Issue 59

January 2021

Valuation Tribunal Service

Valuation in Practice

News in brief

New telephone number

On Monday 25 January, we will be migrating our telephone lines to a central telephone number - **0303 445 8100.**

£4.6 billion in new grants to support businesses and protect jobs

On 5 January, the Chancellor announced that businesses in the retail, hospitality and leisure sectors are to receive a one-off grant worth up to £9,000 to help them through the Spring. A £594million discretionary fund has also been made available to support other impacted businesses. This comes in addition to £1.1 billion further discretionary funding for Local Authorities, Local Restriction Support Grants worth up to £3,000 a month and extension of the furlough scheme. Further information can be found at https://www.gov.uk/government/news/46-billion-in-new-lockdown-grants-to-support-businesses-and-protect-jobs

VT Hearing Programme January 2021 to March 2021

All hearings will continue to be conducted as on-line hearings utilising MS Teams as the platform. The profile and volume of the hearings is set out in the table below:

Tribunal Type	Jan	Feb	Mar	TOTALS
Council Tax	43	53	70	166
2017 Rating List	20	13	10	43
2010 Rating List	4	8	7	19
Other	1	1	4	6
TOTAL	**68**	**75**	**91**	**234**

The number of hearings will increase steadily on a monthly basis, with Council Tax hearings making up around 70% of convened hearings and is reflective of the cases that require consideration.
The hearing programme for April to June 2021 (Q1 - 2021/2022) is expected to have a similar listing profile.

COVID-19 (coronavirus) update

Following the most recent announcement, our London and Doncaster offices remain open to staff only whilst we continue to provide a remote service to our users. We continue to encourage all communication with us by email. Further updates are available on our website www.valuationtribunal.gov.uk

Parties' views of remote hearings

We are always looking to make improvements to our remote hearing process and welcome views on how we can make your experience better. Your views are important to us. Please email appeals@valuationtribunal.gov.uk with your thoughts and suggestions.

Appeal statistics

Our quarterly statistics release was published in January and can be found here.

Reminder in preparing tribunal evidence bundles in council tax cases

As the Tribunal is not involved in any discussions regarding the appeal until it is listed, it is the responsibility on those presenting their case to help the Tribunal find what they need quickly and easily, and to understand what the case is about. We have prepared guidance to assist billing authorities in putting together their evidence bundles, including all material provided by appellants, for submission to the Tribunal. This explains what needs to be done in order to comply with the VTE's requirements. https://www.valuationtribunal.gov.uk/guidance-for-respondents-on-tribunal-evidence-bundles/.

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Progress on ATMS

We continue to maintain an overview of discussions between the VOA and key representatives in monitoring progress regarding outstanding ATM appeals, of which over 18k (50%) of cases have been cleared to date.

Discussions on the first tranche of appeals is drawing to a close, which has identified a list of potential superfluous cases. Identified cases have been sent to relevant agents for action and it is anticipated that all those 'superfluous' appeals requiring a listing will be identified no later than 31 July 2021.

Work is currently ongoing to add additional interested parties where agreement is needed to merge the ATM hereditament with the host. This will hopefully result in agreement forms being issued by the end of January. The outstanding cohort of these appeals (non-agreed) will be listed in March.

A further progress meeting is planned for February.

Business Rates Information Letter (9/2020)

https://www.gov.uk/government/collections/business-rates-information-letters

Contains information on:

- Duty to provide ratepayer information;
- 2023 Business Rates Revaluation – VOA update;
- Provisional Multipliers for 2021-22;
- Backdating of Small Business Rate Relief;
- Funding of New Burden costs for billing authorities administering reliefs; and
- Expanded retail discount queries.

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Hospital (Parking Charges and Business Rates) Bill

The date for the second reading in the House of Commons is yet to be announced.
https://services.parliament.uk/bills/2019-21/hospitalsparkingchargesandbusinessrates.html#:~:text=Summary%20of%20the%20Hospitals%20(Parking,rates%3B%20and%20for%20connected%20purposes.

Non-Domestic Rating (Lists) (No.2) Bill

The Bill had its second reading in the House of Lords on 18 January 2021. The Committee stage - line by line examination of the Bill - is scheduled for 4 February 2021. https://services.parliament.uk/Bills/2019-21/nondomesticratinglistsno2.html

Non-Domestic Rating (Public Lavatories) Bill

The date for the second reading in the House of Lords was 18 January 2021.
https://services.parliament.uk/Bills/2019-21/nondomesticratingpubliclavatories.html

Stayed appeals

There are a number of appeals stayed (not being progressed) by the Tribunal and the table identifies these and the reason for the appeals being 'stayed'

Appeals stayed at the Valuation Tribunal for England

Class	Issue	Reasons
NDR - Museums & Galleries	Appeals where the parties have identified that the VTE hearing of 6 November 2010 in respect of museums is relevant to proceedings (the VTE decided the appeals on the basis of a full rather than shortened R & E basis).	Shipley Art Gallery, Prince Consort Road, Gateshead, Tyne and Wear, NE8 4JB ("Shipley Art Gallery"); (2) The Discovery Centre, Blandford House, Blandford Square, Newcastle upon Tyne, NE1 4HZ ("The Discovery Centre"); (3) Laing Art Gallery, Higham Place, Newcastle upon Tyne, NE1 8AG ("Laing Art Gallery"); (4) South Shields Museum, 6 Ocean Road, South Shields, Tyne and Wear, NE33 2HZ ("South Shields Museum"); (5) Chard Museum Society, High Street, Chard, Somerset, TA20 1QL ("Chard Museum"); and (6) Fairfax House, Castlegate, York, YO1 9RN ("Fairfax House") have all been appealed to the UT

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Appeals stayed at the Valuation Tribunal for England

Class	Issue	Reasons
CTL - Class G exemption for dwellings that cannot be occupied by the owner because of Covid 19 restrictions.	Where the owner is prohibited by law from visiting (occupying) a dwelling or a landlord is prevented from letting a property due to Covid 19 restrictions.	President to hear issues. All cases to be referred to Deputy Registrar.
NDR - Deleted entry sought on the basis that no valid completion notice has been served.	Where the service of the completion notice has been undertaken by an outsource company like Capita as opposed to being undertaken inhouse by the council.	President to hear a similar case later this year.
CTV & NDR - Completion notice appeals.	Whether the VTE can set a completion date outside the statutory 3 months and if not whether the VTE can order a completion notice to be quashed in accordance with *London Borough of Newham & Rad Phase 1 Type B Property Company No1 Limited*.	The substantive matter before the Upper Tribunal was whether the VTE could set a completion date in excess of three months where the parties had agreed such a date. The legislation allows the parties to come to an agreement on a completion date. The UT considered that it doesn't specify that the date has to be within three months and therefore the VTE should have, and the UT has, set a date in excess of three months. The decision also includes comments on other occasions where the VTE could set a date in advance of three months and is of the opinion that the Tribunal is unable to quash a completion notice (contrary to a pervious UT decision in respect of *Spears Brothers*). All such matters would appear to be obiter dicta and as such are not binding but will need to be tested before the VTE. A complex case needs to be identified and others stayed.
NDR - Religious Exemption of Church of Scientology properties.	The VO Agency is currently dealing with a number of appeals by the Church of Scientology [CoS] relating to religious exemption on premises in various parts of the country. The issues are complex and they are in contact with the Church's lawyer and their own Counsel. Information relating to various issues is still being sought. The religious exemption issues may have to be resolved on legal arguments under PS3 of the VTE Consolidated Practice Statements.	Appeals postponed and not listed awaiting application in respect of: 146 Queen Victoria Street , London EC4V 4BY, 68 Tottenham Court Road, London W1T 2BB, Saint Hill Manor East Grinstead, WS RH19 4JY Winston Churchill House, 8 Ethel Street, Birmingham B2 4BG, 258Deansgate, Manchester M3 4BG 51 Fawcett Street Sunderland SR1 1RS 41 Ebrington Street, Plymouth PL4 9AA First Floor, 9-12 Middle Street, Brighton BN1 1AL
NDR - 2017 list appeals where there is an issue on fitout costs which replace existing items.	1st Floor, 14 Castle Mews, High Street, Hampton, Middlesex, TW12 2NN & 1st Floor, Stratton Court, 1 Kimber Road, Abingdon, Oxfordshire, OX14 1SG.	Appeal to UT on whether costs to replace existing items on a like for like basis add value and increase the rent of the property. VOA withdrawn appeal. Further test cases identified by the parties.
NDR - The powers of the VTE under reg 38 (7) of the Procedure Regs and in particular 1.whether the VTE has power to delete an entry for a temporary period? 2. what are the VTE powers where a hereditament has temporarily been rendered incapable of beneficial occupation due to the execution of works to the hereditament but where the list is closed by the time of the appeal decision and either it returns to an inaccurate entry of (£1.83m rather than £1.8m) or an inaccurate entry of nil.	4 Freeston Drive, Nottingham Pt 2nd Floor South and 3rd Floor, 10 Aldermanbury, London.	Appeal to CoA in respect of both: *Great Bear Distribution Ltd & Sykes* (V0) [2020] UKUT 0238 (LC) *Avison Young Ltd &* Jackson (VO) [2020] UKUT 0058 (LC)
NDR - Appeals where a reduced RV entry is sought following tenant's alterations.	Offices which have been reconfigured and have resulted in reduced office space because the area is now utilised as additional toilets or communal staircase for example. The *appeal of David Jackson (VO)* [2020] UKUT 0078 appears to conflict with its earlier judgment in *The appeal of Ian Philip Manning (VO)* [2014] UKUT 0476 (LC).	Vice President to hear similar case as complex in March.

Decisions from the Upper Tribunal (Lands Chamber)

Bartolo v Hanson (VO) [2020] UKUT 0318 (LC)

This decision dealt with a preliminary issue and reaffirmed the UT's judgment in *Wall's Appeal* [2020] UKUT 0166 (LC) that there is no right of appeal against a review decision under regulation 40. The right of appeal is against the tribunal's decision which disposes of the appeal under Regulation 42 of the VTE (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

The appeal was dismissed by separate VTE panels following sittings on 17 January 2019 and 24 July 2019. On both occasions, the appellant failed to comply with directions by not appearing or providing any evidence.

A review application, against the first panel decision, was considered by a Vice President and the decision was set aside. Following a relisting and re-hearing, a new tribunal panel dismissed the appeal for non-attendance and not providing evidence. The appellant submitted a review application, which was again considered by a Vice President. As this application lacked supporting material, an additional ten days was permitted to allow the appellant to provide supporting information regarding his review application. The appellant applied for a further extension of time, which was rejected for the reason that ample time had been provided.

The appellant appealed the Vice President's review decision and at the Upper Tribunal (UT) the VO asked the UT to dismiss it, in line with its earlier judgment in *Wall.*

In its consideration the UT held that neither the VTE nor the VOA had properly advised the appellant that his right of appeal under regulation 42 lay against the panel's decision to dismiss his appeal once the Vice President had refused his review application as the appellant's review application relied in part on ground (c) namely that although he did not attend the hearing he had reasonable cause for his non-attendance. Therefore, the 28 day time period for appealing to the UT ran from the date when the VTE served notice that it would not undertake a review.

This decision can be viewed here.

Co-op Group, Poundland Ltd v Virk (VO) and Battelle Agrifood Ltd v Sykes (VO) [2020] UKUT 286 (LC)

The UT's view as to whether an appeal on the same issue was an abuse of process as expressed in its earlier judgment in *Thorntons Plc and Another's appeal* [2018] UKUT 109 (LC) and *Arnold v Dearing (VO)* [2019] UKUT 224 (LC) differed in this particular case.

In *Thorntons,* the UT held that the VTE erred in dismissing an appeal against a valuation officer's alteration to give effect to an earlier agreement, on the basis that it was an abuse of process without considering properly whether there was such an abuse. In *Thorntons* the UT concluded that there was no abuse of process but the matter could be *res judicata* unless the ratepayer could show that new evidence had come to light, which could not reasonably have been foreseen since the earlier agreement was reached. If no such new evidence had become available, the UT suggested that the correct approach for the VTE to have taken was to strike out the appeal on the basis that the appeal had no reasonable prospect of success.

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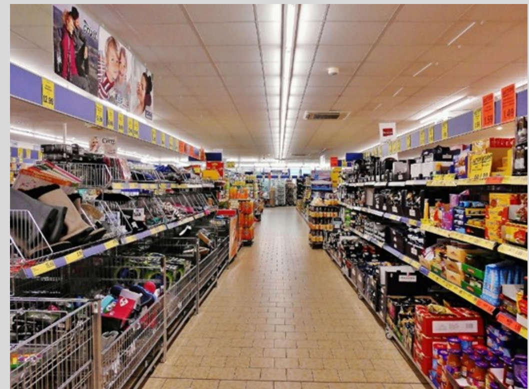
Decisions from the Upper Tribunal (Lands Chamber) continued...

Co-op Group, Poundland Ltd v Virk (VO) and Battelle Agrifood Ltd v Sykes (VO) [2020] UKUT 286 (LC) continued…



In *Co-op and Bagatelle*, the UT held that *res judicata* did not apply as the Valuation Tribunal had not made a judicial determination setting the respective RV entries appealed against, the appealed entries being determined following an earlier agreement between the parties. Consequently, abuse of process may apply which was a wider concept of which *res judicata* formed part. Having invited submissions on whether or not the appeals should be struck out for an abuse of process and hearing from the parties, the UT found that no new evidence had become available since the earlier agreements were made. Therefore, the ratepayers were not legitimately entitled to 'a second bite of the cherry'.

Two appeals were therefore struck out on the basis that there was no reasonable prospect of success. However, the VO's application to strike out one of the appeals (Poundland) was rejected because it was made by a new ratepayer, who was not a party to the earlier agreement.

Decisions from the High Court

Brown v Hambleton District Council [2021] EWHC 1 (admin)

The High Court upheld a VTE decision that the appellant was not entitled to a 25% single person discount for the period 1 February 2018 to 28 November 2018. The single person discount was sought on the basis that his wife was severely mentally impaired and suffering from Alzheimer's disease. There was no dispute about the facts. The issue in dispute was whether or not there was an entitlement to a discount, before a claim for attendance allowance was awarded. The appellant had explained that it was a cumbersome process applying for the attendance allowance and that a claim could only be made six months after the diagnosis.

Under paragraph 2 of schedule 1 to the Local Government Finance Act 1992, a person was disregarded for the purposes of discount if he or she was severally mentally impaired subject to conditions prescribed by order made by the Secretary of State. The relevant Order was the Council Tax (Discounts Disregards) Order 1992 and in particular Article 3 which provided an additional condition that a person had to be in receipt of a qualifying benefit to qualify for a discount disregard. One of the qualifying benefits was the attendance allowance. This is a benefit under Part III of the Social Security (Contributions and Benefits) Act 1992. It therefore fell under Section 1 (1) of the Social Security Administration Act 1992 where entitlement to a benefit was dependent on a claim except in prescribed cases.

The key issue in dispute between the parties was the effect of section 1 of the Administration Act. The billing authority argued that its effect was that in addition to meeting the conditions to qualify for a benefit, a person must have made a claim. The appellant accepted that section 1 of the Administration Act remained in force but argued that it did not have the effect as the responded contended.

The appellant argued that the preamble in section 1 of the Administration *except in such cases as may be prescribed* supported his case that entitlement to discount was not dependent on making a claim because pre-conditions for qualifying were already prescribed in the council tax legislation. However, the Judge rejected this argument as the Administration Act itself contained a definition section (191) and therefore section 1 applies for all claims for benefit unless another regulation prescribed that it should not. The Judge found that the applicable regulations in this case were the Social Security (Claims and Payments) Regulations 1987. Regulation 3 set out which benefits the exception applied to but the attendance allowance was not mentioned. Therefore the Judge held that a person cannot be entitled to an attendance allowance until they have made a claim. His interpretation by the two authorities relied by the responded *R v Social Security Appeal Tribunal [2000] WL 1274142 and Secretary for Work and Pensions v Nelligan [2003] EWCA Civ 555.*

Court of appeal judgment

London Borough of Southwark and Ludgate House Ltd & Ricketts (VO) [2020] EWCA Civ 1637

The Court of Appeal overturned the Upper Tribunal decision and reinstated the originating VTE decision confirming that Ludgate House was a single composite hereditament.

It was a large office block where Ludgate House Ltd (LHL) had an agreement with VPS (UK) Ltd (VPS) for the provision of property guardian services to secure the premises against trespassers and protect them from damage. In order for this to occur VPS occupied the property (through the use of guardians) as a licensee and LHL retained control, possession and management of the property.

The appeal concerned whether the four guardians (who occupied individual areas to protect the building but also for their own benefit as living accommodation) were in separate rateable occupation of some parts of the building or whether Ludgate House Ltd (LHL) retained general control of it all.

The Court of Appeal found that the purpose of the guardians' occupation was to facilitate VPS who were obliged to provide property guardship services to LHL. The Court of Appeal likened the relationship between the guardians and VPS/LHL as one of lodger and landlord as highlighted by the Supreme Court in Cardtronics. The guardians were not granted exclusive occupation; had to challenge intruders in the whole building (not just their own area); had a key to their room but not the building and had to be let in by security; they could be told to change rooms at any time (a significant point) and their occupation was of direct benefit to VPS/LHL. When looking at the arrangement as a whole the Court of Appeal concluded that LHL retained general control and therefore one hereditament remained.

It is currently understood that the Court of Appeal has remitted the case back to the Upper Tribunal to re-hear. The Court of Appeal refused to give permission to Ludgate House Ltd to appeal to the Supreme Court.

Interesting VTE decisions—Completion Notice

Allowance in notices for delivery

Three appeals were made, arising from proposals seeking a deletion of the disputed entries on the basis that no valid completion notice had been served.

The appeal properties were new industrial buildings, following an extensive programme of works. The billing authority issued 2 completion notices for Units 13 to 15 Guinness Trading Estate and Unit 18 Guinness Trading Estate respectively dated 3 May 2016. However the notices were not received until 9 May 2016.

The main dispute was that no allowance had been given in the notices for delivery. There was a further issue in that the VO had altered the list with effect from 15 May 2016 to split Units 13 to 15 to reflect the fact that Unit 13 was occupied from that date. The third appeal was therefore in relation to the new entry for Units 14 to 15 from 15 May 2016.

To be continued on Page 7

Interesting VTE decisions—Completion Notice continued...

It was agreed between the parties that if the completion notices were invalid, the disputed entries should be deleted from the rating list.

The appellant argued that the completion notices were invalid because by the time the notices were received, the completion date set was retrospective. The billing authority had therefore failed to comply with the statutory requirement of paragraph 2 (3) of Schedule 4A to the Local Government Finance Act 1988. The requirement was that the completion date set could not precede the date when the notice was served on the owner.

The tribunal was not satisfied that the billing authority's failure to comply with paragraph 2 (3) automatically invoked invalidity. Having regard to the notices, it was held that they were substantially compliant with Schedule 4A. the property to which each notice related to was clearly identified and the purpose of the notice(s) was clear. They cannot be said to be ambiguous or misleading. The only defect in the notices was that by the time they were received the completion date set was in the past. If a completion notice was held invalid, following a strict interpretation of paragraph 2 (3) it could produce a financial windfall for a ratepayer who has suffered no prejudice at all as a result of delayed service, especially when a statutory remedy was available in the form of an appeal under paragraph 4. In coming to its decision, the tribunal referred to *Miller-Mead v Minister for Housing and Local Government and Another CA [1963] 1 All ER 459,* the former VTE President's judgment in *Provincial Real Estate Burton Ltd v Virk (VO)* (VT appeal number 34109474725/538N10) and *Reeves (VO) v VTE* [2015] EWHC 973 (admin). The appeals were dismissed.

The decisions can be found below:

APPEAL NUMBERS: 424527635124/537N10, 424527749525/539N10 and 424527305411/539N10

Interesting VTE decisions—Council Tax Reduction

Penalty for failure to notify of change in circumstances

The Valuation Tribunal quashed the £70 penalty imposed by Uttlesford District Council under regulation 13 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

The Billing Authority had imposed a penalty as they found that the appellant had failed to promptly notify them of a change in her circumstances. Uttlesford District Council had not provided the Tribunal with evidence to show that the failure had resulted in a greater entitlement to Council Tax Reduction, which is one of the pre-requisites contained within regulation 13. Not all changes in circumstances result in a change to a claimant's council tax reduction award and therefore should not attract a financial penalty.

The Billing Authority also failed to satisfy the tribunal that their local scheme included a provision to impose a penalty because they failed to produce a copy of it.

In cases of this nature, the evidential burden is on both parties. The appellant should satisfy the tribunal that they had reasonable excuse for the failure to notify, however, the Billing Authority need to evidence that they have a legal basis to impose a penalty in the first place.

Interesting VTE decisions—Council Tax Reduction

CTR calculations

The appellant had lodged two appeals in respect of the following:

I. Appeal (1) against the Billing Authority's (BA's) decision notice dated 16 April 2019, which covered the financial years 2018/2019 and 2019/2020; and
II. Appeal (2) against the BA's decision notice dated 30 April 2020, which covered the financial year 2020/2021.

In arriving at its decision, the panel initially addressed (Appeal 2), which covered the financial year 2020/2021. Whilst the appellant had been granted the maximum level of CTR allowed within the BA's Local CTR Scheme, non-dependant deductions had been applied to reflect that the appellant's adult children resided with him and were assumed to contribute towards the household's expenses. The BA had reduced the appellant's charge by £150 under the Covid-19 CTR provisions. Furthermore, on 25 June 2020, the BA subsequently awarded discretionary reduction in accordance with section 13A of the Local Government Finance Act 1992, which reduced the appellant's charge to nil for that financial year.

Whilst the charge for the financial year 2020/2021 had been reduced to nil, the appellant still wished to pursue the appeal. He wanted the panel to determine a decision that would set a precedent for future financial years determining a nil council tax charge due to his low income and his contention that non-dependant deductions should not be applied in his case. However, the panel solely had the jurisdiction to consider his appeal against the BA's decision notice dated 30 April 2020, which covered the financial year 2020/2021. Furthermore, it was quite possible that the appellant's circumstances could change in future financial years. After having regard to the facts, the panel dismissed (Appeal 2), on the basis that it no longer had any dispute to adjudicate upon, as the appellant's council tax liability had effectively been written off by the BA.

In respect of (Appeal 1), the appellant had sought 100% CTR. However, the panel had to make a decision having regard to the Local CTR Scheme in force; it had no jurisdiction to amend or disapply the Local CTR Scheme. In accordance with Class 3 Paragraph 4.1 of the Local CTR Scheme, claimants of a working age were expected to contribute a minimum 8.5% towards their council tax liability. Therefore, whilst the panel appreciated that the appellant was on a low income, as he was an applicant of working age, the Local CTR Scheme did not allow 100% CTR to be applied. Accordingly, the panel found that the BA had arrived at the appellant's CTR calculation in accordance with the Local CTR Scheme and had already awarded him the maximum amount of 91.5%.

The panel noted that the following non-dependant deductions had been applied to the appellant's CTR calculation for certain periods:

I. 2018/2019 – £3.77 per week per non-dependent; and
II. 2019/2020 - £4.00 per week per non-dependant.

The CTR calculation was done by deducting the appropriate non-dependant deduction(s) from the gross weekly council tax liability then multiplying the result by 91.5%. This resulted in the appellant having to pay 8.5% of his liability after the non-dependant deductions had been applied. Due to the application of non-dependant deductions, the actual level of CTR the appellant had received was reduced. It was assumed that the non-dependants would contribute towards household expenses.

To be continued on Page 9

Interesting VTE decisions—Council Tax Reduction continued...

The appellant had disputed that non-dependant deductions should be applied to his CTR calculation as his children were not in employment or in receipt of benefits. He explained that they were actively looking for work but had suffered from discrimination. The panel held that despite their personal circumstances, the appellant's children had been correctly treated as non-dependants, after they ceased to be students.

In support of his appeal, the appellant had provided the panel with a copy of the High Court judgment of *Mark Logan* v *London Borough of Havering*. The panel read this case in full. However, it found it of little assistance in this appeal. Whilst there were similarities between the two cases as Mark Logan had been of working age and suffered from disabilities; the appeal related to a challenge to the Local CTR Scheme in force. For the financial year 2015/2016, the London Borough of Havering had decided to reduce CTR from 100% to 85% for claimants of working age; thereby leaving the applicant with 15% liability to pay. Mark Logan challenged the legality of the Local CTR Scheme on the grounds of age and disability discrimination.

In the current appeal, the panel had to arrive at a decision having regard to the Local CTR Scheme in force for the relevant BA. As previously mentioned, the panel had no jurisdiction to amend the current Local CTR Scheme. The panel may not change any of the scheme's rules or regulations; it must simply consider whether the BA had calculated his level of CTR entitlement correctly, having regard to the scheme. Should the appellant wish to challenge the Local CTR Scheme then this should be done by way of a judicial review.

As a consequence of the above findings, the panel found nothing erroneous within the BA's calculation for the appellant's CTR for the financial years 2018/2019 and 2019/2020. Accordingly, the panel upheld the BA's decision and dismissed (Appeal 1).

Interesting VTE decisions—2017 Rating List Appeal

Should fair maintainable trade (FMT) be adopted?

The hereditament was entered in the 2017 rating list at £48,000 RV with effect from 14 November 2017. The Valuation Officer issued a Decision Notice (DN) on 18 September 2019 altering the entry to £41,000 RV with effect from 14 November 2017. As the Valuation Officer had not altered the rateable value in line with the proposal, the appellant appealed this DN on the grounds that the valuation for the appeal property was not reasonable.

The appellant submitted further evidence with the appeal, which comprised recent accounts. The Valuation Officer did not serve a notice of objection in response, and this evidence was not objected to by the Valuation Officer at the hearing.

The appellant's representative argued that the VO's adoption of £350,000 for the FMT was unreliable, as it was based on a projection obtained from press reports and that better evidence was derived from actual trade figures from the appeal property. His proposed valuation of £26,250 RV was based upon actual trade of £232,727 for the period from July 2018 to June 2019, with adjustments made to tone back to the antecedent valuation date (AVD) of 1 April 2015. The Valuation Officer did not disagree with the use of actual trade. However, he argued that the financial year 2018-2019 was too far removed from the AVD.

To be continued on Page 10

Interesting VTE decisions—2017 Rating List Appeal continued...

In response to a request from the VO at the challenge stage, the appellant provided profit and loss accounts for the period from July 2017 to June 2018. As the aparthotel did not commence trading until 14 November 2017, the accounts did not reflect the letting of the rooms for a full year. The Valuation Officer had annualised 7.5 months of trading to arrive at a figure just exceeding £260,000.

The Valuation Officer had chosen to adopt a FMT of £350,000, based upon information obtained from press reports that the property had undergone a significant refurbishment to provide "an upmarket serviced accommodation block that provides guests with self-contained rooms with an on-site concierge to manage the bookings, cleaners and maintenance issues." It also stated that in the 10 months since opening, a gross revenue of £241,980 had been achieved with an average monthly turnover in the region of £30,000, being on schedule to achieve £350,000 turnover in the first year.

In reflecting the FMT back to the AVD, the Valuation Officer adopted a figure of £330,000. In consideration of the refurbishment, which was noted to be of good quality, a return at 80% of the range under category D, being 12.42% (of the Valuation Office Agency Rating Manual Practice Note: 2017: Appendix 3: Agreed lodge/ Aparthotel scale), was adopted. Applied to the FMT of £330,000, this resulted in a figure of £40,986, which was rounded for rating list purposes to £41,000 RV.

In view of the annualised trade for July 2017 to June 2018 at £260,000, and the subsequent accounts for July 2018 to June 2019 at £232,727, the appellant's representative argued that the Valuation Officer's estimated FMT of £350,000 was excessive and unsubstantiated. The panel also considered that the Valuation Officer's use of an estimated FMT based upon a projection for investment purposes was less reliable than actual trade figures. Although the FMT of £232,727 reflected trade for a period two years after the AVD, the panel found that it was closer to the annualised figure of £260,000, and significantly less than the estimated £350,000.

In recognition of the fact that the later accounts were from a few years after the AVD, the appellant's representative adjusted the FMT to £219,461; the panel considered that this was a reasonable adjustment, and consistent with the Valuation Officer's adjustment of FMT to the AVD. The panel determined that the percentage applied to the FMT of 12% was also reasonable, and at a similar level to the 12.42% adopted by the Valuation Officer.

The appeal was allowed and the rateable value determined at £26,250 RV with effect from 14 November 2017.

Click here for the full decision.

Consolidated Practice Statement (CPS)

Don't forget: recent changes to the CPS came in on 29 July 2020. In particular the changes relate to Covid-19 amendments.

Click here to sign up to receive an alert when a new Practice Statement is issued or any future change is made.

Interesting VTE decisions—Council Tax Liability

Single person discount

Following an earlier appeal hearing, a VTE panel decided that Mr Belcher had been residing at the appeal dwelling from 1 April 2014. A second appeal came before another panel because Mr Belcher applied for a single person discount to take effect from 1 April 2014, as he was residing there alone. The billing authority accepted that he was entitled to the discount but only applied it with effect from 1 April 2018.

The billing authority's policy dictated that no further retrospective discount would be given unless the appellant provided evidence from a third party to substantiate the entitlement or a sworn affidavit to evidence the discount claim.

The appellant believed the earlier VTE decision was sufficient to justify his claim and refused to provide anything further. Mr Belcher appealed to the VTE and his appeal was upheld.

1. The panel determined that it was evident from the earlier panel decision that the appellant was entitled to the discount for the period in dispute.

2. There is nothing in the LGFA 1992 that requires any signed affidavit, third party corroboration of entitlement to the discount and neither is there any reference to limiting the backdating of any discount beyond the financial year such discount is awarded.

Click here for the full decision.

We welcome any feedback.

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