



**First-Tier Tribunal
(General Regulatory Chamber)
Professional Regulation**

**Appeal references:
PR/2016/0031
PR/2016/0034**

Between

**THE FLAT SHOP LIMITED
JUST FLATS SALES AND LETTINGS LIMITED**

Appellants

and

PLYMOUTH CITY COUNCIL

Respondent

RULE 4(3) DECISION

1. By letter dated 7 October 2016, the appellants asked for a judge to consider afresh the Registrar's decision of 23 September 2016 not to extend time for the appeals to be admitted.

2. I have done so. I have, in particular, had regard to what is said in the letter of 7 October, regarding Ms Steer's understanding of the position. I have to say I regard Ms Steer's explanation as unpersuasive. The fact that the penalty notice could be challenged on appeal was plainly communicated to the appellants. Indeed, it appears in the guidance document to which Ms Steer has made reference.

3. I can see nothing in the materials before me to support the contention that Plymouth City Council or any of its officers might have represented to the appellants that they did not need to appeal, once the 28 day period started to run. The Tribunal is an independent judicial body and neither the Council nor any potential party can dictate the Tribunal's procedure. That is such an elementary matter that I would need to see cogent evidence that an officer had, in fact, tried to persuade someone to the contrary.

4. It is a serious matter to assert that an officer of a Council has misled a third party. For the reasons I have given, I do not consider that the assertions of the appellants come close to making out such a case. In the circumstances, Ms Steer and Mr Bartlett had no reasonable basis for assuming that the deadline for appealing could in effect be ignored.

5. Even if Ms Steer could have been under the reasonable impression that the meeting referred to in her letter of 7 October (which she indicates took place before 21 June) was part of the appeal process, no explanation is given for the appellants' inaction between that meeting and 25 August, when the Council issued invoices for non-payment of the fixed penalties.

6. Finally on this issue, it would have been evident by 25 August that the Council regarded the penalty as payable. Although Mr Bartlett's letter of 1 September to the Council said that the invoices were being "contested", no notice of appeal was filed until 13 September.

7. In deciding whether to extend time, I have had regard to the strength of the appellants' cases, as set out in the grounds of appeal. The Registrar was correct to approach matters as she described in paragraph 8 of her decision. I entirely agree with her assessment at paragraphs 9 to 26 of that decision.

8. The Registrar's decision stands.

9. It is, of course, open to the appellants to seek to agree with the Council a plan for paying the penalties by instalments. That is an issue for the parties, rather than the Tribunal.

Judge Peter Lane

10 January 2017