



Valuation Tribunal Users' Group

Minutes of the Meeting held via Teams on Tuesday 2 June 2020 at 11:00 am

Present:	Tony Masella	Valuation Tribunal Service (Chair)
	Lee Anderson	Valuation Tribunal Service (Director of Operations & Development)
	Jon Bestow	Valuation Tribunal Service (Registrar & Chief Clerk)
	Robin Evans	Valuation Tribunal Service (Board Chair)
	Gary Garland	Valuation Tribunal for England (President)
	Mark Higgin	Royal Institution of Chartered Surveyors
	Blake Penfold	Royal Institution of Chartered Surveyors
	Jerry Schurder	Royal Institution of Chartered Surveyors
	Tim Johnson	Rating Surveyors' Association
	Dennis Broughton	Rating Surveyors' Association
	Andrew Hetheron	Institute of Revenues Rating & Valuation
	Carla-Maria Heath	Institute of Revenues Rating & Valuation
	Louise Freeth	Institute of Revenues Rating & Valuation
	Michael Pearce	Valuation Office Agency
	Helen Zammit-Willson	Valuation Office Agency
	Chris Sykes	Valuation Office Agency
	Mike Heiser	Local Government Association
	Cain Ormondroyd	Planning & Environment Bar Association
	Daniel Bellis	Federation of Small Businesses
	Nicola Hunt	Secretary

1 Welcome and apologies for absence

1.1 The Chairman welcomed all attendees to the meeting and apologies were noted from Roger Jones (LGA). Tom Emlyn Jones had stepped down from this group and Dennis Broughton (RSA E-comms Representative) was replacing him.

2 Minutes of the meeting held on 4 March 2020

2.1 The minutes of the meeting held on 4 March 2020 were accepted as an accurate record and confirmed.

2.2 There were no matters arising; the actions from the previous meeting were closed with the exception of one. Lee Anderson reported that discussions with the VOA in respect of evidence bundles had not yet taken place. This was now being dealt with by

Duncan McLaren instead of Jo Moore, but unfortunately due to COVID-19 the planned meetings were cancelled. It was hoped that discussions will take place by the end of this week to ascertain the current position.

3 Moving forward with hearings (including hearings on papers & audio/video conferencing)

3.1 Tony Masella gave an overview of the current position regarding listings and hearings following the suspension of the tribunal programme up to 30 June 2020. In the early stages of the developing situation regarding this health crisis, there was a natural concern regarding travelling and gathering in hearings rooms. Initially, a lenient approach was being taken to the granting of postponements. With the increasing number of postponement requests all appeals scheduled for hearings up to 30 April 2020 were postponed. This was extended to include all scheduled appeals up to 30 June 2020 following national lockdown.

3.2 Gary Garland, VTE President, advised that due to emergency COVID-19 legislation some courts and tribunals were given powers to move to a video conferencing approach for hearings. MHCLG did not give effect to such legislation for the VTE. The VTE governing regulations support the traditional face-to-face approach (public hearings) with an option to hear appeals on the papers only where there is parties' consent. Tony Masella explained that parties' consent had been sought to progress 173 of the 500 appeals postponed (across all appeal types) on the papers. However, this approach has not been an approach welcomed by rating agents, with a preference continuing for a face-to-face hearing. 59 appeals are being progressed on the papers, mainly with billing authorities. Given the preference for face-to-face hearings and the restraints this presented in the current health crisis, Tony Masella sought views from the professional bodies on their preference.

3.3 Cain Ormondroyd explained that in his experience, video hearings worked well in other jurisdictions. Jerry Schurder asked what barriers prevent video hearings from taking place now? Gary Garland explained that as the VTE is subject to statute, it can only work under what regulations allow and there is currently no provision to permit this. VTE hearings are public hearings. There may be a possibility to direct such a hearing under Regulation 31, but this would move away from a public hearing and would not fall within the spirit of the intention of the regulations as written.

3.4 Blake Penfold opined that everyone is adjusting to new ways of working but anticipated that video hearings will produce a more positive response moving forward than appeals being determined on the papers. Lee Anderson highlighted that VTS had the technology to deal with video hearings. Tony Masella asked whether the professional bodies would be able to deal with video hearings.

3.5 Jerry Schurder asked if the VOA support video hearings? Michael Pearce advised that he is currently taking part in a pilot of Teams and had joined today's meeting via this platform. The VOA are also moving this forward to allow external communication and expected this to be rolled out within 12 months. However, at this moment in time IT limitations could make video hearings difficult.

3.6 Tony Masella pointed out that it would appear that although video hearings were being advocated, it was clear that not all the professional bodies are geared up for this method of hearing. He was advocating to MHCLG to amend the regulations and once this

had been enacted it would be for the parties to engage in whatever method was put in place.

3.7 Tim Johnson pointed out that it will be difficult to progress cases where Forms of Return (FOR) are submitted in hardcopy because VOA offices are currently closed. Michael Pearce explained that where evidence is already held electronically it can be provided in that format.

4 ATM Stayed cases (including related cases)

4.1 The Supreme Court judgment on ATM cases having recently been issued affects 51k 2010 stayed appeals. Tony Masella asked how the VOA and the agents involved would be progressing these cases under the current circumstances.

4.2 Jerry Schurder opined that he expected the vast majority of appeals to be settled in the next few months. He referred to a spreadsheet which contained around 30k appeals which were formally stayed behind the lead appeals; Tony Masella requested a copy of this spreadsheet to assist the VTS identifying them. Michael Pearce added that he agreed with Jerry and anticipated that the vast majority of ATM cases will be resolved and he would be very surprised if hearings were required. The only cases which may need Tribunal decisions are where there are related issues.

4.3 While the general consensus is that hearings will not be required, Blake Penfold asked what options are open to parties in respect of stayed cases and if parties can request the VTE to give a ruling on related cases where this judgment should be applied? Gary Garland advised that the Supreme Court made a decision and that the general approach is parties should try and settle the cases on the basis of that decision. While some cases are more difficult, the Supreme Court decision applies and parties cannot request an order. He added that the Tribunal will allow parties to continue progressing the cases, but if the period becomes unreasonable the Tribunal can curtail the discussion period and the cases will be listed as everyone must be treated fairly.

4.4 Jerry Schurder stated that he understood there is already a process in place and a timetable running when all ATM appeals were formally stayed behind lead appeals. Following the Supreme Court judgment, once the lead appeals are settled the direction says all stayed and related appeals should be listed if they remain outstanding two months after the Supreme Court decision, unless parties request a further direction. Gary Garland recognised this being in place and would review what his approach would be once the two-month period had elapsed. He certainly encouraged the parties to resolve outstanding cases wherever possible.

4.5 Mike Heiser asked for confirmation that this matter only relates to 2010 appeals and not 2005 or 2017 appeals; Tony Masella confirmed that is correct.

4.6 Helen Zammit-Willson advised that work is being carried out to identify what appeals of the 52.4k are affected by the ATM decision (this figure includes Wales). She hoped that only cases where the timetable cannot be agreed would require listing. Tony Masella asked for sight of the timetable, with a list of appeals to enable the VTS/VTE to monitor the progress.

4.7 Jon Bestow had received requests to list appeals in respect of photoboosts on hardship grounds and explained that the VTS cannot ignore such requests if appellants

are experiencing problems. Helen Zammit-Willson agreed and will add this into the timetable. Tony Masella asked when the timetable will be published; Helen explained that initial meetings with parties had taken place and further discussions will be arranged, she hoped to have a team in place by July.

Action: VOA to provide Tony Masella with the timetable of when ATM appeals are to be dealt with and to identify what appeals are ATM related

5 COVID-19 MCCs

5.1 Tony Masella asked if COVID-19 MCCs will be classed as lower priority to the outstanding ATM cases? Helen Zammit-Willson confirmed work is being carried out on both projects, each being given equal importance. She added that checks are being made in high volumes which are being prioritised as there are different considerations relating to different types. When challenges are received these will be reviewed and collated to enable swift discussion of the different challenge types/classes.

6 Impact of Revaluation 2021 postponement

6.1 Jerry Schurder stated that this postponement does allow further time for making checks and challenges now the end of the list date has been pushed back. It is anticipated there will be an increased number of checks on the back of COVID-19 unless the business rate holiday continues.

7 BA Appeal update

7.1 Tony Masella reported that VTS staff have been receiving a high number of calls in respect of discretionary schemes and other enquiries which should be directed to the BAs. Louise Freeth explained that there has been a lot of work being carried out in this area and unfortunately statements made by politicians regarding grants appear to confuse business owners. Tony added that the majority of the 59 cases which are going to be heard on papers are CTL/CTR related, so it appears BAs are keen to have cases resolved in this way. The new process began last week and during the next month or so many of them will be resolved.

7.2 Lee Anderson reported that the current position with CT appeals outstanding is shown below:

- Council Tax Completion Notices – 190 carried forward into 2020/21
- Penalty appeals – 10
- Council Tax Liability – 420
- Council Tax Reduction – 380

Lee added that he had no concerns regarding any backlog but time will tell whether there will be a spike in CTR receipts caused by the situation people are currently facing.

8 Any other business

8.1 Tony Masella informed VTUG that on 1 April 2020 the Appeals & Listing Service

(AALS) was launched. He hoped the professional bodies found this search facility very useful. It was of particular value for BAs as it provides visibility of all properties under appeal and will assist in identifying rateable value loss for budgeting purposes. He requested that the IRRV and LGA make their members aware of this new facility. Any feedback is welcomed.

8.2 Tony Masella reported that when lockdown was announced on 23 March 2020, due to the development invested in the organisation VTS staff were able to work from home immediately. This included receiving telephone calls to office numbers. However, the majority of calls were intended for BA and VOA. Tony was concerned that current practice seems to be for public services to move away from advertising a telephone contact number and rely more on online access. It was unfortunate that this period coincided with rate and council tax bills landing on peoples' doorsteps and the literature referred to the VTE regarding appeals, providing the VTS contact number. Carla-Maria Heath thought some BAs do quote their telephone numbers and Mike Heiser did not think this was a universal issue. He felt it is appropriate to include VTS contact details on bills but accepted the problems it raised. Carla-Maria added that the problem was probably exacerbated by the current technical issues where staff may be working from home and cannot answer calls. Tony considered that given the Check, Challenge and Appeal process it was no longer appropriate for BAs to refer to appeals as there were earlier regulatory steps that are required (Check and Challenge). Therefore, it was an appropriate time for BAs to review their publications. Similarly, for council tax appeals there is a prior process before an appeal could be made to the VTE. Tony felt that this was an opportunity for the VTS to work with the LGA and IRRV to standardise the publications issued by BAs.

8.3 Jon Bestow pointed out that VTS staff have found council taxpayers struggle to find proposal forms on the VOA website and wondered if the VOA are doing anything about this or just treating appeals as late? He referred to a particular incident where an appeal was treated as OOT but the reason was because the appellant had received no return call when they rang the VOA in February and only managed to appeal online when a VTS clerk assisted them. Michael Pearce was not aware of this example but verified that the details of all cases are looked at individually and any alterations would be made if necessary.

8.4 The representatives agreed that their inaugural Teams meeting had worked well. The Chairman indicated that this was becoming a regular tool. Michael Pearce stated that a number of VOA staff are taking part in a pilot to see how Teams works for them. It is planned that over the next 12 months this will be extended across the VOA network.

8.5 Tony Masella advised that the VTS was now able to take fees electronically at the point an appeal is made. Lee Anderson confirmed that 24 appeals had been tested to date under private beta and it had worked well. This would be extended into public beta (general release) in the near future.

8.6 Tony Masella explained that an approach had been made to separate payment of appeal fees with making the appeal, i.e. the ability for the ratepayer to make the payment and then for the professional representative to make the appeal. If the professional representative is making the appeal, they will also need to make the payment. It is clear that this is a single process.

8.7 Jon Bestow referred to a recent UT decision on self-catering holiday units. Interestingly the VTE correctly dismissed the appeal and the UT correctly gave a reduction, but both decisions comply with the different legislation under which they

operate.

8.8 Lee Anderson reported the current position regarding CCA appeals is:

- 429 cases received
- 158 are live
- 271 cleared
- 41 received since 1 April 2020

9 Date of next meeting

9.1 The meeting closed at 12:40 pm. The next meeting will take place on 2 September 2020.

A handwritten signature in black ink, appearing to read "Tony Masella". The signature is fluid and cursive, with the first name "Tony" written in a larger, more prominent script than the last name "Masella".

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Tony Masella
Chairman