



Appeals from decisions made by the First-tier Tribunal (Property Chamber) in Residential Property and Agricultural Land and Drainage cases

This guidance booklet explains what steps you can take if you are unhappy with a decision of the First-tier Tribunal ('the Tribunal') in residential property and agricultural land and drainage cases and in particular if you wish to appeal the decision to the Upper Tribunal (Lands Chamber).

Correcting minor errors

The Tribunal is able, at any time, to correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it. This will include, for example, misspelt names or addresses.

If you believe that the Tribunal has made this type of error and you want it to be corrected, then you must write to the office that has been dealing with the case with a request that the decision, direction or document is amended. You should send a copy of this letter to all other parties.

If the Tribunal agrees that there should be an amendment, it will either re-send the document as corrected or it will send a correction certificate.

Setting the decision aside

Where the Tribunal has made a final decision which disposes of the proceedings, you can ask the Tribunal to set that decision (or part of it) aside. If a Tribunal agrees to set a decision aside then it will rehear the case before issuing a new decision.

The rules relating to setting aside a decision require the Tribunal to be satisfied of the following:

1. Firstly, the Tribunal will only set aside a decision (or part of it) **if it is in the interests of justice to do so**. The Tribunal will not set a decision aside if this condition is not fulfilled;
2. Secondly, the Tribunal will also need to be satisfied that one or more of the following conditions is fulfilled:
 - (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, or was not received by the Tribunal at an appropriate time;
 - (c) a party, or a party's representative, was not present at a hearing related to the proceedings;
 - (d) there has been some other procedural irregularity in the proceedings.

If you would like to ask the Tribunal to set aside the whole or part of a decision, you must send a written request for this which must be received by the Tribunal by whichever of the following dates applies:

1. within 28 days after the date the notice of decision was sent to the you; or
2. if the reasons for that decision were sent to you at a later date, within 28 days after that later date.

You should also send a copy of the request to all other parties.

Appealing against the Decision

Appeals from the First-tier Tribunal (Property Chamber), are made to the Upper Tribunal (Lands Chamber) in all Residential Property and Agricultural Land and Drainage cases.

Before you can appeal to the Upper Tribunal you must first ask for **permission to appeal** from the First-tier Tribunal ('the Tribunal'). There is a form on the Property Chamber website that you may wish to use.

Time Limits

An application for permission to be appeal must be in writing and must be received by the Tribunal within 28 days after the date that the written reasons for the Tribunal's decision were sent to you.

If you have applied to have the decision set-aside (see above **Setting Aside**) and the Tribunal refuses to do so, then any application for permission to appeal must be received by the Tribunal within 28 days after notification that the application to set aside has been unsuccessful was sent to you.

Content of an application for permission to appeal

The application must:

- identify the decision of the Tribunal to which it relates
- state the grounds of appeal;
- state the result that you wish to achieve

The application must also be copied to the other party or parties and it must indicate that this has been done.

The Upper Tribunal (Lands Chamber) has indicated that a person who wishes to apply for permission to appeal must specify whether their reasons for making the application fall within one or more of the following categories:

- (a) The decision shows that the First-tier Tribunal wrongly interpreted or wrongly applied the relevant law;
- (b) The decision shows that the First-tier Tribunal wrongly applied or misinterpreted or disregarded a relevant principle of valuation or other professional practice;
- (c) The First-tier Tribunal took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect; and/or
- (d) The point or points at issue is or are of potentially wide implication.

The Tribunal's consideration of an application for permission to appeal

The application for permission to appeal will be considered by the Tribunal that made the decision which you are seeking to appeal.

The Tribunal will first decide whether to review the decision, either in whole or in part.

A review can only be carried out if the Tribunal is satisfied that a ground of appeal is likely to be successful.

If the Tribunal decides not to review its decision it must then go on to decide whether or not to give permission to appeal.

If the Tribunal does carry out a review, then the Tribunal can:

- Correct accidental errors in the decision or in a record of the decision;
- Amend the reasons given for the decision;
- Set the decision aside and re-decide the matter (or refer it to the Upper Tribunal);
- Not take any action on review.

If the Tribunal decides not to take any action on review it must then go on to decide whether or not to give permission to appeal.

If the Tribunal is considering taking action on review it may ask for representations from the parties before doing so. If the Tribunal reviews the decision and decides to take any of the steps set out above but has not first asked for representations, then the parties will be notified that they may apply for the action to be set aside and for the decision to be reviewed again.

Where a decision is re-decided that is a new decision and can itself be the subject of an application for permission to appeal.

There is no right of appeal against:

- a decision to review or not to review a decision;
- a decision not to take action, or not to take any particular action following a review;
- a decision not to set aside an earlier decision of the tribunal;
- a decision to refer or not to refer a matter to the Upper Tribunal.

If the Tribunal amends the reasons for its decision following a review, or if it corrects a decision following a review, then you may apply for permission to appeal the decision. Any such application must be received by the Tribunal within 28 days after the date the Tribunal sent the amended reasons or corrected decision to you.

Steps to take following the grant or refusal of permission to appeal

Where permission to appeal is given by the First-tier Tribunal

If the Tribunal gives permission to appeal its decision and you intend to pursue that appeal, then a notice of appeal must be filed with the Upper Tribunal (Lands Chamber) at the address below, within **one month** after the date that the decision giving permission was sent to the parties by the First-tier Tribunal.

Where permission to appeal is refused by the First-tier Tribunal

If the Tribunal refuses permission to appeal its decision then a further application for permission to appeal may be made to the Upper Tribunal (Lands Chamber). This type of application for permission to appeal must be made within **14 days** after the date that the decision refusing permission was sent to you by the First-tier Tribunal.

The address of the Upper Tribunal (Lands Chamber) is:

5th Floor, Rolls Building

7 Rolls Building

Fetter Lane

London EC4A 1NL

Tel: 020 7612 9710

Fax: 0870 7617751

DX 160042 Strand 4

Stay of implementation of decisions pending appeal

When making an application for permission to appeal, it is also possible to make an application for the implementation of a decision to be 'stayed'. A 'stay' means that the decision cannot be enforced until an appeal is decided, unless the Tribunal (or the Upper Tribunal) lifts the stay.

An application for a stay must be made at the same time as any application for permission to appeal. The application must be in writing, must provide reasons for the application and must be copied to the other party or parties.