



Valuation Tribunal Users' Group

Minutes of the Meeting held at 120 Leaman Street on Monday 4 December 2017 at 11:00 am

| | | |
|-----------------|---------------------|-----------------------------|
| Present: | Tony Masella | VTS & Chairman of the Group |
| | Lee Anderson | VTS |
| | Gary Garland | VTE (President) |
| | Jon Bestow | VTS (Registrar) |
| | Mark Higgin | RICS |
| | Blake Penfold | RICS |
| | Jerry Schurder | RICS |
| | Tom Emlyn Jones | RSA |
| | Tim Johnson | RSA |
| | Andrew Hetherington | IRRV |
| | Louise Freeth | IRRV for CTR |
| | Michael Pearce | VOA |
| | Mary Hardman | VOA |
| | Stuart Moss | VOA |
| | Mike Heiser | LGA |
| | Cain Ormondroyd | PEBA |
| | Nicola Hunt | Secretary |

1 Welcome and apologies for absence

1.1 The Chairman welcomed all attendees to the meeting.

1.2 Apologies were received from Gordon Heath (IRRV), Alan Colston (VOA), Carla-Maria Heath (LGA) and Greg Warren (FSB).

2 Minutes of the meeting held on 13 September 2017

2.1 The minutes of the meeting held on 13 September 2017 were accepted as an accurate record and confirmed.

3 New Standard Directions in practice (workload statistics; hearing slots; lack of equality between treatment of VO and agents in terms of barring and strike outs and unrepresented ratepayers and the VTE Directions)

3.1 Lee Anderson circulated a breakdown of the total number of all appeal types for the period 1 April 2017 to 31 October 2017.

| Appeal groups | Brought forward | Received | Total Cleared | Carried forward |
|--|-----------------|---------------|---------------|-----------------|
| Council tax Completion Notice | 72 | 313 | 197 | 188 |
| Council tax Penalty Notice | 17 | 39 | 37 | 19 |
| Council tax liability | 1,792 | 590 | 889 | 1,493 |
| Council tax notice of invalidity | 112 | 233 | 224 | 121 |
| Council tax reduction | 425 | 526 | 544 | 407 |
| Council tax valuation | 1,360 | 1,179 | 1,662 | 877 |
| Non domestic Completion Notice | 110 | 99 | 57 | 152 |
| Non domestic Penalty Notice | 19 | 6 | 13 | 12 |
| Non domestic Transitional Certificate | 143 | 51 | 20 | 174 |
| Non domestic rating list | 196,218 | 67,302 | 89,476 | 174,044 |
| Non domestic rating notice of invalidity | 1,046 | 681 | 281 | 1,446 |
| | 201,314 | 71,019 | 93,400 | 178,933 |

3.2 Lee Anderson also circulated a breakdown of appeal activity following the introduction of the new standard direction on 17 July 2017 to 31 October 2017.

| Tribunal Area | Total Hearings | Total Listed | Agreed | % | Withdrawn | % | Postponed | % | Adjourned | % | Decisions | % | Full Case Hearing | % | Outstanding |
|----------------------|----------------|--------------|-------------|------------|--------------|------------|-------------|-----------|------------|-----------|-------------|------------|-------------------|-----------|-------------|
| Area 1 North West | 20 | 3276 | 685 | 21% | 1501 | 46% | 233 | 7% | 35 | 1% | 822 | 25% | 51 | 2% | 0 |
| Area 2 North | 12 | 2191 | 475 | 22% | 960 | 44% | 165 | 8% | 17 | 1% | 573 | 26% | 28 | 1% | 1 |
| Area 3 Yorkshire | 19 | 3420 | 1059 | 31% | 1391 | 41% | 184 | 5% | 40 | 1% | 746 | 22% | 68 | 2% | 0 |
| Area 4 East Midlands | 15 | 2658 | 548 | 21% | 1079 | 41% | 115 | 4% | 14 | 1% | 902 | 34% | 38 | 1% | 0 |
| Area 5 West Midlands | 16 | 3652 | 605 | 17% | 1722 | 47% | 183 | 5% | 43 | 1% | 1099 | 30% | 46 | 1% | 0 |
| Area 6 East England | 19 | 4264 | 904 | 21% | 1988 | 47% | 200 | 5% | 14 | 0% | 1157 | 27% | 57 | 1% | 1 |
| Area 7 South East | 21 | 4287 | 814 | 19% | 1830 | 43% | 148 | 3% | 26 | 1% | 1469 | 34% | 96 | 2% | 0 |
| Area 8 South West | 15 | 2081 | 411 | 20% | 905 | 43% | 174 | 8% | 24 | 1% | 567 | 27% | 40 | 2% | 0 |
| Area 9 London | 58 | 9036 | 2730 | 30% | 3053 | 34% | 685 | 8% | 68 | 1% | 2500 | 28% | 382 | 4% | 0 |
| | 195 | 34865 | 8231 | 24% | 14429 | 41% | 2087 | 6% | 281 | 1% | 9835 | 28% | 806 | 2% | 2 |

3.3 The requirement for exchange and disclosure continues to show a 65% settlement rate and the postponement rate remains steady at 6%. The following was of particular note:

- Full evidence bundles were served on the tribunal for only 7% of listed cases.
- 48% of cases for which full evidence bundles were received had been settled prior to the hearing.
- 86% of appellants (or their representatives) attending a hearing in this period had their cases dealt with by the panel.
- Only 2% of listed cases result in a full hearing.

3.4 The RSA, IRRV and RICS reported that there was still a lack of engagement from the VOA and that the VOA does not respond to communication early enough. Tony Masella pointed out that a concern for him was 48% of bundles were being submitted when these were subsequently settled. This was clearly pointing to a breakdown in the period between exchange and disclosure between the parties prior to the Tribunal's requirement to lodge "bundles". Stuart Moss advised that he was happy to address any particular issues where VOA staff do not follow the process. However, in order to do so he needs specific examples before he can raise the issues with unit heads. He added that it can be difficult for VOA staff to deal with high volumes at a late date and that staff have been instructed to participate in early negotiations where possible. Tony Masella pointed out that it would be advantageous for the appellant to make contact at the 12 week point. He confirmed that the VTS has no information of who has contacted who at 10, six and four weeks as this is not policed by the VTS/VTE.

3.5 Jerry Schurder sought clarification that if a tribunal bars the VOA would the case have to be adjourned; it was confirmed this was not the case. The panel will make a

decision on the information in front of them and in most cases it will run. The VOA may be in attendance but their evidence will be excluded.

3.6 Blake Penfold made the suggestion that if simultaneous exchange was introduced it may resolve some of the current exchange and disclosure issues faced. However, there were no plans for this change to be implemented. Gary Garland emphasised that parties cannot continue to leave things to the last minute.

3.7 As the Upper Tribunal does not always notify the VTS directly when appeals are lodged against VTE decisions, Jon Bestow asked if parties could inform the VTS if they are aware of any appeals to the UT. As the VOA are likely to be a party to all UT cases, Michael Pearce agreed to notify the VTS of this but pointed out that the VOA was appellant only in around 10% of appeals. He also enquired whether there was a specific email address to forward notifications to; Tony agreed to check and update him.

3.8 Blake Penfold questioned if it is more difficult for unrepresented appellants under the new process as he had witnessed appellants attending hearings with cases to present but were struck out due to non-compliance. It was confirmed that VTS staff carefully manage these appeals to ensure unrepresented appellants know exactly what is required of them.

4 Reasons for Decisions

4.1 Jerry Schurder previously circulated a Northern Ireland High Court judgement which spelt out the ingredients of a reasoned decision.

4.2 Jon Bestow asked those present to ensure that their colleagues include the material day in their evidence because recently he had noticed this is regularly omitted. Blake Penfold asked if stayed cases were generally expected to follow the decision of the relevant lead case; Jon Bestow confirmed that stayed appeals aren't listed and providing the issue is relevant will always follow the decision of lead appeals. Jon asked Blake to provide details of any instances where this has not happened and he will investigate.

5 Powers of VTE to reinstate following completion of building works

5.1 Blake Penfold enquired if the VTE has the power to reinstate RVs (or the RV of part of a building) where hereditaments have had RVs reduced to nil while the building is under reconstruction if no notice of alteration is issued when the works cease. It was confirmed that the VTE does not have the power to do so, especially in relation to an RV which is in respect of part of a hereditament rather than a whole building. Blake was advised to contact Michael Pearce with any issues surrounding this.

6 Further amendments to Appeal regulations 2017

6.1 Blake Penfold enquired on the status of NDR Penalty Appeal Regulations. Jon Bestow confirmed he had seen a draft but was not aware of the current status.

7 The identification of and procedure associated with interested parties

7.1 Tim Johnson requested clarification on identifying and the procedure associated with interested parties. The following was clarified:

Interested parties – NDR appeals (pre CCA)

An interested party does not partake in proceedings unless they become active. Therefore, an interested party is not required to partake in the disclosure process. If they attend the hearing and wish to be heard, the panel will need to decide whether the hearing can proceed on the day with oral evidence and argument from the interested party (if they want to give any), or whether there is a need to adjourn to issue Directions in respect of their evidence. The recommendation is that wherever possible the hearing proceeds.

Where the appellant has withdrawn his interest in the appeal it may be possible for an active interested party to take over the appeal, but they will still need to attend the hearing to explain their interest and what they are seeking to achieve (there shouldn't be any new interested parties with the 2010 List now it is closed).

Interested parties – CTL appeals

The advice provided by the then President that it is not for the tribunal to add parties to appeals on the basis that they may have some future liability still applies. This is particularly an issue in respect of HMO cases where the owner has been held liable. It is for the BA to make application to add a party, however having said that at the date of the appeal only a taxpayer who has liability for council tax should be added. So it would be quite wrong to add the tenants if the landlord has been made liable under an HMO. The best course of action is for the BA to use witness evidence from tenants if they believe it is needed.

8 Council Tax Reduction – revised calculation

8.1 A paper was circulated prior to the meeting following several issues raised by a BA relating to CTR appeals when BAs issue decisions. Louise Freeth explained that she felt the individual who raised the points was confused between CTR and Housing Benefit appeals. She confirmed that only an appellant can withdraw an appeal and if 100% relief is granted the BA can advise the appellant to withdraw the case.

9 Council Tax Reduction – appeals update

9.1 Louise Freeth asked if there had been any significant issues in respect of CTR appeals. Lee Anderson reported that the VTS had not been inundated with high volumes of appeals but engagement was still poor. Tony Masella pointed out that the VTS are currently participating in IRRV forums across the country to educate on CTR matters.

10 Any other business

10.1 Tim Johnson asked if it would be possible for VTUG minutes to be published on the VTS website; Tony Masella pointed out that as those around the table represented various

professional bodies it was incumbent on them to ensure messages are communicated accurately to their respective membership. He felt it unnecessary to publish minutes of such meetings on the website given the gap between meetings and when minutes are confirmed. Tony Masella confirmed that the minutes would be published in future, although he stressed the importance of representatives communicating direct with their membership to avoid any misinformation to develop.

10.2 Jon Bestow reported that the Consolidated Practice Statement had been revised to reflect changes to CTL and that the amendments will be effective from 1 April 2018. The changes were summarised as follows:

- Where parties rely on well-known case law they will no longer be required to provide copies of the case in full; just the relevant extracts.
- Providing both parties are in agreement it will no longer be necessary to provide photographs and plans prior to the hearing.
- CTR has been removed from PS6 and the Direction subsumed into PS11 and there will be no more default judgements.
- A new process has been adopted for transitional relief appeals; there are more transitional relief appeals than CCA. It is not known if the transitional relief certificates issued will be appealed; they are not covered under regulation 17.
- The section on discretionary relief (PS10) has been moved from PS6.
- Disclosure of completion notices (PS11) now includes CTR cases.

10.3 Tony Masella queried whether the professional bodies had any concerns about the advocate as an expert witness? Blake Penfold pointed out that the RICS publication is clear on this and it is the parties that must make it clear what is advocate and what is submitted as an expert.

11 Date of next meeting

11.1 The meeting closed at 12:50 pm. It was agreed that future meetings should be held quarterly rather than bi-monthly; Tony Masella asked Nicola Hunt to circulate potential dates during March and June 2018 for the next two meetings.



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Tony Masella
Chairman