphs to a course which begins part-way through an academic year of the educational establishment concerned, the academic year shall be treated as beginning at the beginning of the term in which the course begins, and subsequent academic years (if any) as beginning at the beginning of the equivalent terms in those years; and*

*(d) in applying those paragraphs to a course which subsists (or is treated as subsisting) for other than a number of complete academic or calendar years (as the case may be), any last part of the course shall be disregarded.*

*(3) Except in the case of a course for the initial training of teachers in schools, a course is not to be treated as a full time course of education if the aggregate for the course as a whole of all the periods of work experience normally required to be undertaken as part of it exceeds the aggregate of all the periods of study or tuition not constituting work experience normally so required (taking account for this purpose of any period of study, tuition or work experience in a part year which, might otherwise fall to be disregarded under sub-paragraph (2)(d)).”*

## **Discussion**

16. The panel noted from the evidence provided that the appellant's course was provided jointly by the Open University (OU) and North Yorkshire Police. The commitment statement showed the appellant's job role as Police Constable Degree Apprentice and throughout the documentation from the OU was referred to as an apprenticeship. It was clear from the documentation that the appellant is required to work full-time hours, 40 hours per week, for North Yorkshire Police and is paid accordingly. The commitment statement requires the employer to “*give the apprentice at least 20% of their paid hours in off the job training for the purpose of achieving their apprenticeship.*” A calculation was provided to assist in working out the number of hours the apprentice is entitled to for off the job study.
17. Mr McCarten submitted that, although it was accepted that the qualification received at the end of the course was a degree, the course did not meet the criteria for the appellant to be considered a full-time student. He explained that the BA had also looked into whether the appellant would qualify to be classed as an apprentice for council tax purposes but, as she is a paid full-time employee, she did not meet those criteria.
18. The panel noted that the BA had included in its submissions an example of a full-time policing degree that was eligible for council tax purposes. This example was from Coventry University Group -Scarborough and confirmed that the individual concerned was a full-time student from September 2021 to September 2024. In contrast, the panel noted that the appellant's course was referred to consistently as an apprenticeship and she was required to work full-time hours.

19. In her written submission, the appellant contended that the exemption was refused because the OU requires distance learning. However, the panel was aware that OU students can be eligible for council tax exemption, providing the course meets the prescribed criteria. The appellant highlighted that student nurses completing work-based training can qualify to be considered full-time students for council tax purposes and questioned why that should not be the case for her course. The panel noted that student nurses and teachers in training are specifically mentioned in the Regulations. It could not therefore comment on any discrepancy or alleged discrimination and could only apply the law as it stands, with no power to alter the legislation.
20. The appellant had also alleged that the BA had granted exemption for others enrolled on the same course as her own and queried this apparent lack of consistency. When questioned, Mr McCarten explained to the panel that North Yorkshire Council had been recently formed by the merger of seven formerly independent BAs and, without more detail of the addresses concerned, it was extremely difficult to verify these claims. Nevertheless, the panel considered that its jurisdiction in this appeal was to consider the facts of the appeal before it and therefore it could not comment on any other cases, or complaints about the BA's administration.
21. The panel found that there was no dispute that the qualification to be achieved as a result of completing the course in this case was a degree, but it was bound by the governing legislation and prescribed criteria for full-time students for council tax purposes. The appellant contended that all her time, whether 'on the job' or 'off the job' is study and it would require more than eight hours off the job study per week to complete the requirements of the course.
22. The panel considered paragraph 4(3) of Schedule 1 to the Disregards Order, as set out at paragraph 15 above, to be the crux of the issue. In summary, except in the case of initial training of teachers in schools, it prevents a course of education from amounting to a full-time course of education where the person spends more time on work experience than on study or tuition not constituting work experience.
23. From the evidence available, it was clear that the study is predominantly work experience, which far outweighs the 'off the job' study. The work experience is not voluntary but rather paid work, and the documentation and course title all refer to it as an apprenticeship. Under entry requirements for the course the OU states:  
*"No academic entry requirement. Students must be employed and sponsored as part of a formal apprenticeship to be eligible for this degree programme..."*
24. After considering all the evidence presented, the panel found that the appellant was a full-time employee of North Yorkshire Police and was undertaking a sponsored apprenticeship to obtain a degree qualification. The panel concluded that 20% of the requirement was academic study, with the remainder of the contracted 40 hours per week being required work experience.
25. The course of education undertaken by the appellant and her partner is therefore excluded from the definition of a 'full-time course of education' by paragraph 4(3) of Schedule 1 to the Disregards Order. It follows that neither of them can amount to a "student" for the purpose of council tax and the subject property cannot satisfy the requirements of Class N of the Exempt Dwellings Order.

## **Disposal**

26. In view of the above findings and conclusions, the appeal is dismissed.

**Date issued to parties:** 5 August 2024

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## **Right of further appeal**

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the High Court on a question of law. Any such appeal should be made within four weeks of the date of this decision notice.

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