



First-tier Tribunal, Property Chamber Agricultural Land and Drainage

Protocol for inspection of land in Agricultural Land and Drainage Cases

Note: This protocol is subject to any tribunal direction. It is also subject to the Tribunals, Courts and Enforcement Act 2007, the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and any applicable Practice Direction and Practice Statement. You can get these from the Property Chamber ALD webpages or the official website for legislation or HMSO.

Who attends the inspection?

1. Subject to the Property Chamber Rules, the tribunal can inspect relevant land and premises and the locality.
2. The parties and their representatives and the expert witnesses usually can be present at the inspection unless the tribunal directs otherwise.

Purpose of the inspection

3. The purpose of inspecting a holding is to enable the members of the tribunal to see for themselves matters 'on the ground' which are or could be relevant to the issues which the tribunal has to decide. The tribunal will look at the land, buildings, crops, livestock, equipment and other features relevant to the proceedings.
4. It is useful for the parties to point out relevant features during the inspection, but it is not an occasion to give oral evidence or for hearing of submissions. The judge will remind the parties, their representatives and experts of this. If any party wants to rely on any matter raised during an inspection, formal evidence of that matter must be given at the hearing. It is essential that the tribunal should not be put in the position (even inadvertently) of deciding a matter on evidence on which a party has not had the opportunity of making representations.

Conduct during the inspection

5. An inspection is part of the hearing, and the procedure to be followed on an inspection is a matter for the tribunal to decide. It is essential that the procedure should be, and should be seen to be, fair. In general:
 - A member of the tribunal who has seen or heard something that might be significant that another member might not have seen or heard should draw it to the attention of the other members of the tribunal.
 - The tribunal can then decide whether it should be drawn to the attention of the parties or their representatives or their expert witnesses.
 - Any questions to the parties or witnesses should be put through the judge who will decide if it should be asked at that stage or left until the resumed hearing.
 - Questions should only be asked when the parties, their representatives and their expert witnesses are present
6. The members of the tribunal can take notes and will discuss what they see between themselves during the visit and afterwards. But it is not appropriate for them to make comments or gestures which might indicate or be perceived by the parties as indicating a concluded view about the case or any live issue.
7. As far as possible, the members of the tribunal should stay together during the visit. No one should try to speak with an individual member of the tribunal about any issue in the case.
8. If separated from the others, a member of the tribunal should discourage any attempts by a party or anyone else to speak to him/her in the absence of the other members about any issue in the case.
9. If anything untoward happens during the visit (for example, a party or a witness makes some potentially prejudicial assertion to a single member of the tribunal), the matter should be reported to the judge for the tribunal to decide how it should be dealt with, whether then or at the resumed hearing.

Biosecurity

10. Everyone (including members of the tribunal) who visits a farm or other place where livestock, birds or other animals are kept or produce is grown should make sure that their cars and boots (and any overalls or outer clothing) are clean and free from any organic matter from their own farms or other places where livestock, birds or other animals are kept or produce is grown.
11. A member of the tribunal staff will bring a brush, bowl and disinfectant, and visitors will be asked to use these to disinfect their footwear.
12. If a farm has its own appropriate biosecurity measures (such as a farm gate vehicle or boot wash), everyone should comply with them.