



Upper Tribunal (Lands Chamber)

Explanatory leaflet for appeals against decisions of the Valuation Tribunal for England and the Valuation Tribunal for Wales

A guide for users

January 2016

Addresses

The Lands Chamber is based at:

5th Floor

Rolls Building

7 Rolls Building

Fetter Lane

London EC4A 1NL

Tel: 020 7612 9710

Fax: 0870 761 7751

DX: 160042 Strand 4

Email: lands@hmcts.gsi.gov.uk

The office hours are 9am to 4:30pm

Please contact us if you are unable to find the information you require in this or the other documents on our website. Our administrative staff can answer questions about the procedures relating to Tribunal cases. They are not trained or permitted to give general legal advice or to advise about the law relating to a particular case.

Our website is www.gov.uk/appeal-upper-tribunal-lands

On this website you will find information to help you with your case including our procedural flowcharts which show the steps in the different procedures that may apply depending on the type and complexity of your case. Also available on the website are the forms you will need to make or respond to an appeal. If you do not have access to the internet you can request a copy of any of the documents from our office. Free assistance in gaining access to the internet may be offered by your local library. You will need to follow our Rules and Practice Directions.

Our recently published decisions are also available via our website.

The Lands Chamber deals with certain matters in respect of land in England and Wales. The equivalent bodies for Scotland and Northern Ireland are:

The Lands Tribunal for Scotland
George House
126 George Street
Edinburgh EH2 4HH

DX ED 259
LP 14 Edinburgh 2

Tel: 0131 271 4350

Fax: 0131 271 4399

mailbox@lands-tribunal-scotland.org.uk

The Lands Tribunal for Northern Ireland
Royal Courts of Justice
Chichester Street
Belfast BT1 3JJ

Tel: 02890 327703

Fax: 02890 546187

lands.tribunal@dfpni.gov.uk

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1. Glossary of terms

Alternative dispute resolution (ADR): ways of resolving or settling a dispute outside the court or tribunal process. ADR includes mediation, adjudication, arbitration, conciliation, early neutral evaluation and ombudsman schemes. (see paragraph 3.3)

Appellant: a person who appeals

Court of Appeal: the Court of Appeal hears appeals on points of law from final determinations of the Tribunal (see paragraph 7.1)

Help with fees: the waiving of all or part of a fee normally payable because of financial hardship. (See paragraph 3.2)

Member: one of the specialist chartered surveyors appointed to hear Lands Chamber cases.

Practice Directions: the Lands Chamber's own procedural documents, available on its website, which explain how its rules and procedures will be implemented

Registrar: a legally-qualified officer of the Lands Chamber exercising certain judicial powers and functions in relation to case management and costs.

Respondent: a person who files a respondent's notice in order to participate in an appeal. If the proceedings were decided without a hearing, a person who made representations in writing to the Valuation Tribunal.

Statement of case: a statement setting out the basis of a party's case (see paragraph 3.11)

Stay of proceedings: an order made by the Tribunal suspending (creating a pause or break in) a case for a specified period of time to allow negotiations or for another good reason (see paragraph 3.10)

The Tribunal: the Upper Tribunal (Lands Chamber)

The Valuation Tribunal, the VTE, the VTW: the Valuation Tribunal for England or the Valuation Tribunal for Wales

2. Introduction

This leaflet provides basic information concerning appeals to the Lands Chamber from decisions of the Valuation Tribunal concerning rating disputes. It is not a substitute for professional advice or attention when necessary to our Rules and Practice Directions.

2.1. What is the Lands Chamber?

We are a specialist chamber of the Upper Tribunal established to determine disputes concerning land in England and Wales and its valuation, and to hear appeals against decisions of other tribunals including the Valuation Tribunal for England (VTE) and the Valuation Tribunal for Wales (VTW) regarding the rateable values or rateability of commercial, industrial and other non-domestic properties.

Procedure in the Tribunal is governed by the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 and by Practice Directions. You can view these documents online at www.gov.uk/appeal-upper-tribunal-lands

2.2. Who are the members of the Lands Chamber?

The Chamber's President is the Honourable Mr Justice Holgate. Mr Martin Rodger QC is the Deputy President and there are seven part-time judges who are His Honour Judge Behrens, His Honour Judge Bridge, His Honour Judge Gerald, His Honour Judge Hodge QC, His Honour Judge Huskinson, His Honour Judge Millwyn Jarman QC and Her Honour Judge Alice Robinson. There are three full-time specialist members, Mr Paul Francis (FRICS), Mr Andrew Trott (FRICS) and Mr Peter McCrea (FRICS FCI Arb) who are Fellows of the Royal Institution of Chartered Surveyors. Assisting them is the registrar, Donald Scannell who has certain case management and decision making powers.

The administrative staff who support the Tribunal are civil servants and members of HM Courts & Tribunals Service. They are managed by the delivery manager, Sharon Sober.

3. Generally

3.1. Beware the time limit!

There is a time limit for appealing to the Lands Chamber against decisions of the Valuation Tribunal, so you should act quickly.

Your completed Appeal Form must be received by us within twenty-eight days of the date the Valuation Tribunal sent its decision to you.

3.2. What fees and costs will I have to pay?

The Lands Chamber is required by law to charge fees. The fee for lodging an appeal is £275. The fee for hearing or determining an appeal varies according to the type and size of the case, ranging from £275 to £16,500. Certain other fees will be charged during the proceedings. For example you will need to pay a fee of £110 if you make an application for an extension of time for complying with any of the tribunal's directions. Further information is given in the Fees Order with its schedule of fees which may be viewed via our main website.

If you think you may be entitled to a reduced fee, the 'EX160 Apply for help with fees' guide will outline how you can submit an application for a fee remission. You can get the guide and application form online,

<http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>

You have to send the help with fees form with your appeal form.

3.3. Is there an alternative?

Once you have lodged an appeal if you are willing to try to settle your dispute without a Tribunal hearing and the other party agrees, the Tribunal will allow a short stay in the proceedings while you try to settle the case by means of alternative dispute resolution.

There are a number of less formal and less expensive methods of resolving disputes, known as alternative dispute resolution (ADR) because they offer an alternative to the courts and tribunals.

Mediation is a way of resolving or narrowing disputes by agreement. It is voluntary and works outside the Tribunal process. An independent person (the mediator) helps the parties look for a solution they both find acceptable. Together the mediator and parties develop and explore options for settling the dispute.

Mediation is simple, quick and less expensive than legal proceedings. It has a high success rate and parties tend to be satisfied with it. The Court of Appeal has strongly encouraged parties to consider mediation.

Many different organisations provide mediation and other ADR services. To find a mediator we suggest you visit the Ministry of Justice's website's Find a Civil Mediation Provider service at www.civilmediation.justice.gov.uk, or contact the National Mediation Providers' Association at www.nmpa.org.uk, telephone 0845 544 2199, or the Royal Institution of Chartered Surveyors (RICS) www.rics.org/uk dispute resolution service, which offers mediators who are experienced property specialists.

The Tribunal will allow a six week stay of proceedings where the parties agree to ADR. The Tribunal will not charge the £110 fee that a party applying for a stay of proceedings must usually pay. The fees charged by mediation or other ADR providers are in addition to and separate from the fees charged by the Tribunal.

3.4. Will there be a hearing in court?

If the parties do not settle the case, a Tribunal hearing will usually take place to consider the appeal. At the hearing each party puts forward their arguments and evidence, usually under oath, and each witness may be cross-examined by the opposing side. Hearings are open to the public. If the simplified procedure is followed, the hearing will be more informal. If both parties agree (or if an appeal is unopposed), and the Tribunal considers it appropriate, the appeal may be decided without a hearing.

3.5. How long will it take?

The Tribunal seeks to determine appeals as quickly as possible and aims to deal with 75% of all appeals within 70 weeks. The Tribunal is able to hear and decide an appeal most quickly if the dispute is relatively simple or straightforward, and if the parties have provided all the relevant documents promptly and can attend a hearing at an early date. Some appeals, especially if they are large, complex or have many parties, may require many months before they are ready for hearing. If you are ready to proceed to hearing you may apply to the Tribunal for the earliest available hearing date.

3.6. Do I need to instruct lawyers and expert witnesses?

You may conduct your own case and appear on your own behalf at the hearing. However, as the law and facts may be complex, you may wish to have professional representation from a lawyer or surveyor. When a professional representative is instructed to act, the Tribunal will correspond directly with them, rather than with the party they represent. Given the nature of our cases, very often surveyors and or other professionals need to be engaged to appear as expert witnesses. The Tribunal

considers that experts should not act both as advocate and as expert witness unless the case is dealt with under the simplified procedure.

3.7. Will there be a site inspection?

When necessary the Tribunal will view the land or building in question and may also view other sites. This may be before or after the hearing. Notice is given to the parties who are entitled to be represented at the inspection. For an inspection inside any building and for entry on any land the permission of the occupier is required. An accompanied inspection will not usually take place if the occupier does not consent to the other party or their representative attending the inspection.

At an inspection neither party may make submissions or arguments about the case. However the parties may point out any features of the land or building to which they wish to draw the Tribunal's attention and may answer specific questions raised by the Tribunal.

3.8. Will the Tribunal return my papers to me?

The Tribunal is not able to return documents to you. This applies both during the case and after the end of the case so it is very important for your own records that you keep a copy of every application, notice or document that you send to us.

3.9. Extensions of time

When the Tribunal directs that a step must be taken by a specified date, that direction must be complied with. If you cannot comply with a time limit you can apply to the Registrar for an extension of time but it will only be given if he considers it appropriate to do so. You must explain why you require the extension and for how long. You must also send a cheque for the £110 fee, payable to 'HM Courts & Tribunals Service' with your application.

Before sending in the application you should see if the other party will consent to the extension. If they do agree a joint application signed by both parties may be submitted, or each of you may send a letter to the Tribunal confirming what has been agreed. If the other party does not agree you need to serve a copy of your application for an extension of time on the other party. You also need to explain to them that if they wish to object to your application they must send a letter giving the reasons for their objection to the Tribunal so that it arrives within 10 days of the date you served the application on them.

3.10. How can I apply for a stay of proceedings?

You can apply for a stay of proceedings (a pause or temporary break in the proceedings) in exactly the same way as applying for an extension of time. The process is the same as that in the paragraph above regarding extensions of time.

3.11. What is a statement of case?

It is a statement setting out the basis of your case. The purpose of a statement of case is to enable the other party and the Tribunal to identify easily the issues to be determined. Your statement of case must therefore set out the facts and the law on which you rely. It must be in summary form but contain particulars or details that are sufficient to tell the other party the case that you are making. Your attention is drawn to section 6 of the Practice Directions which deals with statements of case in more detail.

A respondent must send a statement of case setting out why they disagree with the appellant's case to both the appellant and to the Tribunal within one month of receiving the appellant's statement of case.

3.12. Expert witness evidence

An expert witness is a witness instructed by one or by both of the parties who provides a professional opinion on the matters in dispute. You do not have to call an expert witness in support of your case but it may be the only or best way to establish the merits of your case. The type of expert witness most commonly called is a surveyor or valuer. For some large or complex cases, architects, planners, civil engineers, accountants or other experts are called. Only one expert witness may be called by a party unless they have applied for and been given permission to call more.

Each expert witness who is to give evidence to the Tribunal is required to file a report setting out that evidence, accompanied by any relevant plans, valuations, lists of comparable properties and other supporting information. Copies of these documents must be sent to the Tribunal and the other party well in advance of the hearing. Before and again after the exchange of the experts' reports the Tribunal requires experts to meet in order to identify the issues to be resolved, to reach agreement as to facts, to agree any relevant plans and photographs, and to settle as many issues as possible. The experts will normally be required to prepare a statement for the Tribunal showing the facts and issues on which they agree and disagree and a summary of their reasons for disagreeing.

Witnesses of fact may also be called to give relevant evidence of facts known to them, but such witnesses do not give professional opinions.

3.13. Costs

The Lands Chamber has the power to order a party to pay another party's costs, or part of their costs, of the appeal. In appeals from the Valuation Tribunal (unless the simplified procedure or the written representations procedure are adopted) the unsuccessful party will normally be ordered to pay the successful party's costs, although different orders may be made

In an appropriate case the Lands Chamber may make an order limiting a party's liability in respect of costs subsequently incurred.

The Lands Chamber may also order that a representative personally pay the whole or part of costs it considers to have been wasted as a result of any improper, unreasonable or negligent act (or failure to act) by that representative.

The Lands Chamber may also order a party to reimburse fees paid by another party to the Lands Chamber.

4. Procedure

4.1. Notice of appeal and statement of case

If you wish to appeal against a decision of the VTE or the VTW, you must send or deliver an appeal form Form RA to the Lands Chamber within 28 days of the date of the VT's decision. An electronic copy of the form may be downloaded from our website or a copy may be requested from our office. The fee for lodging an appeal is £275.

You also need to enclose two copies of a statement of your case with your appeal form. Your statement of case must include:

1. Any valuation (with particulars and computations) you rely on or a statement of the values agreed by the parties; and
2. Full particulars of any comparable properties and transactions you rely on and a statement of the purpose for which the comparison is made or a statement that no comparables will be referred to.

If you are unable to file a statement of case with your notice of appeal you must request an extension of time (see paragraph 3.9).

4.2. Respondent's notice and statement of case

If you were a party to a VTE or VTW case and an appeal is made to the Lands Chamber by another party, you will be sent a copy of their notice of appeal and statement of case, if one was enclosed with the appeal. If you wish to be a respondent to the appeal, you must file a respondent's notice with the Lands Chamber and serve a copy on the appellant within one month of receiving the appeal. If you have been sent the appellant's statement of case, you also need to enclose a statement of your case with your respondent's notice.

If you have received the appellant's statement of case but are unable to file a statement of case with your respondent's notice, you must apply for an extension of time in which to do so (see paragraph 3.9).

4.3. Optional appellant's reply

Within one month of receiving the respondent's statement of case the appellant has the option of filing and serving an appellant's reply addressing the arguments of the respondent. There is no need to file an appellant's reply if the issues have already been addressed in the appellant's statement of case.

4.4. The standard, special, simplified and written representations procedures

The Tribunal will decide which procedure to adopt for the appeal.

The **standard procedure** is used for the majority of appeals. The rating appeals procedure flowchart on our website will show you the steps that are followed under this, and the other procedures.

Cases that are complex, of high value, or of wider importance are dealt with under the **special procedure**. Such cases are case-managed by a judge or member of the Tribunal from the beginning. An early case-management hearing is usually fixed to ensure that appropriate directions are given and that a timetable is set.

In limited value, simple or straightforward cases, time and costs may be saved by use of the **simplified procedure**. Under this procedure a date for the hearing (usually about three months ahead) will be fixed early in the proceedings. Under the simplified procedure:

- all necessary documents must be sent to the Tribunal and other parties one month, or for some types of document, 14 days prior to the hearing;
- a chartered surveyor may act both as advocate and as expert witness;

- the hearing will be less formal;
- usually no costs order will be made;
- the usual tribunal fees, such as the hearing fee, are payable.

The **written representations procedure** is available in cases in which the parties do not need to test each other's evidence with cross-examination and the Tribunal considers it possible to deal with the appeal fairly without a hearing. Instead the Tribunal makes a determination based on the written representations and evidence submitted by the parties.

4.5. Review or rehearing?

Appeals from decisions of the VTE or the VTW are by way of a rehearing. The parties call the witnesses and evidence they rely on to support their case. They may rely on new evidence which was not before the VTE or the VTW.

5. Hearings

5.1. Venues

The Tribunal hears most cases at its courts in London and holds hearings in other local courts if necessary. If the parties request a hearing to take place locally, and the Tribunal agrees, the Tribunal will try to arrange suitable courtroom accommodation.

5.2. Length of hearing

Parties are required to tell the Tribunal how long the hearing is expected to take, whether several hours, or one or more days. Parties should consult with each other about this and try to agree time estimates. If the time estimate is too short, there may have to be an inconvenient and possibly expensive adjournment part-way through the case until more available days can be found. On the other hand if parties over-estimate the time, the scheduling of other hearings is delayed. It is in the interests of all litigants that the resources of parties and of the Tribunal are not wasted either by unnecessary adjournments or by over-estimates of the hearing time required.

5.3. If lawyers are instructed

A party is not obliged to instruct lawyers, and individuals are always entitled to appear on their own behalf. However, as the law or facts can be complex, lawyers are often

instructed. If you instruct a lawyer or surveyor to represent you, they must inform the Tribunal which will then communicate with you through your representative.

5.4. Special needs

Please let us know when we are arranging the hearing date if you, your representative or any of your witnesses have any special needs that need to be taken into consideration, for instance if one of you is disabled and requires a court with suitable access and facilities.

5.5. Arranging a hearing date

Under the simplified procedure a hearing date is set as soon as possible and before the parties have filed and exchanged all their documents. In all other cases the hearing date is not normally set until after the parties have filed their statements of case, witness statements and any expert's reports.

5.6. Preparing for the hearing

Neither party may take their opponents by surprise at the hearing by withholding material until the last minute. So, well before the hearing takes place you must provide to the Tribunal and the other party a witness statement for each witness you are planning to call to give evidence, and copies of all documents, plans, valuations and reports which you wish to refer to during the hearing

5.7. Procedure at the hearing

Participants are advised to arrive a little before the appointed time on the day of the hearing so that they can make themselves known to the court clerk, familiarise themselves with the courtroom layout, meet their witnesses, get the documentation in order and perhaps discuss the case with their opponents.

When the hearing begins, the appellant usually starts first by setting out their case, then calling evidence and presenting documents. Each witness gives evidence on oath or affirmation (unless the simplified procedure is used), and is liable to be asked questions by the Tribunal and cross-examined by the other party. The other party then introduces its case and calls evidence. Each party has an opportunity to set out any legal arguments it relies on in support of its case.

Proceedings will be less formal if the simplified procedure is used.

Wigs and gowns are not worn in tribunal proceedings. Judges and surveyor members are addressed as 'Sir' or 'Madam'.

6. Decisions

6.1. Written decisions

The Tribunal usually reserves its decision rather than giving a decision immediately at the end of the hearing. Decisions are given in writing and sent to the parties. The Tribunal will also invite the parties' submissions on costs at this stage, where appropriate.

7. Appeals against decisions of the Lands Chamber

7.1. Appealing Lands Chamber decisions

The Tribunal's decision on all matters of fact is final. There is a limited right of appeal to the Court of Appeal on points of law for which permission to appeal is required. An application for permission to appeal must be received by the Lands Chamber within one month of the date that the decision was sent to the parties.

If the Lands Chamber refuses permission to appeal it will send the decision to the parties setting out the reasons for its refusal. The applicant may then apply in writing to the Court of Appeal for permission to appeal within 21 days of the date that the Tribunal's decision refusing permission was sent to the parties. Three copies of an Appellant's Notice and a copy of the decision of the Tribunal refusing permission to appeal must be filed at the Court of Appeal.

If you are given permission to appeal by the Lands Chamber, you will need to file three copies of an Appellant's Notice together with the decision giving permission to appeal with the Court of Appeal within 21 days of the date of the Tribunal's decision giving permission to appeal.

Further information on applications for permission to appeal to the Court of Appeal is available from the Court of Appeal's website, www.justice.gov.uk/courts/rcj-rolls-building/court-of-appeal or you can contact the Civil Appeals Office at the Royal Courts of Justice, Strand, London WC2A 2LL on 020 7947 6916/7121.

7.2. Review of a Lands Chamber decision

The Tribunal may only review or reconsider its own decision in two circumstances. First if it overlooked a legislative provision or binding authority which could have made a difference to the decision, or second, if since the Tribunal's decision, a court has made a decision which is binding on the Tribunal and which, had it been made before the Tribunal's decision, could have had made a difference to the decision.

If you believe the Tribunal should review its decision, you must apply to the Tribunal for permission to appeal to the Court of Appeal and also at the same time ask the Tribunal to review its decision. If the Tribunal decides not to review the decision or not to vary it, it will consider whether to give permission to appeal.

8. Standards and complaints

8.1. Standards

The Tribunal has certain standards of service and performance which it is committed to reaching. We aim to:

- respond to any requests via email or letter within five working days
- answer telephone calls within five rings
- register and acknowledge new cases within five working days (if all necessary documents and fees are sent with the case)
- complete 75% of all appeals within 70 weeks

8.2. Comments and complaints

If you have any comments or complaints about the service you have received from the Lands Chamber contact:

The Upper Tribunal (Lands Chamber)

5th Floor

Rolls Building

7 Rolls Building

Fetter Lane

London

EC4A 1NL

Tel: 020 7612 9710

Fax: 0870 761 7751

Email: lands@hmcts.gsi.gov.uk

If upon receiving a response you wish to take the matter further please contact the Operations Manager, Keeley Martin, at the above address and ask her to review your complaint.

Neither the administrative team nor the Tribunal manager can deal with complaints about judicial decisions.

9. Obtaining advice and finding a solicitor or surveyor

For assistance in finding a solicitor with expertise relevant to your case contact the Law Society of England and Wales. Their website address is www.lawsociety.org.uk and their general enquiries telephone number is 020 7242 1222. The Law Society does not provide legal advice to members of the public but does provide guides on common legal problems written in plain English, including one on using a solicitor. The guides are available on their website and may be requested in hard copy from the Law Society by calling 0191 428 7439. Alternatively, you may contact the Royal Institution of Chartered Surveyors or the Rating Surveyors' Association for help in finding a surveyor who deals with rating matters. Their websites are www.rics.org/uk and www.ratingsurveyorsassociation.org

To obtain free legal information, advice or assistance you may wish to contact the Citizens' Advice Bureau. Their website www.adviceguide.org.uk contains information sheets and also has a search facility to assist you in finding your local office. If you are not able to access the internet you may find details on your local Citizens' Advice Bureau from your local library.