Issue 56

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Valuation Tribunal Service

Valuation in Practice

News in brief

COVID-19 (coronavirus)

From early in March we were receiving significant numbers of postponement requests from parties concerned about travelling to hearings. So, on 19 March, to promptly address user concerns and adhere to government advice, all our hearings scheduled up to 30 June 2020 were postponed, involving 500 appeals. We investigated how best to progress these during the lockdown and identified around 250 of them as having evidence bundles lodged with us and, therefore, suitable to be heard on the papers. As required under regulations, we are now seeking parties' consent for these appeals to be dealt with in this manner.
In addition, we have been operating remotely since 20 March. With the temporary closure of our offices, we are unable to deal with any post and encourage all communication via email where possible. Further updates will be given on our website.

Appeals and Listings Service

In this period of lock down, affecting hearings, we continue to progress initiatives and on 1 April launched our Appeals and Listings Service, AALS.

AALS provides an improved search facility for appellants and rating agents. It also provides billing authorities with greater visibility of potential rates income changes due to appeals on the 2017 rating list. Users can extract search results in .csv format.

The new service covers appeals awaiting listing, listed appeals and appeal decisions for these appeal types:

- non-domestic rating appeals on the 2017 list
- penalty notice appeals
- council tax liability appeals, and
- council tax valuation/invalidity appeals

Search options ensure relevant data is returned: appeal number, address, date relevant to the search type and billing authority. For listed appeals, searches can also be made on venue and town/city. Decision outcome can be searched on for VTE decisions. For the 2017 rating list, search criteria can include rateable value, primary description and agent's name.

Changes to non-domestic rates

At the end of January, the Government announced it would be increasing the retail discount available to eligible properties with a rateable value of less than £51k from one third to 50% for 2020-21.

The Chancellor announced in his Budget that the government would publish the terms of reference for a fundamental review of business rates, to report in the autumn, with a call for evidence published in the spring. In response to COVID-19, the Chancellor said that for 2020-21:

- the level of the retail discount is increased to 100% for eligible retail businesses occupying a property with a rateable value (RV) of less than £51k;
- the retail discount is expanded to include hospitality and leisure properties, with an RV of less than £51k (such as museums, theatres, gyms and hotels); and
- the level of the pubs discount is increased to £5k for pubs with an RV less than £100k.

Subsequent changes in response to COVID-19 were:

- no rates payable for 2020-21 for any business in the retail, hospitality or leisure sectors (HMT is seeking agreement with the European Commission for this to be a notified state aid).
- in those sectors, where the RV is £15k to £51k, a cash grant of up to £25k per property will be awarded;
- any business in receipt of small business rates relief, will receive a cash grant of £10k;
- these measures will be administered by local authorities, and delivered without businesses needing to claim.

All the changes have been summarised in a series of MHCLG's **Business Rates Information Letters** issued this year. They can be found at https://www.gov.uk/government/collections/business-rates-information-letters

House of Commons Library: Briefing Paper Number 8847, Coronavirus: Support for businesses
https://researchbriefings.files.parliament.uk/documents/CBP-8847/CBP-8847.pdf.

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Inside this issue:

Council Tax Information Letters

2/2020
In May 2019, new rules came into force that affected how mixed-age couples (where one partner has attained state pension credit age and the other has not) accessed benefits. The Letter confirms that no consequential legislative changes are needed to ensure regulatory alignment between Local Council Tax Support and the wider benefits system.

3/2020
This letter provides billing authorities with a Q&A note on the technical implementation of the £500 million Covid-19 hardship fund.
https://www.gov.uk/government/collections/council-tax-information-letters

Upper Tribunal (LC) President's Guidance on the conduct of proceedings during the COVID-19 pandemic

https://www.judiciary.uk/wp-content/uploads/2020/03/2020_03_24_-UT-Lands-Chamber-Covid-19-Presidential-Guidance-final_.pdf

Appeals stayed by the Valuation Tribunal for England

Class	Issue	Reasons
ATMs	Whether each ATM machine at a site in England is rateable	Decision now awaited from Supreme Court
Photo booths	Whether occupation of booths is too transient and therefore not capable of rateable occupation	ATM decision in part on similar point. Decision on ATMs awaited from Supreme Court
Church of Scientology properties	VOA dealing with several appeals by the Church of Scientology relating to religious exemption on premises around England	Appeals postponed and not listed . May have to be resolved on legal arguments under PS3 (Complex cases) of the Consolidated Practice Statement
Council tax liability—severe mental impairment	Where retrospective relief is sought for a period when the person was not in receipt of a qualifying benefit	Appeal to the High Court on a point of law. *Derek Brown v Hambleton District Council*
NDR	Legal—Validity of proposals made under reg. 4(1)(k) and PICO legislation (Mazars reversal)	Circumstances when a relevant proposal can be made.
NDR—Museums	Dispute over valuation approach	Judgment from the Upper Tribunal regarding 'contractors test' or receipts and expenditure method to be adopted may be appealed

Decisions from the Upper Tribunal (Lands Chamber)

Roberts (VO) v Backhouse Jones Ltd [2020] UKUT 0038 (LC), RA/23/2019

Are adjacent office suites separated by a fire corridor to be treated as contiguous and entered as a single hereditament? Subsequent to the Supreme Court's judgment in *Mazars,* the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 inserted section 64(3ZA)-(3ZD) into the 1988 Act. This provides, in relation to hereditaments which are occupied, that two or more (whether in the same building or otherwise) are to be treated as one hereditament where three conditions are satisfied: the hereditaments must be occupied by the same person; they must meet the "contiguity condition" in section 64(3ZC); and none of the hereditaments must be used for a purpose which is wholly different from the purpose for which any of the other hereditaments is used. Section 64(3ZD) defines 'contiguity': two occupied hereditaments on the same floor will be contiguous if some or all of a wall of one forms all or part of a wall of the other.

The Upper Tribunal (UT) found that no part of any wall of Suite 8-9 formed any part of a wall of Suite 10. The fire corridor between the two hereditaments was not a space within a wall, it was a space between two walls, neither of which enclosed both hereditaments. Whilst it was argued that the fire exit was a 'space', which according to 64(3ZD) did not prevent from the suites from being contiguous, the UT determined that the definition only referred to a void or service compartment between two walls (or ceiling and floor on adjacent levels). The fire exit did not fall within the interpretation.

Decisions from the Upper Tribunal (Lands Chamber)

Buzz Group Ltd v Salmon (VO) [2020] UKUT 0116 (LC) RA/7/2019

Should the rateable value of a bingo hall, which had been reduced in size to reflect its demand, be reduced? The valuation was undertaken on the basis of a percentage of fair maintainable trade (FMT), which did not significantly alter following the works. Whilst at the material date the bingo hall was not operational, as fitting out had not occurred, the Upper Tribunal found nothing turned on the point as it was to be valued vacant and to let (without the tenant's chattels). The normal method of valuation for this type of property was the receipts and expenditure method as opposed to a valuation based on size which reflects a tone of value. The appeal was dismissed and the original decision of the VTE not to allow a reduction confirmed.

Wigan Football Company Ltd v Cox (VO) [2019] UKUT 0389 (LC) RA/61/2018

Permission to appeal to the Court of Appeal was refused on 5 February 2020.

Arma Hotels Ltd v Corkish (VO) [2020] UKUT 0103 (LC), RA/37/2019

The issue was the value to be certified on a transitional certificate for a small independent hotel.
The appellant contended for a rateable value (RV) based on 12.24 Double Bed Units (DBU) using the basis of fair maintainable trade (FMT) and a discount of 15% for the material change of circumstances (mcc) in the locality. The respondent used 13.94 DBU and comparative valuation as a primary methodology, with a discount of 8.25% for the mcc. The UT accepted the appellant's assessment of the DBU, but included the laundry room which was treated as a single room, making a total for the hotel of 12.94 DBU.

Neither party provided evidence of rents at the valuation date of 1 April 2008. The 'shortened receipts and expenditure method', used for 4* and 5* hotels, and major chain operated hotels, under a national valuation scheme was not directly applicable to other hotels. From the submissions, the UT concluded that neither party presented evidence in which it could have confidence as a basis for use of the FMT methodology here. Using a comparative rental value per DBU where there is no rental evidence, would have to be based on evidence of a settled tone of the list for 2010 rateable values. The UT turned to this as being more appropriate for small independent hotels and determined a figure of £1,100 per DBU.

The material change in circumstances in the locality resulted from the opening of other, mostly larger, hotels in the Wembley area. The valuation officer (VO) gave evidence of an allowance of 8.25% agreed on a comparable basis for a small, nearby, independently run hotel which had a new Travelodge opening close by it. The VO contended that without evidence of direct impact on trade, the amount of allowance due to the appeal property would be a matter of professional judgement. Her opinion was that an allowance of 8.25% was appropriate; the appellant gave no direct evidence to support his contended figure of 15%. The UT determined the revised RV using an allowance of 8.25%. The appeal was allowed in part.

Stock Auto Breakers Ltd v Sykes (VO) [2020] UKUT 0052 (LC), RA/12/2019

This was the first appeal heard by the Upper Tribunal (UT) since the introduction of the "Check, Challenge, Appeal" process to resolve disagreements on rating lists compiled on or after 1 April 2017. On appeal, both parties introduced new evidence that was not available to the VTE.

Under regulation 17A of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, inserted by reg. 9 of SI 2017/156, as from 1 April 2017 the VTE cannot take into account new evidence that has not been exchanged between the parties before the hearing.

In its judgment, the UT determined that reg.17A only applied to the VTE and that the UT was not bound by this under their rules. Whilst rule 16(2)(b)(iii) of the UT's rules stated that it may exclude evidence that would otherwise be admissible where it would otherwise be unfair to admit it, the UT concluded that was not the case here, as both parties relied on evidence not previously considered as part of their responses and statements on appeal.

Decisions from the Upper Tribunal (Lands Chamber)

Avison Young Ltd v Jackson (VO) [2020] UKUT 0058 (LC), RA/22/2019

Does the VTE have power to limit the period of a reduction in the exercise of its power under regulation 38(7) of its Procedure regulations?

Reg 38(7) states that where it appears that circumstances giving rise to an alteration ordered by the VTE have ceased to exist, the order may require the alteration to be made in respect of such period as appears to the VTE to reflect the duration of those circumstances.

The parties had agreed that the rateable value (RV) of the premises should be reduced to nil from 1 September 2014 to 8 February 2015. They disagreed over what should happen after that date. The issue before the VTE was whether the RV should remain at nil from the date on which the hereditament became capable of beneficial occupation until the VO's alteration took effect on April 2015, or whether it should be restored to the list at its original figure of £1.83m with effect from 8 February 2015?

A separate proposal, made by the appellant on 22 July 2016, sought a reduced RV for a further change of circumstances from 1 May 2016. The VO reconsidered his valuation at that time and concluded that the appropriate valuation was £1,819,156.

Vice-President Martin Young took the view that the circumstances which had given rise to that alteration had ceased to exist on 23 January 2015 when the premises were fitted out and ready for occupation. He accepted that the power under regulation 38(7) was therefore engaged and that meant he could limit the period for which the nominal RV would apply to the period of the works. No new hereditament had been created by the works and the original hereditament had remained in the list and could be dealt with accordingly. The appellant could have proposed the deletion of the entry from the list altogether but had not done so. He also noted that the restoration of the original entry would cause it to have an RV which the VO now regarded as too high.

On appeal, the Upper Tribunal (UT) noted that the VTE's power under 38(7) was discretionary: the VTE was entitled to conclude on the agreed facts that the circumstances giving rise to the alteration in the list ceased to exist on 23 January 2015. The power under reg. 38(7) was therefore available. In *Simpsons Malt Ltd v Jones (VO)* the UT explained why it treats appeals against discretionary case management decisions of the VTE differently from appeals against decisions on valuation issues. It was the UT's view that the same approach should be adopted to a discretionary decision under 38(7). In its judgment the VTE was entitled to exercise its discretion in the way it did. If the UT were to exercise the discretion afresh it would do so in the same way as the VTE. Because the list could no longer be altered with effect from a date earlier than 1 April 2015, it would be inaccurate however the discretion under reg. 38(7) was exercised. The appellant could have protected itself against the risk of this inaccuracy arising by making a proposal to enter an appropriate RV after completion of the works. In all these circumstances the appropriate order remained the one made by the VTE.

Jackson (VO) against a decision of the VTE [2020] UKUT 0078 (LC), RA/27/2019

Where two floors in an office building are connected by an internal staircase, installed by the actual occupier, which has the effect of reducing the net internal floor area, should the rateable value of the hereditament be based simply on the adjusted area, or should the benefit to the occupier of the floors being connected be reflected in the valuation?

The valuation officer (VO) considered that the VTE was wrong to reduce the rateable value pro-rata to reflect the reduction in net internal area. The addition of the staircase must have been of value to the actual occupier as they paid £164,000 to have it put in and, on the VO's evidence, would have to spend £56,000 to have it removed. It would, the VO submits, also be of value to the hypothetical tenant. In the absence of any evidence to suggest that the staircase would result in an increase in rental value, its insertion should be treated as value-neutral.

The UT found that, while there might be circumstances where some works are so bespoke for a particular occupier that the hypothetical tenant would derive no benefit from them, and therefore be unwilling to pay any more, here, the insertion of a staircase and removal of some of the floor area was increasingly common. It noted that there was an increasing trend for double or triple-height receptions in office buildings, which reduce the net internal area, but for which there was clearly demand and presumably a value to occupiers. However, this trend was uncommon at 1 April 2008 and there was no evidence presented showing transactions in the market in 2008.

The UT's view was that an alteration would not have been made had it not been of value to the actual occupier, but the question remained as to whether the alteration would have been of value to the hypothetical tenant. There was no evidence that the hypothetical tenant at the AVD would pay more for the whole premises with the benefit of internal stairs than without it. However, the UT was satisfied that the hypothetical tenant would not expect to pay less for the whole premises with the facility and security benefits that an internal staircase would bring, even at the time of the AVD. The appeal was allowed. The UT noting that this was a test case for many similar appeals stayed at the VTE, cautioned that the method of 'no loss – no gain' might not be appropriate in all circumstances, and should not be stretched too far. "As ever, valuation is an art and not a science, and it will be a matter of professional judgment in each case."

Decision from the Upper Tribunal (LC)

Facciolo & Costantin (VO) [2020] UKUT 0123 (LC), RA/30/2019

The valuation of a single self-catering holiday unit was based on the receipts and expenditure method. There were a number of disputed expenditure items in the evidence base for fair maintainable trade, which the Upper Tribunal (UT) considered in detail. The appellant also challenged the valuation officer's use of UT decisions on the 2010 list to arrive at figures for the 2017 list. The UT acknowledged that those decisions had given rise to some helpful principles, but it was not appropriate to use any of the figures from those cases in this assessment. Tone of the list could only be established once challenges and appeals have given rise to alterations so that the list can be considered to have settled.

This judgment confirmed again that the constraints in law under which the VTE must operate for the 2017 list with regard to new evidence are not mirrored in the UT.
The judgment also demonstrated that a figure lower than that proposed can be determined at a hearing.

Decisions from the High Court

Corkish (LO) v Berg [2019] EWHC 2521 (Admin) CO/4999/2018

This decision clarifies the position where part of a dwelling is split from the house to create a separate hereditament (in this case the garage was converted to domestic property).

The result of such a split is that two new hereditaments are created and therefore it is permissible for new values to be placed on both parts without restriction, thus allowing for any improvements made prior to or at the time of the conversion to be included in the valuation.

Derby Teaching Hospitals NHS Foundation Trust and Others v Derby CC and Others [2019] EWHC 3436 (Ch), BL-2018-000302

The 17 claimants in these proceedings were all NHS foundation trusts, which accepted that they occupy properties (mostly hospitals) on which they were liable to pay non-domestic rates. Each claimed that they were entitled to a reduction in the amount payable because section 43(6) of the LGFA 1988 applied: (1) the ratepayer is a charity; and (2) the relevant property is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).

Morgan J considered the statutory organisation and functions of foundation trusts, case law on foundation trusts and legislation as to charities. Examining the purposes of the claimants and whether those fell within section 3(1) of the Charities Act 2011, he concluded that a foundation trust is not established for charitable purposes only and therefore is not a charity for the purposes of section 43(6).

Interesting VTE decisions—Non-domestic rating

Deletion and reinstatement after works

The parties agreed that a programme of works on a distribution warehouse took place from 23 June to 3 October 2014, during which the appeal property was incapable of beneficial occupation and was no longer a hereditament. The appellant took up occupation on the completion of the works. The material date and effective date for the purposes of this appeal was 23 June 2014, from which date the hereditament should be deleted from the list. The issue in dispute was whether or not the entry should be reinstated following the completion of the works, with the VTE using its powers under reg. 38 (7) of its Procedure Regulations to order a deletion for the period of the works. The existing entry would then be reinstated with effect from 4 October 2014. It was accepted that, following the completion of the works, the hereditament should have a lower rateable value as physical alterations had been made to the property.

In *Avison Young v Jackson (VO)* (see page 4) the VTE considered that 38(7) could be applied where a material change of circumstances causing a reduction in rateable value to nil had ceased. The question here, was whether 38(7) could be engaged if an entry had been deleted from the list. The Vice-President accepted that there may be circumstances when reg. 38(7) could be engaged for works which rendered a building unfit for beneficial occupation coming to an end. However, it was not applicable here because both parties accepted that the hereditament ceased to exist on 23 June 2014. After the completion of the works, a different hereditament had come into existence: a two-storey office block was demolished and dock levellers were removed, replaced and reconfigured. The VO's argument that the VTE could use its discretionary power under 38(7) were therefore rejected. The appeal was allowed and the entry deleted with effect from 23 June 2014. Click here for the full decision.

Interesting VTE decisions—Non-domestic rating

Place of religious worship exemption

Shown in the 2010 rating list as a Gym, Sports Hall & Premises with a rateable value of £13,500 RV effect from 1 April 2016, this hereditament was a converted warehouse, purchased by the appellants in 1987. The adjacent Sikh temple had been certified as a place of public religious worship since 1972. The appeal property had not been separately certified and the certificate for the temple had not been amended or revised to cover the appeal property.

The proposal sought a deletion of the existing entry on the grounds that the property was a place of public religious worship and therefore should be exempt under paragraph 5, Schedule 11 to the Local Government Finance Act 1988.

In considering whether an exemption applied for the appeal property, the appellants initially argued that the site should be looked at as a whole. The appellants argued that physical fitness was an integral part of Sikhism. The whole site had entrance points off Usher Street, however both buildings had separate pedestrian access.

The appellants also argued that the appeal property operated along the same lines as a church and church hall. Religious and associated activities were carried out in the subject property. The President was provided with a Sikh presentation document to support their argument that the appeal property was integral to the workings of the Sikh temple which was a certified place of worship.

To access the ground floor gym, a person had to sign in at reception and go through a metal barrier. From the photographs provided, the gym itself looked similar to one run by a commercial operator. The valuation officer argued that it was run as a membership gym for fee-paying member. The appellants argued otherwise, but accepted that those using the gym were asked to pay a fee, which was in the form of a donation towards the costs of the service provision. However, they stressed that if an individual did not have the means to pay, they were not denied access.

The main differences between the appeal gym and a commercial operator's gym would appear to be the existence of religious murals in the former and the access to a Priest on site. Religious music would be playing as opposed to, say, the thumping dance music that you may hear in a commercial gym.

In accepting that there were religious activities that were undertaken at the appeal property, the President of the VTE determined that it was not its overriding purpose. He found that it was not occupied in connection with the adjacent temple. Whilst he accepted that physical fitness was an integral part of the Sikh religion, the fact that the appeal property was used by the wider community, who were expected to pay a fee in the form of a donation for the privilege, undermined the appellants' argument that it was occupied in connection with the adjacent temple. The appellants' use of the gym was not ancillary to the use of the temple but was a completely separate and independent use; it was occupied for a different purpose. The appeal was dismissed.
Click here for the full decision.

Consolidated Practice Statement (CPS)

Don't forget: changes to the CPS came in on 1 April 2020. In particular the changes relate to complex cases, bundle submission requirements for respondents and the publication of Tribunal decisions.

Click here to sign up to receive an alert when a new Practice Statement is issued or any future change is made.

Interesting VTE decisions—Council tax valuation

Disaggregation

A former hotel had been shown in the non-domestic rating list until 1 April 2017. In 2019 the listing officer (LO), informed that the property had undergone a change of use, decided that each of the 13 bedrooms was a hereditament in its own right. The valuation list was amended accordingly. Twelve of the rooms were let out, seven of them having en-suite facilities. All 12 rooms shared a communal kitchen, dining and living room. The rooms were each let on assured shorthold tenancy agreements for a term of one calendar year. The turnover of tenants had been high and a wide mixture of people, including students, working professionals and senior citizens.

The issue in dispute was whether or not the appeal property fell to be assessed as a single property. For the appellant it was argued that the property should be entered in the list with a single band because the rooms were not all self-contained. The LO had failed to properly consider the hereditament test and had failed to confirm that the four necessary elements were present. In addition, the property had not been inspected by the LO, so he had not obtained 'a feel' for it and it was argued that he had failed to properly exercise the discretion available under article 4 of the Council Tax (Chargeable Dwellings) Order 1992.

Having regard to the relevant case authorities, the panel upheld the LO's determination that each flat constituted a hereditament and was therefore a dwelling in its own right. Each flat was separately tenanted, the tenants enjoying actual, exclusive and beneficial occupation of each of their rooms over not too transient a period. Each flat was separately identifiable and met the relevant criteria of being a hereditament. The fact that certain facilities were shared was immaterial because a hereditament did not need to be self-contained. Self-containment was a requirement of article 3 of the 1992 Order. However, since the panel had determined that each flat constituted a hereditament, it was not necessary for it to have regard to Article 3; that would only have been necessary if the flats had failed the hereditament test.

The panel also recognised that the LO has discretion to treat a single house containing multiple hereditaments as a single dwelling in certain circumstances but that is a matter for him and is not within the jurisdiction of the Tribunal.

Click here for the full decision

Local occupancy restrictions

A Band E detached house in Keswick had an occupancy restriction imposed by planning permission granted by the Lake District National Park Authority. It could only be occupied by a person with a local connection as his or her only or principal home.

The listing officer (LO) accepted that the occupancy restriction needed to be taken into account in ascribing a council tax band. This was explained by reference to the VOA's Council Tax Manual (Practice Note 1) and to *Coll (LO) v Walters and Walters* [2016]. Essentially, occupancy restrictions fall outside the statutory valuation assumption for council tax that the dwelling is sold free from any incumbrances. Therefore, the occupancy restriction could be reflected in the valuation band.

The panel appreciated that houses with local occupancy restrictions sold for less in the open market so would generally be in lower bands than those without restrictions, because there were fewer potential buyers. In considering the difference in value between a house with and without a local occupancy restriction, the panel did not need to look further than the appeal development. The appellant paid £365,000 for the appeal property in 2019, but the same type of house without an occupancy restriction sold for £545,995 in that year and was in band F. The price differential meant that the appeal property was approximately a third less valuable. The panel then considered similar houses that sold around 1991 and applied the 33% discount. The VTE reduced the banding to D.

Click here for the full decision

Interesting VTE decisions—Council tax liability

Sole or main residence

The issue in dispute was whether the appeal property was the appellant's wife's sole or main residence for the disputed period. The appellant argued that her permanent residence was in Las Vegas at a property which they jointly owned.
The case for the BA was that a husband and wife are one household and are jointly and severally liable with their sole or main residence in the same property for council tax purposes. The appeal property was jointly owned, and the wife returned to the UK property to stay with her husband. Her sole or main residence was not affected by long periods of absence.

The appellant disputed the relevance of the case law cited by the BA in support of its decision. His wife was living in the USA out of choice, not due to the demands of her employment; her residence was owned, not employment related; she had spent just 2.2% of her time since 2014 in the UK visiting friends and family. She lived in her main residence in the USA and had no intention of returning to live in the UK.

While the facts of the subject appeal could be distinguished from the facts of the case law, there were established principles which assisted the panel. Most significant was *R (on the Application of Williams) v Horsham District Council,* which had established the "reasonable onlooker" test. In arriving at the decision that a reasonable onlooker would not regard the appeal property to be the appellant's wife's main residence at the material time, the panel took into account the following: she had lived in the US as a permanent resident since 2007 and held a US Permanent Resident Card since 2009, renewed to 2029; that Card was not dependent on her working in the US, so she would not be required to leave if she were no longer working; she continued to live in the US for nearly two years when she was not employed; she was registered as an Overseas Postal Voter; in 2016, the international financial advisory service, BDO, found her to be domiciled in the US as she did not spend enough time in the UK to be considered resident there any longer.

The panel determined that, as his wife was not jointly and severally liable as a resident, the appellant, as the only adult resident in the property, was entitled to a single person discount.

Click here for the full decision

Student exemption

The billing authority (BA) had refused the exemption to the appellant, as it had determined that his "part-time" legal practice course did not meet the criteria for a full-time course of education. With reference to *Jagoo v Bristol City Council [*2019], the appellant submitted that the title of his course was irrelevant, as under the regulations, he satisfied the definition of a full-time student.

A letter from the University of Law confirmed that he was undertaking a "Part-Time Evening Legal Practice Course with LLM", starting 10 September 2018 and due to end 25 July 2020, and that students were required to devote an average of 22.5 hours/week to the course. The appellant further confirmed that the course had 41 weeks in the first year and 45 weeks in the second. Although it acknowledged that the appellant's course required study of at least 21 hours/week, the BA relied upon the fact it was described as a part-time course by the University. The representative submitted that the regulations state that the course must be full-time.
The panel could not find any reference in the regulations to support this contention that the course must be full-time. The regulations provide the criteria for a full-time course:

- It is undertaken with a prescribed educational establishment
- it must last at least one academic year of the educational establishment…
- the student must undertake at least 24 weeks of study, tuition or work experience each year
- study, tuition and work experience must average at least 21 hours /week during term time.

As each of the criteria was satisfied, the panel held that the appellant was a student as defined in the regulations, and therefore he qualified for an exemption under Class N.
Click here for the full decision

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