



**PRACTICE STATEMENT:  
NON-DOMESTIC RATES (RATING LIST 2010): DISCLOSURE AND EXCHANGE**

**APPLICATION**

1. This Practice Statement applies to all non-domestic rating list appeals arising under the Rating List 2010 where the notice of hearing has been issued after 1 January 2012.
2. In all these cases, the standard directions set out in Annex 1 below will be issued to the parties together with the notice of hearing.
3. Appeals where the notice of hearing has been issued before 1 January 2012 will continue to be governed by PS A7: 28 July 2010, unless para. 4 below provides otherwise.

**POSTPONEMENTS, ADJOURNMENTS AND REINSTATEMENTS**

**4. (1) Postponement prior to deadline for appellant's Statement of Case**

Where a postponement is granted after 1 January 2012 but before the deadline for submission of the appellant's Statement of Case, a new notice of hearing will in due course be issued with standard directions under this Practice Statement and the new timetable will supersede the earlier timetable.

**(2) Postponement after submission of appellant's Statement of Case**

Where a postponement is granted after 1 January 2012 and the appellant's Statement of Case has already been submitted, a new notice of hearing (without any further standard directions) will in due course be issued, but the original timetable will continue to apply (*i.e.* based on the now postponed hearing date, notwithstanding the postponement), unless specific directions are made in the instant appeal that alter the timetable in all or any respects; and any notices or Statements of Case already submitted will remain in place.

**(3) Adjournments**

Where an appeal is adjourned at the hearing, the appeal will proceed in accordance with directions issued by the panel.

**(4) Reinstatements**

An appeal reinstated following a strike out begins completely afresh with a new timetable. A new notice of hearing with standard directions will be issued.

## REGULATION 17(3) NOTICE

5. (1) Where the respondent has cause to believe that he needs to rely on any evidence covered by reg. 17(3) of the Procedure Regulations, that evidence must (notwithstanding reg. 17(4)) be disclosed to the appellant in accordance with the standard directions set out in Annex 1 and a failure to do so may result in the exclusion (pursuant to reg. 17(2)(b)) of such evidence which the respondent seeks to introduce under sub-para. (3) below.

(2) The respondent will have cause to believe that he needs to rely on reg. 17(3) evidence where the appellant's proposal<sup>1</sup> or any communications between the parties provide a basis for believing that reg. 17 evidence will be relevant in determining the appeal.

(3) Where a notice has not been served under sub-para. (1) above, the respondent may include that evidence in (or attached to) his Statement of Case (and it shall be treated as a reg.17(3) notice), such evidence to be clearly marked as reg. 17(3) evidence and prefaced by a statement explaining the following:

- a) why the evidence is now considered to be relevant and necessary; and
- b) that the appellant failed in either his proposal or during discussions to provide a basis for believing that such evidence would be relevant and necessary and that no fault rested with the respondent for that failure.

(4) The appellant may object to the introduction of reg. 17(3) evidence at this stage and shall explain why in his view it does not meet the requirements set out in para. 5(3)(a) and (b) above.

(5) Reg. 17(3) evidence may not be introduced for the first time at any other stage.

(6) It is for the respondent to satisfy the Tribunal that the conditions for the late introduction of the evidence have been met, but it should not normally be disallowed where the appellant has raised no objection.

(7) Where reg. 17(3) evidence is provided in the respondent's Statement of Case, and is not excluded, the Tribunal shall not normally grant a postponement or adjournment of the hearing to deal with the new material, but it is open to the appellant to apply to have the case treated as complex under Practice Statement A3 if the new evidence justifies it.

## STATEMENT OF CASE

6. The statement of case referred to in the standard directions (Annex 1) is a document designed to inform the other party or parties and the Tribunal of the essential nature of the case and the principal evidence and arguments being advanced. It is not intended to replace oral argument at the hearing but is meant to ensure that all parties and the Tribunal are aware in advance of the hearing of each party's case. The length of the statement should be

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<sup>1</sup> See SI 2009 No. 2268, reg. 6(1)(d),(e) (reproduced in Annex 2).

proportionate to the nature of the particular appeal. An over-long document will no more serve the intended purpose than an unduly short one. The statement, which must be particularised to the instant case, should in particular cover or contain the following, but it is not envisaged that it will amount to a bundle of considerable length:

- A statement of the issues in dispute;
- An explanation of the decision sought from the Tribunal;
- A clear, succinct summary of the arguments in support of the decision/appeal, including legal arguments (citing relevant provisions or authorities with references (or a copy if unreported));
- A clear, succinct summary of the evidence relied on in support of the appeal/decision;
- Copies of any basic documents essential for the argument.

The statement should be set out clearly, in order, with relevant headings and pages and paragraphs numbered.

#### **UNREPRESENTED APPELLANTS**

7. An unrepresented appellant will not be expected to provide the above material in the form and to the extent expected of a professional representative,<sup>2</sup> and will not be struck out for failing to meet those standards, but is required to provide material to the best of his/her ability so that the other parties and the Tribunal are able to deal properly and fairly with the case.

#### **NON-COMPLIANCE**

8. If the appellant substantially fails to comply with the standard directions, the appeal will be automatically struck out in accordance with reg. 10(1).

9. If the respondent (or other party) substantially fails to comply with the standard directions, he/she will be automatically barred from taking any further part in the proceedings in accordance with reg. 10(7).

10. Substantial failure for the purposes of paragraphs 8 and 9 means a complete failure to provide the required statement by the due date (in which case the appeal will be struck out without reference to a senior member) or the provision of a statement that fails (in the opinion of a senior member) to a significant extent to meet the requirements set out in paragraph 6 or a statement that contains appreciable amounts of irrelevant or extraneous material.

11. (i) A statement of case which appears to the Registrar or a designated member of staff not to comply with the standard directions will be referred to a senior member and all parties informed.

(ii) Where the senior member has ruled that the appellant's statement of case does comply, he/she shall further consider whether the time period for

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<sup>2</sup> For the definition of "professional representative", see Practice Statement: *Professional Representatives*, VTE/PS/D1: 23 March 2010.

the respondent to comply with the standard directions should be amended and, where appropriate, set a new date for the hearing.

(iii) Where the senior member has ruled that the respondent's statement of case does comply, he/she shall further consider whether a new date should be set for the hearing.

#### **REINSTATEMENT AFTER STRIKE OUT**

12. An application (under reg. 10(5)) to reinstate an appeal which has been struck out will be considered by a senior member without a hearing.<sup>3</sup>

#### **NEW EVIDENCE OR ARGUMENT**

13. Completely new argument, or reliance on evidence, beyond that supplied or referred to in accordance with the standard directions will be accepted only with the permission of the panel, who may need to consider whether in allowing new argument or evidence an adjournment should be ordered.

14. This discretion should be exercised so as to balance the interests of the parties and avoid prejudice: on the one hand in not penalising a party for an excusable omission, or where a new argument has occurred to the party or representative at a late stage, and on the other the interest in not being taken by surprise at the hearing. It is also necessary to ensure that the basic requirement to provide the statement is not undermined. New arguments made to rebut any arguments or evidence in the other party's statement of case will, of course, be allowed.

8 November 2011



President

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<sup>3</sup> See Practice Statement: *Applications for reinstatement following striking out and withdrawal and lifting of a bar*, VTE/PS/C2: 26 July 2010

## STANDARD DIRECTIONS

These Directions are issued in accordance with Practice Statement A7-1 and should be read in conjunction with it. It is available at [www.valuationtribunal.gov.uk](http://www.valuationtribunal.gov.uk)

1. No later than **eight weeks** prior to the date of the hearing, the respondent shall, where the appellant's proposal or any communications between the parties make it appropriate, serve on all other parties to the appeal details of any evidence covered by reg. 17(3) of the Procedure Regulations on which it intends to rely. Failure to comply with this direction may result in the exclusion of any such evidence tendered subsequently.
2. No later than **six weeks** prior to the date of the hearing, the appellant shall serve on the Tribunal and all other parties to the appeal (including the respondent) a Statement of Case which will include a statement of the reasons for the appeal and the decision sought from the Tribunal, together with a summary of the evidence and any legal argument relied on. In addition, the statement for the Tribunal must specify how and when it was served on the other parties. Failure to comply with this direction will result in the automatic striking out of the proceedings.
3. Where the appellant wishes the appeal to be heard in his absence, it is his responsibility to ensure that he has furnished the Tribunal with *all* the material it is likely to need to deal with the appeal, which is likely to be more than that required for the Statement of Case.
4. The appellant is further required to be present, or represented, at the hearing unless notice has been given **six weeks** prior to the hearing that the appellant wishes the appeal to be heard in his/her absence pursuant to reg. 32 of the Procedure Regulations. Failure to comply with this direction will result in the automatic striking out of the proceedings at the hearing.
5. No later than **four weeks** prior to the date of the hearing, the respondent or any party other than the appellant shall serve on the Tribunal a copy of a Statement of Case with one copy sent to the appellant and any other parties to the appeal. The statement shall include a response to the appellant's case together with the evidence relied on to substantiate their case. In addition, the statement to the Tribunal must specify how and when the statement was served on the other parties. Failure to comply with this direction will result in the automatic barring of the respondent or other party from taking further part in the proceedings.
6. Any statement or submission under paras. 2, 3 or 5 which contains appreciable amounts of irrelevant or extraneous material will be deemed non-compliant or excluded as appropriate.
7. The material specified above may be provided electronically or in hard copy.
8. The deadline for submission by a specified day is 5pm on that day (reg. 14(1)).
9. A party may apply to the Tribunal for any of the above requirements, including time limits, to be varied.

## **The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI 2009 No 2269)**

### **Striking out proceedings**

#### **10.**

(1) The proceedings, or the appropriate part of them, will automatically be struck out if the appellant has failed to comply with a direction that stated that failure by a party to comply with the direction would lead to the striking out of the proceedings or that part of them.

(5) If the proceedings, or part of them, have been struck out under paragraph (1) or (3)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.

(7) This regulation applies to a party to the proceedings other than the appellant as it applies to an appellant except that—

(a) a reference to the striking out of the proceedings is to be read as a reference to the barring of that other party from taking further part in the proceedings; and

(b) a reference to an application for the reinstatement of proceedings which have been struck out is to be read as a reference to an application for the lifting of the bar on that other party from taking further part in the proceedings.

### **Calculating time**

#### **14.**

(1) An act required by these Regulations or a direction to be done on or by a particular day must be done by 5pm on that day.

### **Evidence and submissions**

#### **17.**

(2) The VTE may—

(b) exclude evidence that would otherwise be admissible where—

(i) the evidence was not provided within the time allowed by a direction;

(ii) the evidence was otherwise provided in a manner that did not comply with a direction; or

(iii) it would otherwise be unfair to admit the evidence.

(3) Paragraph (4) applies to information—

(a) supplied in pursuance of paragraph 5 of Schedule 9 to the 1988 Act, section 27(1) or (3) of the 1992 Act or regulation 24 of the NDR Regulations; and

(b) information contained in—

(i) any document which, having been produced to the Commissioners for Her Majesty's Revenue and Customs in pursuance of section 28 of the Finance Act 1931(a) or furnished to them in pursuance of Schedule 2 to that Act, is for the time being in their possession or under their control; or

(ii) any land transaction return within the meaning of Part 4 (stamp duty land tax) of the Finance Act 2003(b).

(4) Information to which this paragraph applies shall not be used in any relevant proceedings by a billing authority(c), a LO or a VO unless—

(a) not less than two weeks' notice, specifying in relation to any information to be so used the documents or other media in or on which that information is held and the dwelling or hereditament to which it relates, has previously been given to every other party to the proceedings; and

(b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted, at any reasonable time—

(i) to inspect the documents or other media in or on which such information is held; and

(ii) to make a copy (other than a photographic copy) of, or of any extract from, any document containing such information.

### **Hearing in a party's absence**

#### **32.**

If a party fails to attend a hearing the VTE panel may proceed with the hearing if—

(a) it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and

(b) it considers that it is in the interests of justice to proceed with the hearing.

## **The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2268)**

### **Proposals: general**

**6.**—(1) A proposal shall be made by notice sent to the VO which shall—

- (d) identify the respects in which it is proposed that the list be altered; and
- (e) include—
  - (i) a statement of the grounds for making the proposal;
  - (ii) in the case of a proposal made on any of the grounds set out in regulation 4(1)(a), (c) or (g) to (o), a statement of the reasons for believing that those grounds exist;
  - (iii) in the case of a proposal made on the ground set out in regulation 4(1)(b), a statement of the nature of the change in question and of the date on which the proposer believes the change occurred;
  - (iv) in the case of a proposal made on the ground set out in regulation 4(1)(d) or (f), a statement identifying the alteration in question, whether by reference to the day on which the alteration was made or otherwise;
  - (v) in the case of a proposal made on the ground set out in regulation 4(1)(e), the information specified in paragraph (2);
  - (vi) in the case of a proposal made on the ground set out in regulation 4(1)(f), a statement of the day proposed in place of the day shown in the list; and
  - (vii) in the case of a proposal made on one or more of the grounds set out in regulation 4(1)(a) to (g) and (i) to (l), in respect of a hereditament occupied under a lease, easement or licence to occupy, other than a proposal made by a relevant authority or a person described in regulation 4(2)(c), the information specified in paragraph (3).