



**UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER**

Neutral Citation Number: [2026] UKUT 00145 (TCC)

Applicant: John Strange	Tribunal Ref: UT-2025-000112
Respondents: The Commissioners for His Majesty's Revenue and Customs	

**APPLICATION FOR PERMISSION TO APPEAL
DECISION NOTICE FOLLOWING HEARING ON 27 MARCH 2026**

JUDGE ANNE REDSTON

1. By a decision issued on 6 March 2025 (“the Decision”), the First-tier Tribunal (Tax Chamber) (“the FTT”) refused Mr Strange’s appeal. The FTT Judge subsequently refused Mr Strange permission to appeal against the Decision.
2. Mr Strange then applied to the Upper Tribunal (Tax and Chancery) Chamber (“the UT”) for permission to appeal (“the PTA Application”). I considered the PTA Application on the papers, and gave Mr Strange permission to appeal on Ground 1 but refused permission on the other three Grounds.
3. Mr Strange subsequently requested that the PTA Application be reconsidered at an oral hearing, which he attended as a litigant in person. HMRC were notified of the hearing but decided not provide submissions or send a representative. This decision explains why, after that hearing, I have refused permission for Mr Strange to appeal on any ground other than Ground 1.

THE LAW

4. An appeal to the UT from a decision of the FTT can only be made on a point of law (section 11 of the Tribunals, Courts and Enforcement Act 2007). The UT thus has a discretion whether to give permission to appeal.
5. It is the practice of this Chamber of the UT to grant permission to appeal where the grounds of appeal disclose an arguable error of law in the FTT’s decision which is material to the outcome of the case or if there is some other compelling reason to do so (such as if the appeal raises a point of law of general public importance), see *Spirit Motor Company v HMRC* [2024] UKUT 00230 (TCC).

BACKGROUND

6. On 11 December 2019, HMRC issued Mr Strange with a Personal Liability Notice (“PLN”) under section 121C of the Social Security Act 1992, on the basis that his company, S&M Property Maintenance Scotland Limited (“the Company”) had underpaid National

Insurance Contributions (“NICs”) and that those underpayments were attributable to Mr Strange’s neglect.

7. Mr Strange appealed the PLN decision to the FTT, and the hearing took place on 18 July 2025. Mr Strange did not attend the hearing, for reasons he explained to the FTT. However, the hearing continued in his absence, and the FTT proceeded to decide the appeal against him.

8. Ground 1 of the PTA Application was that it had been an error of law to hold the hearing in his absence. I have already decided this Ground is arguable and have given Mr Strange permission to appeal.

The telephone call

9. The HMRC Officer with responsibility for enquiring into Mr Strange’s case was Officer Bhazad Mustafa. As part of that enquiry, he called Mr Strange on 17 September 2019, see [38] of the Decision.

10. Officer Mustafa made a note of that conversation, which recorded (among other things) that:

(1) Mr Strange first became aware of financial difficulties 6 to 12 months down the line [from when he started the business]. The problems were caused by the numbers of staff recruited leading to cash flow problems.

(2) To address the problems, he looked for more contracts and borrowed money from family and friends to pay wages.

(3) He was aware of the statutory obligation to pay PAYE/NIC, and that payment had to be made to HMRC. He tried to fulfil it but matters just got worse and worse. He ensured wages were paid by the 17th of every month.

(4) A time to pay arrangement was made with HMRC but this was not complied with due to lack of funds.

(5) He borrowed enough from the bank, family, and friends to pay wages, but HMRC were at the back of his mind.

(6) He apologised saying he had made a big mistake.

(7) He did not consider cutting staff as he could charge clients for each man per day. His focus was on paying the staff.

(8) Repayments made to him from the Company bank account were monies he said were returned to family and friends who had lent him money.

(9) There was no money available to make payments to HMRC

11. The Decision records as follows:

“38. The HMRC officer then drafted notes of the telephone conversation and sent them to the Appellant with an email dated 20 September 2019 which said ‘I would kindly request you to acknowledge this email and carefully read through the contents of the attachment. If you are happy with the contents of the attachment, please kindly inform us’.

39. The Appellant replied 03 October 2019, saying ‘I have now read your notes and I do not feel I can add anything at this point other than to reiterate that I did not do any of this deliberately’.”

12. When Mr Strange appealed to HMRC against the PLN, he said “[t]he everyday workings of the business were perhaps not explained fully by myself on our initial call”, and he followed

that with a detailed explanation of how the cash flow problems had arisen and what he had done about them, see [45] of the Decision.

13. Officer Mustafa did not attend the FTT hearing, but he provided a witness statement. The FTT did not take that statement into account, for the reasons explained at [106] of the Decision, which read:

“Whether or not the Respondents’ witness would have been able to provide any further evidence or confirmation in addition to information in the notes he prepared of the telephone conversation of 17 December 2019, the fact is he was not able to confirm his witness statement and, accordingly, the tribunal decided, in accordance with the overriding objective at Rule 2, of the Tribunal Rules, to disregard it.”

14. The FTT instead decided the appeal on the basis of the other evidence in the Bundle, including the note of Mr Strange’s conversation with Officer Mustafa and his subsequent confirmatory email.

GROUND 2 TO 4 AS SUBMITTED

15. Mr Strange instructed a lawyer to draft the PTA Application. Grounds 2 to 4 were as follows:

(2) The FTT relied on evidence from Officer Mustafa, despite him having not attended the hearing, and this was a breach of Article 6 of the ECHR because Mr Strange was prevented from challenging “the accuracy, credibility, and interpretation” of Officer Mustafa’s evidence.

(3) The First-tier Tribunal erred in law by relying on untested and unchallenged evidence from the absent HMRC officer. Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009, Rule 15(2)(a) empowers the Tribunal to exclude evidence where it would be unfair to admit it. The Tribunal’s failure to exercise this discretion in circumstances where the Appellant was unable to cross-examine the key witness constitutes an error of law

(4) Without the evidence of the absent HMRC officer being subject to cross-examination, HMRC’s case was incomplete and did not meet the required burden of proof. By relying on such evidence, the Tribunal reached a decision unsupported by a proper evidential foundation. This renders the decision unsafe and unlawful

REFUSAL DECISION ON THE PAPERS

16. I refused permission on Grounds 2-4 on the papers because:

(1) The FTT did not rely on Officer Mustafa’s witness statement, see [106] of the Decision cited above, but instead on other evidence in the Bundle.

(2) Although that other evidence included Officer Mustafa’s notes of his conversation with Mr Strange, the content of those notes had been confirmed as correct by Mr Strange, see [40] of the Decision.

17. When Mr Strange renewed the PTA Application, he asked for those Grounds (as submitted) to be reconsidered. However, I confirm that they do not disclose an error of law for the reasons set out above, and for the following additional reasons:

(1) Ground 2 implies that it was Officer Mustafa’s absence which “prevented the Appellant from challenging the accuracy, credibility, and interpretation of that evidence”, whereas it was *Mr Strange’s* absence which prevented him from challenging Officer Mustafa’s evidence., namely the note of the telephone conversation. I have already given

Mr Strange permission to appeal the FTT's decision to continue the hearing despite him being unable to attend.

(2) Ground 3 is unarguable, because the FTT was entitled to rely on the evidence of the telephone conversation, given that Mr Strange had confirmed in a contemporaneous email that he had nothing to add.

(3) Ground 4 is also unarguable, because the FTT made its decision on the basis of the evidence having excluded Officer Mustafa's witness statement.

AMENDMENT TO THE GROUNDS

18. At the oral hearing, Mr Strange said that the underlying reason for Grounds 2-4 was not set out in the text of those Grounds. He explained that in his view, the FTT had been wrong to rely on the evidence of the telephone conversation note because:

(1) it did not accurately or fairly reflect what had passed between him and Officer Mustafa;

(2) Officer Mustafa had asked him leading questions and only recorded some of Mr Strange's replies;

(3) Mr Strange had been told at the beginning of the call that it would be recorded, so he did not take his own notes;

(4) he has repeatedly asked for a copy of the transcript, but was initially told it could not be located, and subsequently that the call had never been recorded; and

(5) his recollection was that his related correspondence was included in the Bundle for the FTT hearing, which he would seek to locate and forward for my consideration after the hearing.

19. In terms, this was a submission that the FTT had made an error of law because it failed to take into account a matter "which no tribunal properly instructed would have left out of account", see *Aria v HMRC* [2018] UKUT 363 (TC) at [29] by reference to *Associated Provincial Picture Houses Ltd v Wednesbury Corp* [1948] 1 KB 223, 229.

20. I decided it was in the interests of justice to allow Mr Strange to amend his Grounds, because his amendment underpinned the three Grounds for which he had already sought permission.

The Bundle

21. In the event, Mr Strange could not locate his copy of the Bundle, and I am grateful to HMRC who provided the UT with a copy. Some of the documents in the version emailed to me were illegible, but it was clear from the Index that all but one of those documents was irrelevant to the matter I had to consider, being bank statements, the Company's accounts and a report from the Company's liquidator. The exception was Mr Strange's Grounds of Appeal to the FTT, a further copy of which HMRC forwarded separately.

22. Having carefully considered the Bundle, I identified no references in the documents to Mr Strange having asked for a transcript of the telephone call with Officer Mustafa. The FTT therefore could not have taken that request into account and there was no error of law in that regard.

23. The only reference to Mr Strange challenging the note of the telephone call was in the Grounds of Appeal, which said:

"I feel that the case officer used my words and came to the wrong conclusions.
In my haste I agreed that I was responsible for the debt but clearly the

situations [sic] surrounding the reason for it building up were not considered at all.”

24. Mr Strange therefore did not say he was appealing because Officer Mustafa had based the PLN on an incomplete or incorrect record. Instead, Mr Strange challenged the *conclusions* Officer Mustafa had drawn from what Mr Strange had said.

25. The FTT could not reasonably have inferred from the grounds of appeal that Mr Strange wanted to challenge the accuracy of the telephone conversation note, and there was no related error of law.

Other communications

26. I also took into account that (as recorded at [4] of the Decision) Mr Strange emailed the Tribunal Service on 21 February 2025 as follows:

“whilst I have not submitted any evidence (I do not have the call recording) and I have not called any witnesses (I was relying on cross examining the HMRC staff member who was called as HMRC witness) I was completely relying on the cross-examination of this witness as they are the only one who can confirm how the call went and the things they said on the call.”

27. This email therefore informed the FTT about the lack of a recording, and that he wanted to ask Officer Mustafa about the call, but it did not say that Mr Strange considered:

- (1) that a key item of evidence – the recording – had not been provided by HMRC and should have been provided; and/or
- (2) that the recording would show that Officer Mustafa’s note was incomplete and/or incorrect.

28. Given the very limited information provided by Mr Strange, it was entirely reasonable that the FTT did not realise that he wanted to challenge the accuracy and/or completeness of the telephone conversation record.

Conclusion on amendment to the Grounds

29. For the reasons set out above, Mr Strange’s amendment to Grounds 2 to 4 does not identify any error of law in the Decision and permission to appeal is therefore refused.

OVERALL CONCLUSION

30. Permission to appeal to the Upper Tribunal has been **granted** on Ground 1 and has been **refused** on the other three Grounds, both as originally submitted and as amended in the course of this hearing.

Signed: ANNE REDSTON

JUDGE OF THE UPPER TRIBUNAL

Date: 10 April 2026