



VTE/PS/C1: 15 July 2010
[Effective from 1.8.10]
[Revised 1 May 2012¹]

PRACTICE STATEMENT: REVIEWING AND SETTING ASIDE DECISIONS

Introduction

1. This Practice Statement sets out the procedure to be followed under regulation 40 of The Valuation Tribunal for England (Council Tax and Rating Appeals)(Procedure) Regulations 2009 (No. 2269), which is attached at Annex 1.

Grounds: procedural irregularity

2.1 The only grounds on which a review is possible are those set in para. 5 of regulation 40 (see Annex 1).

2.2 The words “some other procedural irregularity” in the regulation are not designed to cover any alleged error by the panel, but refer to defects in process as opposed to substance, i.e. the way the decision was reached and not the actual content of the decision. A procedural irregularity occurs where there has been a failure to comply with the procedures set out in the relevant legislation (Acts of Parliament or statutory regulations) or the Tribunal's own Practice Statements, or where there has been a breach of the legal duty to act fairly.

Applications

3. An application must be made, within 28 days of the sending of the written decision, to the Tribunal office which issued the decision, setting out the ground or grounds on which the application is made and providing a statement, with or without further evidence, in support of the application. The application must state the following:

- The names of the applicant and representative (if there is one);
- The name of the other party or parties;
- The address of the subject property;
- The appeal number;
- The date and place of the hearing;
- The address for correspondence.

¹ This Practice Statement replaces the version dated 15 July 2010, the only change being the particularised requirements set out in the bullet points in para. 3.

4. In exceptional cases and for good reason, the President may consider an application which has not been made within the 28-day period (reg. 6(3)(a) of the Procedure Regulations).

5. The application will be acknowledged, a copy sent to the other party or parties with a request to provide comments within 14 days, and the High Court/Upper Tribunal notified if an appeal on the same point is pending.

6.1 The application, together with a note by the clerk/tribunal officer at the hearing and any comments of the other party or parties, will be sent to the President as soon as possible.

6.2 Where the application concerns the conduct of or advice given by the clerk/tribunal officer, the matter shall, following consultation with the Registrar, be passed to another member of staff.

Consideration of application

7. The President will consider the papers and decide, normally without a hearing, whether one or more of the grounds specified in para. (5) of the regulation have been satisfied.

8. The President may call for further information or inquiries to be made, or invite the applicant to make oral submissions, before reaching a decision.

9. The President shall decide whether to grant or refuse the application for a review and that decision shall be final.

10. Where the application is refused, the parties (and the High Court/Upper Tribunal, if an appeal on the same point is pending) shall be informed.

11. There is no right of appeal against the President's decision in this respect, nor may the applicant submit a further application in respect of the same decision, but the applicant's basic right of appeal to the High Court or Upper Tribunal is unaffected.

12. Where the application is granted, the President shall specify which ground was satisfied and direct that the decision, or part of the decision, as the case may be, shall be reviewed.

Review

13. In a straightforward case where no further information is required and significant factual issues are not in dispute, the President may himself deal with the review forthwith.

14. A case referred for review to a panel by the President shall be dealt with in accordance with the Tribunal Business Arrangements.

15. All relevant parties shall be informed that a review is to take place and be invited to submit representations in writing within 14 days.

16. A party may opt for a hearing to take place, which shall then be held within 28 days.

17. The member or members selected to conduct the review shall hear from the parties and/or consider any written representations and decide whether one or more of the grounds specified in para. (5) of the regulation have been satisfied.

18. The decision, or part of the decision, shall be set aside by the President or panel only if at least one of the grounds in para. (5) of the regulation has been satisfied **and** it would be in the interests of justice to do so.

19. It is for the applicant to satisfy the Tribunal, on the balance of probabilities, that the requirements in para. 18 above have been met.

Where decision set aside

20. The Tribunal shall produce a fully reasoned decision as soon as possible which shall be sent to the parties and the members of the original panel.

21. Any order made in consequence of the decision set aside shall be revoked and the parties informed.

22. Where an appeal to the High Court or Upper Tribunal is pending, the Court/Tribunal shall be informed that the decision has been set aside and a new hearing ordered.

23. The Registrar shall arrange for the original appeal to be heard afresh as soon as possible before a different panel from the panel that dealt with the original hearing of the appeal.

24. The new hearing may proceed immediately if all parties and the panel agree.



1 May 2012

President

**THE VALUATION TRIBUNAL FOR ENGLAND (COUNCIL TAX AND RATING APPEALS)
(PROCEDURE) REGULATIONS 2009 (SI 2009 NO 2269)**

Appeal management powers

6.—(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the VTE may—

(a) extend or shorten the time for complying with any regulation or direction...

Reviewing and setting aside decisions

40.—(1) A party may apply to the VTE in writing for the review of the whole or part of a decision which disposes of proceedings on an appeal.

(2) The VTE President may direct that a review be undertaken of the whole or part of a decision which disposes of proceedings on an appeal.

(3) An application under paragraph (1)—

(a) must be made within 28 days of the date on which notice of the decision was sent; and

(b) must be considered by the VTE President.

(4) The VTE President shall not grant an application under paragraph (1) unless at least one of the conditions in paragraph (5) is satisfied.

(5) The conditions referred to in paragraph (4) are—

(a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;

(b) a document relating to the proceedings was not sent to the VTE at an appropriate time;

(c) a party or its representative was not present at a hearing relating to the proceedings and the party shows reasonable cause for its or its representative's absence;

(d) there has been some other procedural irregularity in the proceedings;

(e) the decision is affected by a decision of, or on appeal from, the Upper Tribunal or the High Court;

(f) where the decision relates to an appeal against a completion notice, new evidence, whose existence could not have been discovered by reasonable inquiry or could not have been foreseen, has become available since the conclusion of the proceedings.

(6) Where an application under paragraph (1) is granted or a direction is given under paragraph (2), the VTE shall review the decision or part that is the subject of the review; and if it considers—

(a) that any of the conditions specified in paragraph (5) is satisfied; and

(b) that it is in the interests of justice to do so,
the VTE shall set aside the decision or part.

(7) Tribunal business arrangements^(a) shall apply in relation to the selection of members of the VTE to review a decision or part of a decision as if the review were an appeal.

(8) If the VTE sets aside a decision it must revoke any order made in consequence of the decision and notify the parties in writing of the revocation.

(9) The VTE must notify the parties in writing—

(a) of the result of an application under paragraph (1);

(b) of the result of a review under paragraph (6); and

(c) if, under paragraph (8), it revokes an order.

(10) Where, on the day on which an application under paragraph (1) is made, an appeal to the Upper Tribunal or the High Court in relation to the same issue as is the subject of the application remains undetermined, the VTE shall notify the Upper Tribunal or the High Court as soon as reasonably practicable—

(a) after the application is made; and

(b) after notice is given under any sub-paragraph of paragraph (9).