



**The Upper Tribunal
(Administrative Appeals Chamber)**

UT : [2026] UKUT 88 (AAC)

UT Case Number: UA-2024-001842-GPR

Summary: Other general regulatory appeals (98)

The Pensions Regulator issued a fixed penalty notice to the company for failure to comply with a compliance notice – appeal to the First-tier Tribunal – duty of Regulator to provide the tribunal with complete information and accurate account of the decision-making that led to the notices being issued.

Service of compliance notice to principal office of the company – meaning of principal office – not limited to companies registered outside the United Kingdom.

Tribunal suggested that the Regulator should have contacted company by email – not available as company had not consented.

Company denying receipt of compliance notice – ‘bald assertion’ – relevance to balance of probabilities.

Before

UPPER TRIBUNAL JUDGE JACOBS

Between

The Pensions Regulator

Appellant

v

Been London Design Ltd

Respondent

Decided on 20 February 2026 following an oral hearing on 10 February 2026.

Representatives

Appellant: Sam Thomas of counsel, instructed by the Regulator’s Legal Department

Respondent: Genia Mineeva and Roberta Davico

DECISION OF UPPER TRIBUNAL

On appeal from the First-tier Tribunal (General Regulatory Chamber)

Reference: PEN/2024/0015/AE

Decision date: 1 July 2024

Hearing: No hearing

As the decision of the First-tier Tribunal involved the making of an error in point of law, it is SET ASIDE under section 12(2)(a) and (b)(i) of the Tribunals, Courts and Enforcement Act 2007 and the case is REMITTED to the tribunal for rehearing by a differently constituted panel.

DIRECTIONS:

The tribunal must undertake a complete reconsideration of the issues that are raised by the appeal and, subject to the tribunal's discretion under section 12(8)(a) of the Social Security Act 1998, any other issues that merit consideration.

REASONS FOR DECISION

A. What the case is about

1. Employers are under a duty to automatically enrol jobholders in a pension scheme. The employer must make a re-declaration of compliance at regular intervals. In this case, the employer – I am going to refer to it as ‘the company’ – missed the deadline. The Regulator sent a reminder letter, followed by two compliance notices to the company's registered office at the address held by Companies House. All three were returned by the Post Office. The Regulator then wrote to the company at its place of business; the company says it did not receive the notice. Finally, the Regulator issued a fixed penalty notice. The company received this notice and completed the re-declaration. On appeal, the First-tier Tribunal revoked the fixed penalty notice.

2. Unfortunately, the First-tier Tribunal misunderstood the evidence, although without making an error of law. It did, however, make at least one error of law. I have set its decision aside and directed a rehearing. I have provided some analysis, which I trust will be helpful at the rehearing.

B. The legislation

Interpretation Act 1978

3. Section 7 provides:

7 References to service by post.

Where an Act authorises or requires any document to be served by post (whether the expression ‘serve’ or the expression ‘give’ or ‘send’ or any other expression is used) then, unless the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Pensions Act 2004

4. These are the relevant provisions:

303 Service of notifications and other documents

(1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires—

- (a) a notification to be given to a person, or
- (b) a document of any other description (including a copy of a document) to be sent to a person.

(2) The notification or document may be given to the person in question—

- (a) by delivering it to him,
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address.

(3) The notification or document may be given or sent to a body corporate by being given or sent to the secretary or clerk of that body.

...

(6) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body,
- (b) in the case of a firm, or an unincorporated body or association, the address of the principal office of the firm, body or association,
- (c) in the case of any person to whom the notification or other document is given or sent in reliance on any of subsections (3) to (5), the proper address of the body corporate, firm or (as the case may be) other body or association in question, and
- (d) in any other case, the last known address of the person in question.

(7) In the case of—

- (a) a company registered outside the United Kingdom,
- (b) a firm carrying on business outside the United Kingdom, or
- (c) an unincorporated body or association with offices outside the United Kingdom,

the references in subsection (6) to its principal office include references to its principal office within the United Kingdom (if any).

(8) In this section ‘notification’ includes notice; and references in this section to sending a document to a person include references to making an application to him.

(9) This section has effect subject to section 304.

304 Notification and documents in electronic form

- (1) This section applies where—
- (a) section 303 authorises the giving or sending of a notification or other document by its delivery to a particular person ('the recipient'), and
 - (b) the notification or other document is transmitted to the recipient—
 - (i) by means of an electronic communications network, or
 - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(2) The transmission has effect for the purposes of this Act as a delivery of the notification or other document to the recipient, but only if the requirements imposed by or under this section are complied with.

...

(4) Where the person making the transmission is a relevant authority, it may (subject to subsection (5)) determine—

- (a) the manner in which the transmission is made, and
- (b) the form in which the notification or other document is transmitted.

(5) Where the recipient is a person other than a relevant authority—

- (a) the recipient, or
- (b) the person on whose behalf the recipient receives the notification or other document,

must have indicated to the person making the transmission the recipient's willingness to receive notifications or documents transmitted in the form and manner used.

(6) An indication given to any person for the purposes of subsection (5)—

- (a) must be given to that person in such manner as he may require,
- (b) may be a general indication or one that is limited to notifications or documents of a particular description,
- (c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission, and
- (d) may be modified or withdrawn at any time by a notice given to that person in such manner as he may require.

...

(9) Subsection (8) of section 303 applies for the purposes of this section as it applies for the purposes of that section.

(10) In this section, 'relevant authority' means the Regulator, the Board or the Secretary of State and in the application of this section to Northern Ireland by virtue of section 323(2)(g)(ii) also includes the Department for Social Development in Northern Ireland.

(11) In this section and section 305, ‘electronic communications network’ has the same meaning as in the Communications Act 2003 (c. 21).

Pensions Act 2008

5. These are the relevant provisions in Chapter 2 of Part 1 of this Act:

35 Compliance notices

(1) The Regulator may issue a compliance notice to a person if the Regulator is of the opinion that the person has contravened one or more of the employer duty provisions.

(2) A compliance notice is a notice directing the person to whom it is issued to take, or refrain from taking, the steps specified in the notice in order to remedy the contravention.

(3) A compliance notice may, in particular—

- (a) state the period within which any step must be taken or must cease to be taken;
- (b) require the person to whom it is issued to provide within a specified period specified information relating to the contravention;
- (c) require the person to inform the Regulator, within a specified period, how the person has complied or is complying with the notice;
- (d) state that, if the person fails to comply with the requirements of the notice, the Regulator may issue a fixed penalty notice under section 40.

(4) The steps specified in the notice may, in particular, include such steps as the Regulator thinks appropriate for placing the worker in the same position (as nearly as possible) as if the contravention had not occurred.

(5) If the compliance notice is issued in respect of a failure to comply with an enrolment duty and the specified steps relate to membership of a defined benefits scheme or a hybrid scheme, the notice may, in particular, require the employer to ensure that the worker is entitled to the same benefits under the scheme as if the employer had complied with that duty.

40 Fixed penalty notices

(1) The Regulator may issue a fixed penalty notice to a person if it is of the opinion that the person has failed to comply with—

- (a) a compliance notice under section 35,

...

(2) The Regulator may issue a fixed penalty notice to a person if it is of the opinion that the person has contravened—

- (a) any provision of regulations under section 3(2) or 5(2) (prescribed arrangements for automatic enrolment or re-enrolment),

...

(3) A fixed penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.

- (4) The penalty—
 - (a) is to be determined in accordance with regulations, and
 - (b) must not exceed £50,000.
- (5) A fixed penalty notice must—
 - (a) state the amount of the penalty;
 - (b) state the date, which must be at least 4 weeks after the date on which the notice is issued, by which the penalty must be paid;
 - (c) state the period to which the penalty relates;
 - (d) if the notice is issued under subsection (1), specify the failure to which the notice relates;
 - (e) if the notice is issued under subsection (2), specify the provision or provisions that have been contravened;
 - (f) if the notice is issued under subsection (1), state that, if the failure to comply continues, the Regulator may issue an escalating penalty notice under section 41;
 - (g) notify the person to whom the notice is issued of the review process under section 43 and the right of referral to a tribunal under section 44.

43 Review of notices

- (1) The Regulator may review a notice to which this section applies—
 - (a) on the written application of the person to whom the notice was issued, or
 - (b) if the Regulator otherwise considers it appropriate.
- (2) This section applies to—
 - (a) a compliance notice issued under section 35;
 - ...
- (3) Regulations may prescribe the period within which—
 - (a) an application to review a notice may be made under subsection (1)(a);
 - (b) a notice may be reviewed under subsection (1)(b).
- (4) On a review of a notice, the effect of the notice is suspended for the period beginning when the Regulator determines to carry out the review and ending when the review is completed.
- (5) In carrying out a review, the Regulator must consider any representations made by the person to whom the notice was issued.
- (6) The Regulator's powers on a review include power to—
 - (a) confirm, vary or revoke the notice;
 - (b) substitute a different notice.

44 References to First-tier Tribunal or Upper Tribunal

(1) A person to whom a notice is issued under section 40 or 41 may, if one of the conditions in subsection (2) is satisfied, make a reference to the Tribunal in respect of—

- (a) the issue of the notice;
- (b) the amount of the penalty payable under the notice.

(2) The conditions are—

- (a) that the Regulator has completed a review of the notice under section 43;
- (b) that 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.

(3) On a reference to the Tribunal in respect of a notice, the effect of the notice is suspended for the period beginning when the Tribunal receives notice of the reference and ending—

- (a) when the reference is withdrawn or completed, or
- (b) if the reference is made out of time, on the Tribunal determining not to allow the reference to proceed.

(4) For the purposes of subsection (3), a reference is completed when—

- (a) the reference has been determined,
- (b) the Tribunal has remitted the matter to the Regulator, and
- (c) any directions of the Tribunal for giving effect to its determination have been complied with.

(4A) In this section ‘the Tribunal’, in relation to a reference under this section, means—

- (a) the Upper Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the Upper Tribunal is to hear the reference;
- (b) the First-tier Tribunal, in any other case.

6. Section 144A is also relevant:

144A Service of documents and electronic working

In sections 303 to 305 of the Pensions Act 2004 (service of documents and electronic working) references to that Act are to be treated as including references to the following provisions of this Act—

Chapters 2 and 3 of Part 1; ...

Employers’ Duties (Registration and Compliance) Regulations 2010 (SI No 5)

7. These are the relevant provisions:

12. Fixed penalty notices

Where the Regulator issues a fixed penalty notice under subsection (1) or (2) of section 40 of the Act, the penalty is £400.

15. Review and issues of notices

(1) The period within which an application to review a notice may be made under section 43(1)(a) (written application of a person) is 28 days, starting from the day a notice is issued to a person.

(2) The period within which a notice may be reviewed under section 43(1)(b) (review by the Regulator) is 18 months, starting from the day a notice is issued to a person.

(3) The presumptions in paragraph (4) apply where notices to which section 43 applies are issued (including compliance notices issued under section 51 and penalty notices issued under section 52).

(4) For the purposes of this regulation, it is presumed that—

(a) where a notice is given a date by the Regulator, it was posted or otherwise sent on that day;

(b) if a notice is posted or otherwise sent to a person's last known or notified address, it was issued on the day on which that notice was posted or otherwise sent, and

(c) a notice was received by the person to whom it was addressed.

C. What the Regulator did

8. This case arises from the company's automatic enrolment duties and its duty to make a re-declaration of compliance. The deadline for making that declaration was 31 July 2023. It was not made by the deadline.

9. The Regulator posted a compliance reminder letter to the company on 9 August 2023, followed by compliance notices under section 35 on 24 August 2023 and 6 September 2023. The letter and notices were posted to the address shown as the company's registered office at Companies House. I am going to call this 'the first address'. The reminder and both notices were all returned by the Post Office marked 'addressee gone away'.

10. On 20 September 2023, the Regulator posted a third compliance notice. The copy in the papers before the First-tier Tribunal showed that it was sent to a different address. I am going to call this 'the second address'. As far as I know, this notice was not returned by the Post Office. On appeal to the First-tier Tribunal, the Regulator said that this notice 'was sent to the current registered office address'.

11. In fact, the second address was not registered with Companies House until 9 October 2023. My understanding is that the second address is where the company carries on its business.

12. No re-declaration of compliance was made and the Regulator posted a fixed penalty notice for £400 under section 40 to the company on 15 November 2023. It was sent to the second address. This time, the company reacted and applied for a review.

13. The Regulator refused the review and confirmed the fixed penalty notice on 12 December 2023. In the decision, the Regulator wrote:

Our records show that the Compliance notice and the Fixed penalty notice were issued to the correct registered address [at the second address]. The notices have therefore been correctly issued.

That was not right. The second address was not the correct registered address when the compliance notice was issued, although it was when the fixed penalty notice was issued.

D. What the First-tier Tribunal did

14. The company exercised its right of appeal to the First-tier Tribunal. The ground of appeal was that the company did not receive the third compliance notice that was sent to the second address. It had received the fixed penalty notice sent to that address and had immediately completed the re-enrolment duties.

15. Both parties agreed that the case ‘was suitable for determination on the papers’, with the result that the judge made the decision without a hearing.

16. The judge revoked the fixed penalty notice.

17. The first step in the judge’s reasoning was that the third compliance notice was not sent to the second address, it was sent to the first address. The address on the copy of that notice before the tribunal was generated by the Regulator’s computer when it was produced for the appeal bundle. As I will explain, the judge was mistaken, which coloured the way the judge expressed the following analysis. I have sifted out the underlying reasoning, which comes to this.

18. The second step in the reasoning was that the Regulator knew that service at that address was ineffective.

19. The third step was that ‘the Regulator has access to actual email business addresses or to email addresses of company officers which could be used to prompt companies to comply ...’

20. The fourth step was to revoke the penalty.

E. The tribunal was wrong in fact about where the Regulator had sent the third compliance notice

21. The judge found that the third compliance notice had been sent to the first address, which was the addressed registered at Company’s House on the date it was sent:

12. The Regulator has produced evidence from Companies House indicating that the Employer changed their registered office address, to [the first address]. The Regulator in its documents states that this occurred on 19 September and it issued a compliance notice to this address on 20 September 2023 requiring compliance by 31 October. In the bundle prepared by the Regulator is a copy of the Compliance notice with that date and address. However the Companies House record shows that that this filing occurred on 9 October 2023. It is worth examining the Regulator’s response to the appeal.

The judge then quoted some paragraphs from the Regulator’s response, including:

13. Subsequently, the Appellant changed their registered office address, on the 9 October 2023 to [the new address].

14. The Respondent proceeded to issue a 3rd Compliance Notice on 20 September 2023. The 3rd Compliance Notice was sent to the current registered office address [at the second address]. The 3rd Compliance Notice directed the Appellant to re-declare compliance, the step the Appellant deadline for compliance to 31 October 2023. The Respondent did not receive a response to this notice.

This led the judge to conclude:

13. Since [the second address] was not the registered office at the date the notice was issued the Regulator in creating the bundle has relied on software to create the page from a model letter and the software has retrieved the address of the company held at the time the page was created while dating the page with the date the 3rd Compliance notice was sent.
22. Mr Thomas showed me evidence that the third compliance notice had been sent to the second address and not, as the judge found, to the first address. There is a record that, on 19 September 2023, the day before the third compliance notice was issued, a member of the Regulator’s staff identified the second address as the location of the company’s business. That is why the notice was sent to that address, not because the Regulator believed that it was the address of the company’s registered office.
23. The judge’s conclusion on the address to which the Regulator sent the notice was a finding of fact. An appeal to the Upper Tribunal lies on ‘any point of law arising from a decision made by the First-tier Tribunal’ (section 11(1) of the Tribunals, Courts and Enforcement Act 2007). I accept that the judge’s finding was wrong as a matter of fact, but it did not involve an error of law. The evidence I was shown was not in the papers put before the First-tier Tribunal. Moreover, the Regulator’s review decision stated that the third compliance notice had been sent to the second address and described that as the company’s registered address, which it was by then. The submission to the First-tier Tribunal said the same. The Regulator accepted that the case was suitable for determination on the papers, thereby indicating that the evidence was reliable and complete. The finding was based on the evidence provided by the Regulator. The judge’s reasoning was rational. It relied on the way that databases often work. They may not store documents issued, but reconstruct them if needed later. This can result in a mixture of (a) historic information that was included in the document when first generated and (b) information that was current was the document was reconstructed.
24. The judge had no reason to make further inquiries. The Regulator was not a contentious party in the appeal. In *London Borough of Hillingdon v AP and SP* [2024] UKUT 388 (AAC) at [8]-[15], I dealt with the nature and source of such a party’s role. It is based in: (a) the governing legislation, in this case the Pensions Acts; (b) the case law beginning in the 19th Century; and (c) the overriding objective and duty to co-operate in the First-tier Tribunal’s rules of procedure. The Regulator’s role is to ensure that the legislation is correctly applied and to provide the tribunal with the necessary material to check whether that has been done. In this case, the evidence that the Regulator provided to the tribunal was incomplete (in omitting the results of the search for an alternative way of contacting the company) and the account of the decision-making was inaccurate (in asserting that the third compliance notice had been sent to the company’s registered office).

F. The tribunal was wrong in law about effecting service by email

25. Section 304 of the 2004 Act provides for service by email. However, I accept Mr Thomas's argument that this was not an option available to the Regulator in this case. Section 304(5)(a) provides that it is only permissible if a company has consented to receive communication electronically. In this case, the company had not consented, at least there was no evidence that it had. In those circumstances, the tribunal was wrong in law to rely on electronic communication.

G. Why I have remitted the case for rehearing by the First-tier Tribunal

26. As the tribunal made an error of law, I set it aside. It is not necessary to consider whether the tribunal made any other errors of law.

27. Mr Thomas invited me to re-make the decision rather than remit the case for rehearing. Having considered his submission, I have decided to remit the case. The First-tier Tribunal did not hold a hearing and therefore had no chance to question anyone on behalf of the company. Moreover, its assessment of the evidence before it was flawed by misunderstanding the evidence. I did hear some brief submissions on behalf of the company, but I did not hear evidence or ask questions. The ground of appeal to the First-tier Tribunal was that the third compliance notice was not received. The company is entitled to a hearing that will allow it to make good that ground, if it can.

H. Analysis

28. I hope that this analysis will assist the First-tier Tribunal at the rehearing.

29. This case came before the tribunal on appeal by the company against the Regulator's fixed penalty notice under section 40. The tribunal's jurisdiction was conferred by section 44. It was a condition precedent of its jurisdiction that the Regulator must have completed a review under section 43. Unlike some jurisdictions, however, the appeal did not lie against the decision on the review.

30. Under section 44(1), the tribunal has jurisdiction in respect of the issue of the notice and the amount of the penalty. The company's grounds of appeal referred to the issue of the notice. The Regulator had only been entitled to issue the notice if the company 'had failed to comply with ... a compliance notice under section 35'. A failure presupposes a duty, so the tribunal had to consider whether the compliance notice under section 35 had been effective to create that duty.

31. Section 303 of the 2004 Act deals with service. It applies to service of the compliance notice by virtue of section 144A of the 2008 Act. The notice would only be effective if it was sent to a proper address. With the additional evidence before me, I know that the notice was not sent to the company's registered office, so it could not be served on that basis. Mr Thomas argued that it had, though, been properly sent to the company's principal office. That is alternative to service to the registered office under section 303(6)(a), which must be read with section 303(7). There is no definition of 'principal office' in the Interpretation Act or the Pensions Acts. It is generally used, as it is in section 303(7), in relation to companies that are registered outside the United Kingdom. I have not, though, found any provision that requires me to read it as applicable only to those companies. So, it has to be interpreted as an ordinary word in its context.

32. The presumptions under section 7 of the Interpretation Act 1978, section 303(6) of the 2004 Act and regulation 15 of the 2010 Regulations are rebuttable: *Philip Freeman Mobile Welders Ltd v The Pensions Regulator* [2022] UKUT 62 (AAC) at [38]-[45]. The Regulator could not rely on either the first or second compliance notice, because there was evidence that they had not been received by the company. As best I can discover, the problem may have been that the company's accountant acted as its registered office. That came to an end when the accountant ceased to act for the company. [I may be wrong about that.] There was then a delay before the company updated its information at Companies House. That was why the reminder letter and first two compliance notices were returned by the Post Office.

33. In an ideal world, all companies would keep their details at Companies House up-to-date. However, not all companies, especially small companies, act so promptly. When that happens, the Regulator is left without an address for effective service. Taking that into account, it is appropriate to give 'principal office' its normal meaning and not to limit it to companies that are registered outside the United Kingdom. On that basis, the third compliance notice was served on the company's principal office.

34. Mr Thomas made submissions on what has been referred to in the cases as 'bald assertions'. In other words, the employer says that they did not receive a notice. Depending on the circumstances, this can raise two issues. First, it may raise the issue of whether the service presumptions are rebutted. As examples, this will be the position if the employer argues that the notice was sent to the wrong address or was not delivered at the correct address. If the presumptions are rebutted, the notice was not effective. If the notice was a compliance notice, the duty to comply with it did not arise. Second, if the presumptions are not rebutted and the notices are effective, lack of knowledge is a factor that may be taken into account when deciding whether the employer had a reasonable excuse for not complying. On reasonable excuse, see *The Pensions Regulator v Strathmore Medical Practice* [2018] UKUT 104 (AAC) at [16].

35. Whichever issue arises, and it may be both in the alternative, the employer must show that the notice was not received. The concept of bald assertion may be useful when a case is considered by the Regulator. It will be less useful when the case is considered by the tribunal Regulator. At that stage, the employer will have been able to give more context to their evidence that they did not receive the notice. What that context is will depend on the particular case and it may only appear in response to questioning at the hearing. The issue for the tribunal will be whether the employer had established any matters of fact on the balance of probabilities. A bald assertion is merely an example of evidence that would not satisfy that test, not a separate concept.

36. Section 40(1) applies if 'the Regulator ... is of the opinion that the person has failed to comply with ... a compliance notice'. I discussed with Mr Thomas the significance of the Regulator's opinion. Mr Thomas accepted that the First-tier Tribunal was not bound by the opinion that the Regulator had formed. I accept that. Otherwise, it would render an appeal largely nugatory. It follows, as Mr Thomas accepted, that the tribunal was entitled to form its own opinion on failure. But, he submitted, the tribunal had to form that opinion in the same legislative framework as the Regulator would have to. I accept that also.

I. Three final points

The judge's refusal of permission to appeal

37. Mr Thomas referred to what the judge said when refusing permission to appeal to the Upper Tribunal. I repeat what I said in response.

38. The appeal to the Upper Tribunal lies only against the First-tier Tribunal's decision of 1 July 2025: *Bittar v Secretary of State for the Home Department* [2025] UKUT 277 (IAC) at [10]. There is no appeal against its decision refusing permission to appeal: *Sarfraz v Disclosure and Barring Service* [2015] 1 WLR 4441 at [24]-[26]. It follows that the reasons for refusing permission to appeal are not part of the decision under appeal and may not be used to show that a point of law arises from that decision: *Albion Water Ltd v Dŵr Cymru Cyf* [2009] 2 All ER 279 at [67].

Tone and bias

39. This is one of four appeals. I have yet to decide the other three. The Regulator has criticised the judge not only for the tone of the reasons given in these cases, but also of apparent bias. There is nothing to indicate apparent bias in this case. But Mr Thomas argued that the judge's critical remarks about the Regulator's conduct in this case set the tone for the more strident remarks in the later cases. In short, the judge had accused the Regulator of being more concerned to generate income through penalties than to find a way to communicate effectively in order to ensure compliance.

40. I am not going to criticise the judge's tone or comments in this case. They began from the judge's analysis of the evidence. Given the way that the case was presented, that analysis was rational. If the Regulator had provided the evidence that I have now seen, the judge would have realised that the Regulator had tried to find a different way to contact the company. The Regulator issued a reminder letter and three compliance notices before imposing the penalty. There was also evidence of an attempt to telephone the company, which was not before the First-tier Tribunal. It is perhaps surprising that the Regulator had to receive three 'addressee gone away' notices from the Post Office before trying a different method. But the history of this case, as proved by the evidence before me, does not show that the Regulator had prioritised income generation over compliance. Indeed, the return of the letter and notices provided the evidence to rebut the presumptions in the legislation.

Mr Thomas

41. Last, but not least, I thank Mr Thomas for his response to a direction I gave on 16 September 2025 raising a number of questions and his skeleton argument for the hearing. Having read the skeleton, the hearing proceeded differently from what I had anticipated when I made my direction. The result is that I have not needed to rely on much of what Mr Thomas wrote in response to my direction. I am, though, grateful for what he wrote, which may yet be relevant in deciding the other appeals.

42. Speaking of the other cases, Mr Thomas dealt with all the appeals in his skeleton argument and at the end of the hearing provided me with a route map through the other cases. I thank him for his succinct and skilful submissions.

**Authorised for issue
on 20 February 2026**

**Edward Jacobs
Upper Tribunal Judge**