



Valuation Tribunal Users' Group

Minutes of the Meeting held at Black Lion House on 25 June 2012

Present:	Professor Graham Zellick QC	VTE
	Jon Bestow	VTE
	Tony Masella	VTS
	Lee Anderson (substitute)	VTS
	Mark Higgin	RSA
	John Elcox	RSA
	Richard Guy (substitute)	IRRV
	Peter Scrafton	IRRV
	Blake Penfold	RICS
	Michael Pearce	VOA

1 Apologies and Membership

1.1 Anne Galbraith (VTS), Roger Messenger (IRRV), Jerry Schurder (RICS), Donald Scannell (Lands Chamber, Upper Tribunal), Carla-Maria Heath (LGA), David Subacchi (VOA), Melanie McIntosh (PEBA), and Siobhan McGrath (FTT Property Chamber-designate) tendered their apologies.

1.2 The President reported that Amy Dusanjh had recently given birth to a baby boy, Saran. The Group offered their congratulations to Amy and her family.

2 Minutes of the meeting held on 26 March 2012

2.1 The minutes were confirmed.

3 Matters arising

3.1 **Minute 4.1:** The President reported that there had not been any progress since the last meeting on the transfer of the Tribunal into the FTT. The Draft FTT (Property Chamber) Rules consultation paper had been published and it was open to members to submit comments to the Tribunals Procedure Committee if they wished.

3.2 **Minute 5.3:** Mr Penfold reported that the draft paper on "Appeals Direct" for NDR was not yet ready to be shared with the VOA.

3.3 **Minute 7.2:** Mr Penfold enquired whether Mr Anderson had produced the paper on the postponement of listed appeals where the representative was on leave. Mr Anderson advised that he had recently prepared a first draft which would be shared with the President before being distributed to members of the Group.

4 Notices of Hearing: electronic communication failures

4.1 Mr Penfold expressed concern on behalf of a number of representatives that electronic notices of hearing were on occasions not being issued by the Doncaster office.

4.2 Mr Anderson advised that, although issues had arisen on Doncaster cases, there was nothing to suggest that the problem was Doncaster-office specific. The latest issue occurred when a rogue character was incorporated in a representative's email address. An error report had been produced but Aspire, the VTS IT partners, had initially assured that all notices had been issued. This proved to be incorrect advice and discussions are now ongoing through the VTS IT team to ensure that appropriate measures were in place to avoid future problems of this nature.

4.3 A question was asked of Mr Pearce as to why the VOA had to allocate a new appeal number on reinstatement of the appeal by the Tribunal. This caused problems for a number of private practice surveyor IT systems which could only handle one appeal number per appeal. Mr Pearce replied that the VOA was now marrying up the new and old appeal numbers and that the old number should be identifiable for appellants' representatives.

5 Regulation 17 Notices and VO Statements of Case.

5.1 Mr Penfold reported that the VOA was still issuing Statements of Case electronically to individuals' email addresses rather than the agreed office address. Whilst Mr Penfold was aware that staff were accepting such deliveries at the moment, they might not in the future. Furthermore, the VOA always ran the risk that the email was sent to someone who was absent and therefore would not be served in the correct time frame.

5.2 Mr Pearce recognised there remained a problem in the VOA of service on individuals but that similar problems existed where representatives served a Statement of Case on a VOA staff member's inbox rather than the VOA email address.

5.3 The President asked whether a letter from the Registrar advising parties to follow the correct protocols would be helpful. Members thought it would be.

5.4 Mr Elcox reported that he was aware of circumstances where the VOA sent separate emails to the appellant and Tribunal with their Statement of Case. Mr Guy advised that he had experienced the VOA issuing two Statements of

Case to him in respect of the same appeal. The Registrar thought it should be best practice for both parties to issue one email to both the Tribunal and the other party with the Statement of Case.

5.5 The President advised, following a question, that service was deemed to take place only when both the Tribunal *and* the other party received the Statement of Case.

5.6 Mr Pearce stated that he was still awaiting an IT change so that VOA Statements of Case contained paragraph and page numbers.

6 Hearings where the VO was barred

6.1 Mr Penfold explained that he had been advised just prior to a hearing that one of his outstanding appeals would not be heard but postponed as the Valuation Officer had been barred. He was subsequently informed that the reason for this was to allow the Valuation Officer sufficient time to make an application for the bar to be lifted.

6.2 The President accepted that this was not right and that arrangements were being made to reduce the time frame for the VOA to apply for a bar to be lifted.

7 Lifting of the bar

7.1 Mr Bestow reported that a document to amend the time frame to lift the bar (6.2) was not yet ready for discussion. Mr Anderson explained that the VTS was researching the number of cases where the VOA was barred in a matter that was to proceed to a hearing as opposed to those where the VO was barred as he had not produced a Statement of Case because the appeal was due to be settled. In total, VOs were barred around four to five times a week.

7.2 The President said that he had been asked whether the attendance at a hearing of a VO who had been barred should be recorded in the decision. He was of the opinion that it should, as his presence as a party was a matter of fact, but it would be up to the Upper Tribunal to decide whether the bar prevented the VO from making an appeal.

7.3 Mr Guy reported on a hearing in Doncaster where the VO declined to offer evidence on the ground that the appellant had not proved his case. Mr Guy understood the VO won the appeal. Mr Guy also expressed concern that colleagues had advised him that panels refused to give any weight to expert evidence where rental evidence was provided by the VO.

7.4 The President observed that this was a strategy that the VO could adopt but it was not without risks. He agreed that panels should give weight to expert opinion but how much depended on the case and the evidence of the other party.

8 Striking-out of appeals where agreement reached

8.1 Mr Anderson advised that arrangements were now in place with the VOA to ensure that the Tribunal was provided with up-to-date information on appeals that had been settled prior to the Statement of Case being due which would avoid strike-out notices being issued.

9 Council tax support update

9.1 The President referred members to the previously circulated paper.

10 NDR 2010 Hearings

10.1 Mr Anderson tabled a summary of hearing statistics during the periods April 2011 to March 2012 and April 2012 to May 2012. The highlights were as follows:

- High volumes of appeals were being listed but few were being heard;
- Owing to a shift in programming patterns by the VOA, there had been a significant increase in appeals being listed in London. If the volumes from April and May were maintained throughout the year, this would represent a 100% increase in volumes when compared to 2011/12;
- As the VOA had moved staff to deal with the large number of appeals in London, there had been a corresponding reduction in the numbers programmed and then listed in the East Midlands;
- Large numbers of Statements of Case continued to be received from appellants with few progressing to a hearing.

10.2 Mr Pearce advised that the VOA intended to process 250,000 appeals this year which was 80,000 more than last year. He explained that the VOA needed to clear all the outstanding 2005 list appeals as well as those for the 2010 list before the 2015 list came into force.

10.3 Mr Masella said that he currently had around 40,000 appeals sitting in the system where no-one was asking for the matter to be listed for a hearing. He considered that the large increase in workload created by the VOA was unsustainable given the small number of appeals that were settled during the programming period. One solution might be to adopt a similar approach to that taken with the 40,000 appeals, which was to list appeals only when both parties were ready to proceed. The current arrangement where the Tribunal was viewed as a "dating agency" by parties could not continue.

10.4 Mr Penfold considered that the current programming arrangements meant that parties were issuing protective Statements of Case, as the VOA were not discussing appeals during the programming period. He also noted that the programming period had been reduced by the VOA to only two months in some cases.

10.5 Mr Penfold asked about a review of the effects of Practice Statement A7-1. The President agreed to incorporate a discussion at the next meeting on when and how a review of the Practice Statement should take place.

10.6 Mr Anderson agreed to provide members with monthly statistical reports and to include details on the numbers of reinstatements following strike out.

11 Overseas student spouses: to note the decisions of the Administrative Court in *LB of Harrow v Ayiku* [2012] EWHC 1200 (Admin)

11.1 The decision was noted.

12 Practice Statement D1: *Professional Representatives*: revised draft

12.1 Members had sympathy with the President and offered advice on making a complaint to the relevant professional body.

12.2 The President would consider the revised draft further.

13 Postponements: Letter from John Hoskins

13.1 The actions of the VOA on postponement requests by the appellant as provided by Mr Hoskins were discussed. The President was clear that, where both parties were in agreement that the appeal should be postponed, it would be perverse to continue with the appeal. Furthermore, where a party gave good reasons for the postponing of an appeal which was not disputed, this should be granted regardless of the views of the other side.

13.2 The President asked the Registrar to respond to Mr Hoskins.

14 Date of next meeting

14.1 Members would be consulted about the date of the next meeting.

5 November 2012

.....

President

NDR 2010 Appeal Hearings: 1st April 2011 to 31st March 2012

PAC Area	Total Hearings	Total Listed	Agreed	Withdrawn	Postponed	Adjourned	Outstanding	Total Strike Outs	'B' Strike Outs	'E' Strike Outs	'N' Strike Outs	'Z' Strike Outs	Decisions	Party Attended / Represented	Appellant SoC Received	VO SoC Received
Area 1 North West	113	10982	1763	1997	2243	118	1	4507	4432	57	18	0	353	123	2015	1437
Area 2 North	51	3942	585	1216	543	37	0	1515	1503	9	3	0	46	34	482	363
Area 3 Yorkshire	89	8757	1040	1679	1588	165	0	3939	3869	35	30	5	346	128	2009	1639
Area 4 East Midlands	82	10214	946	1853	1965	124	0	5045	4914	108	11	12	281	73	1906	1580
Area 5 West Midlands	86	8170	994	1878	1287	55	0	3743	3624	96	17	6	213	56	1245	918
Area 6 East England	75	6750	897	1405	1259	64	0	2984	2971	7	6	0	141	82	961	688
Area 7 South East	109	8802	1429	2297	939	41	0	3947	3917	14	16	0	149	86	830	521
Area 8 South West	90	6558	1063	1456	829	10	0	3070	3044	11	15	0	130	90	688	498
Area 9 London	108	14063	1122	2428	3169	207	0	6915	6872	19	24	0	222	133	2458	1895
Total : 803	78238	9839	16209	13822	821	1	35665	35146	356	140	23	1881	805	12594	9539	

NDR 2010 Appeal Hearings: 1st April 2012 to 31st May 2012

PAC Area	Total Hearings	Total Listed	Agreed	Withdrawn	Postponed	Adjourned	Outstanding	Total Strike Outs	'B' Strike Outs	'E' Strike Outs	'N' Strike Outs	'Z' Strike Outs	Decisions	Party Attended / Represented	Appellant SoC Received	VO SoC Received
Area 1 North West	18	3766	420	526	1367	29	8	1353	1332	20	1	0	63	17	514	373
Area 2 North	7	1074	189	299	259	29	0	285	279	5	1	0	13	17	234	204
Area 3 Yorkshire	21	2863	336	499	640	106	50	1152	1141	7	3	1	80	46	644	551
Area 4 East Midlands	7	342	90	51	108	6	1	60	48	2	4	6	26	4	162	152
Area 5 West Midlands	13	2188	277	558	303	42	0	972	936	21	15	0	36	14	327	244
Area 6 East England	11	2161	397	374	384	15	0	965	959	2	4	0	26	16	291	226
Area 7 South East	15	2183	282	412	379	2	2	1084	1079	5	0	0	22	8	187	128
Area 8 South West	13	2141	271	442	360	1	3	1047	1033	13	1	0	17	3	211	129
Area 9 London	22	4870	445	517	1695	43	5	2102	2055	14	33	0	63	32	1271	1093
Total : 127	21588	2707	3678	5495	273	69	9020	8862	89	62	7	346	157	3841	3100	

Strike Out Codes:

B = Batch (No statement of case (SoC) received by due date)
 E = Evidence (SoC deemed non compliant)
 N = Non Standard (failure to comply with a non standard direction)
 Z = Other (SoC received but parties fail to settle / attend hearing)