



# Information on challenging decisions in Land Registration cases

## Application of this leaflet

This leaflet sets out how to challenge a decision of the Property Chamber, First-tier Tribunal ('the First-tier Tribunal') **in Land Registration cases**. Different procedures may apply to other types of case, which are not covered in this leaflet.

References in this leaflet to Rules are to the Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013<sup>1</sup> unless stated.

## Directions which do not dispose of all or part of the proceedings

You can apply to the First-tier Tribunal to amend, suspend or set aside a direction<sup>2</sup>. Any such application must be made either in writing<sup>3</sup> or orally during the course of a hearing<sup>4</sup> and, in either case, must give reasons for the application<sup>5</sup>.

## Setting aside a decision which does dispose of all or part of the proceedings

**N.B.** For Reinstatement following a strike out or withdrawal please see the next sub-heading.

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<sup>1</sup> Statutory Instrument 2013 no. 1169

<sup>2</sup> Rule 6(2)

<sup>3</sup> Rule 7(2)(a)

<sup>4</sup> Rule 7(2)(b)

<sup>5</sup> Rule 7(3)

The First-tier Tribunal can set aside its own decision, but **only** if it is satisfied that it is in the interests of justice to do so<sup>6</sup> **and** one or more of the following applies<sup>7</sup>:-

- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or their representative;
- (b) a document relating to the proceedings was not sent to or was not received by the First-tier Tribunal at an appropriate time;
- (c) a party, or a party's representative, was not present at a hearing related to the proceedings; or
- (d) there has been some other **procedural** irregularity in the proceedings.

Any application to set aside a decision must be in writing<sup>8</sup>, give reasons and must be received within 28 days for the date the First-tier Tribunal sent notice of its decision (or, if later, the reasons for its decision) to you.<sup>9</sup> The Tribunal has discretion as to whether or not to set aside its proceedings even if any of (a) – (d) above apply.

### **Reinstatement following strike out or withdrawal**

The First-tier Tribunal can reinstate proceedings before it<sup>10</sup> but only if either:-

- (a) the Tribunal has struck out<sup>11</sup> the proceedings. Any application to reinstate should be made within 28 days of the Tribunal sending notification of the strike out<sup>12</sup>; or
- (b) you<sup>13</sup> or one or more of the other parties<sup>14</sup> has withdrawn. Any application to reinstate must be received by the Tribunal within 28 days<sup>15</sup> of whichever one of the following is applicable-
  - (i) the hearing at which **you** withdrew; or
  - (ii) the date the Tribunal received **your** notice of withdrawal; or
  - (iii) within 28 days of you receiving notification of **another party's** withdrawal

Any application for reinstatement must be in writing, and give reasons. The Tribunal has discretion as to whether to reinstate following a strike out or withdrawal.

### **Appealing against a decision**

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<sup>6</sup> Rule 51(1)(a)

<sup>7</sup> Rule 51(2)

<sup>8</sup> Rule 51(3)

<sup>9</sup> Rule 51(3) (a) and (b).

<sup>10</sup> Rules 9(5) (applicant) and 9(7) & 9(7)(b) (respondent)

<sup>11</sup> Under one or more of rules 9(3)(a)-(e)

<sup>12</sup> Rule 9(6)

<sup>13</sup> Rule 22(5)

<sup>14</sup> Rule 22(8)

<sup>15</sup> Rule 22(6) (a) and ( b)

You **cannot** appeal against a decision of the First-tier Tribunal to<sup>16</sup>:-

- (i) review, or not to review, one of its own decisions<sup>17</sup>
- (ii) take no action, or not to take a particular action<sup>18</sup>, in light of a review of one of its own decisions
- (iii) set aside one of its own decisions<sup>19</sup>

You also **cannot** appeal against a decision of the First-tier Tribunal if the First-tier Tribunal has already set aside<sup>20</sup> that decision

You **can** appeal against other decisions of the First-tier Tribunal in a Land Registration Case to the Upper Tribunal, Lands Chamber on questions of both law<sup>21</sup> and fact<sup>22</sup>, **subject to obtaining permission to appeal (see below)**.

### **Permission to appeal**

You cannot appeal without permission<sup>23</sup>. If you want permission to appeal, you must ask the First-tier Tribunal first. **You cannot apply to the Upper Tribunal for permission to appeal unless the First-tier Tribunal has already refused you permission<sup>24</sup>.**

### **Permission from the First-tier Tribunal**

An application to the First-tier Tribunal for permission to appeal should be in writing<sup>25</sup> and<sup>26</sup>

- (a) identify the decision you wish to appeal against;
- (b) give the grounds of your appeal; and
- (c) state the result you are seeking.

The application must be received by the First-tier Tribunal within 28 days of the **latest** of the dates that the First-tier Tribunal sent you<sup>27</sup>:-

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<sup>16</sup> Section 11(5)(d)(i)-(iii) Tribunals Courts and Enforcement Act 2007

<sup>17</sup> Under rule 53

<sup>18</sup> Under rule 55

<sup>19</sup> Under rule 51

<sup>20</sup> Under rule 51

<sup>21</sup> Section 11 Tribunals, Courts and Enforcement Act 2007

<sup>22</sup> Section 111(1) Land Registration Act 2002

<sup>23</sup> Sections 11(3) Tribunals, Courts and Enforcement Act 2007 and 111(2C) Land Registration Act 2002 (the latter inserted by paragraph 231 in Part 3 of Schedule 1 to the Transfer of Tribunals Functions Order 2013, Statutory Instrument 2013 no. 1036)

<sup>24</sup> Rule 21(1) Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, Statutory Instrument 2010 no. 2600

<sup>25</sup> Rule 52(1)

<sup>26</sup> Rule 52(5)

<sup>27</sup> Rule 52(2)

- (a) written reasons for the decision;
- (b) any amended reasons for, or any correction to, the decision; or
- (c) notification that any application to the First-tier Tribunal to set aside its own decision<sup>28</sup> has been unsuccessful.

The First-tier Tribunal will then consider whether to review its own decision<sup>29</sup> (which it will do only if satisfied that one or more grounds of appeal is likely to be made out<sup>30</sup>) and, if not, whether to give permission to appeal<sup>31</sup>. The First-tier Tribunal may allow other parties to make representations or objections at any stage.

### **Permission from the Upper Tribunal, Lands Chamber**

If (but only if<sup>32</sup>) the First-tier Tribunal refuses permission you can make a further application for permission to the Upper Tribunal, Lands Chamber<sup>33</sup>.

The application must be in writing and must be received by the Upper Tribunal within 14 days of the date the First-tier Tribunal sent its decision refusing permission to appeal<sup>34</sup>.

### **Stay of the First-tier Tribunal's order**

If you want a stay of the First-tier Tribunal's order (i.e. you want to prevent it taking effect until your appeal is decided) you should apply **expressly** for a stay at the same time as you apply for permission to appeal<sup>35</sup>, giving reasons<sup>36</sup>. A stay is **not** automatic even if permission to appeal is granted.

### **Notifying the Land Registry of an application for a stay**

If, **but only if**, the order you want to appeal against is **expressly** directed to the Chief Land Registrar, **you should also notify the Land Registry immediately of your intention to appeal and to ask for a stay**. The Land Registry may implement the order at any time unless there an express order from the First-tier Tribunal preventing them from doing so.

### **Contacting the Upper Tribunal, Lands Chamber**

Further guidance on the Upper Tribunal, Lands Chamber's procedures can be obtained from

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<sup>28</sup> Under rule 51

<sup>29</sup> Rule 53(1)

<sup>30</sup> Rule 55(1)(b)

<sup>31</sup> Rule 53(2)

<sup>32</sup> See note 24 above

<sup>33</sup> See notes 21-23 above

<sup>34</sup> Rule 21(2) Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, Statutory Instrument 2010 no. 2600

<sup>35</sup> Rule 54(1)

<sup>36</sup> Rule 54(2)

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