



Valuation Tribunal Users' Group

Minutes of the Meeting held via Teams on Wednesday 2 September 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)
	Gary Garland -	Valuation Tribunal for England (President)
	Blake Penfold -	Royal Institution of Chartered Surveyors
	Simon Green -	Royal Institution of Chartered Surveyors
	Charles Golding -	Royal Institution of Chartered Surveyors
	Tim Johnson -	Rating Surveyors' Association
	Andrew Hetherington -	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
	Daniel Bellis -	Federation of Small Businesses
	Nicola Hunt -	Secretary

1 Welcome and apologies for absence

1.1 The Chair welcomed all attendees to the meeting and apologies were noted from Mark Higgin and Jerry Schurder (Royal Institution of Chartered Surveyors), who have now resigned from VTUG. The Chair welcomed their replacements, Simon Green and Charles Golding to the meeting. Apologies had also been received from Dennis Broughton (Rating Surveyors' Association), Roger Jones (Local Government Association) and Cain Ormondroyd (Planning & Environment Bar Association).

2 Minutes of the meeting held on 2 June 2020

2.1 The minutes of the meeting held on 2 June 2020 were accepted as an accurate record and confirmed.

2.2 There were no matters arising. The only action from the previous meeting was closed; the VOA had provided Tony Masella with a timetable of when ATM appeals are to be dealt with and identified what appeals are ATM related.

3 Remote hearings by default – revisions to the Consolidated Practice Statement

3.1 Tony Masella elucidated that Regulations are very traditional and did not envisage any type of hearings other than face-to-face. Cases being heard on the papers was not popular with parties and the list of appeals which could be heard in this way has been exhausted, with only 61 cases proceeding in this way. A new Practice Statement had been issued to hold remote hearings by default and had now been introduced and would be the process adopted for hearings moving forward in this COVID environment. The first remote hearings convened this week have been cancelled because the cases were agreed by consent. The next remote hearing was scheduled for 16 September

3.2 Gary Garland advised that it had been problematic creating the new process to hold remote hearings because of different interpretations of what the Regulations allow, but he is satisfied that this type of hearing can now proceed. The format is similar to that being applied in the Tribunal world generally, it has just been tailored to suit the VTE. In the current climate it would be extremely difficult to conduct a face-to-face hearing which complies with safety guidance. The Consolidated Practice Statement has been amended and an emergency Practice Statement issued to cover how the new process will work. Effective justice requires this type of hearing to be offered and it will now be the default position. If parties demonstrate a good enough reason why a remote hearing would not work for them, these cases will be dealt with on an individual basis. This is new territory so it will be trial and error initially and no doubt the process will have to be adapted as it progresses.

3.3 Andrew Hetherington raised the issue that 2017 cases are prepared in accordance with the existing Practice Statement in anticipation of a face-to-face hearing, so he wondered how parties will deal with papers in a way that is transparent and understandable. Evidence can be referred to a panel but what is in place to allow papers to be reconfigured, or will parties have to prepare bundles in a particular format. Lee Anderson commented that for NDR 2017 cases the hearing bundle is drawn from information provided on registration of the appeal. The core evidence comes from information exchanged by the appellant and respondent at challenge and in his opinion was not impacted by the move to remote hearings. Parties do have the opportunity under the regulations to seek to submit or agree additional evidence submissions ahead of the hearing.

3.4 In respect of CT appeals listed between September and November, the evidence has already been received and will be made available to the panel beforehand. Parties will not be asked to re-submit bundles. The next phase for appeals to be scheduled will be cases not previously listed, so the expectation will be for evidence to be provided as the Direction requires. Jon Bestow stressed that it is key for evidence to be provided as early as possible and added that any changes being agreed in advance of the hearing should ensure the proceedings run smoothly. During the hearing screens can be shared so there should not be any problems viewing the evidence. Tony Masella added that the onus is on the parties to assist the Tribunal to ensure evidence bundles are submitted in an understandable and acceptable format.

3.5 Legislation states hearings are public meetings and Andrew Hetherington queried what arrangements are in place to facilitate this. Lee Anderson confirmed that the VTS website has been updated to provide advice to individuals who wish to observe remote

hearings. This directs people to the Appeal Search Service which provides information on cases listed and hearings taking place in the next three months. A contact email address is provided to register their desire to observe a selected hearing. The VTS Tribunal Support Team will then liaise and provide further advice and a link to the hearing. It will be easier for people to engage in hearings in this way, therefore it is possible the number of interested people observing cases may increase.

3.6 Simon Green asked if there was a procedure in place in the event technical difficulties are experienced. Tony Masella confirmed there will be a member of staff available to support the hearing so if any problems occur someone will be able to advise the panel and attempt to rectify the issue. Gary Garland added that everyone will have the opportunity to put their case fairly and that if any problems arise the proceedings will be paused until they are rectified, or if necessary, a postponement granted. There are bound to be teething problems initially, but remote hearings will be a fantastic tool for the future.

3.7 Simon Green asked if hearings will be recorded as this is possible when using a platform such as Teams. Tony Masella replied that there is no intention to record proceedings and the recording of proceedings was addressed in the Consolidated Practice Statement.

3.8 Blake Penfold expressed concern that papers are directed towards face-to-face hearings and wondered if the Tribunal was expecting parties to configure a single electronic evidence bundle. Lee Anderson advised that guidance was issued to respondents in March 2020 outlining how evidence bundles should be presented, but this did not include 2017 appeals, only CTV and BA appeals. Internally VTS staff are collating evidence bundles for members of the information already held, but again sharing screens during hearings could be utilised. In respect of 2017 appeals, an evidence bundle is not required because the evidence submitted originally forms the basis of the appeal, the only requirement is that certain documents are exchanged in order to make the appeal. Any problems which arise prior to the hearing where a party may feel evidence submitted has put them in a disadvantaged position will be picked up as a preliminary point.

3.9 Gary Garland requested any constructive feedback from parties on their experience of remote hearings should be provided to enable improvements to be made moving forward.

4 ATM cases update

4.1 A progress update meeting will take place on 8 September 2020 to review the current position with the ATM cases and to decide if any further action is required. Helen Zammit-Willson reported that 50k appeals were affected by the ATM Supreme Court decision, the majority of which were made by three main agents. Regular discussions have been taking place between the VOA and agents to ensure these cases are progressed in the appropriate way. There are a number of other agents who have outstanding appeals on similar hereditaments, VOA staff are engaging with them separately.

4.2 The overall aim is to ensure ATM assessments are deleted where appropriate as soon as possible. Helen Zammit-Willson was pleased to report that good progress is being made and as of today 8,888 have been processed and the number of ATMs in the 2017 List have been reduced by a similar amount. Any superfluous appeals need to be identified so they can be withdrawn. It is hoped these will be dealt with by the end of November. A timeframe has been agreed to deal with appeals on host hereditaments on a regional

basis. It was confirmed all parties involved are pleased with the progress and the VOA will provide the next monthly update to the VTS tomorrow.

5 Requests for rental information and/or sales particulars during COVID-19 situation

5.1 Tim Johnson expressed concern over the exchange of evidence during the run-up to hearings while VOA offices remain closed due to COVID-19 as staff cannot provide access to forms of return. He had been offered two solutions, one to postpone cases until access is available and the other was to have details read out over the telephone. He felt neither solution was viable going forward.

5.2 Michael Pearce confirmed that the VOA office network is currently closed, however there is a distinction between hardcopy forms of return and electronic versions, as a lot of information is now submitted online. There is a RALD system in place on which source information is input by a user, VOA staff do not amend it, it is just entered onto the database and can then be output or provided over the telephone when required. Original copies are problematic because they are stored locally, and as staff are currently working from home it is not possible to allow visitors into offices to inspect documentation.

5.3 Tim Johnson found this to be helpful and thought progress was being made if schedules are available, information being read over the telephone is not ideal unless it is an emergency. Gary Garland opined that if a party requires information and it is provided electronically it is an adequate discharge of the VOA's duties, it is not necessarily correct to insist on seeing an original form.

6 Regulatory requirements of payment of appeal fees (2017 List)

6.1 Lee Anderson elucidated that some private practice representatives are concerned there is no facility to lodge an appeal and then the client pays the fee separately. Lee explained that he had been liaising with the E-Comms Group regarding this because the Regulations state there is certain information which must be provided and a fee paid, but unfortunately the system does not separate the two issues. The VTS cannot register an appeal until all the evidence and the fee are received. Tony Masella pointed out that this is a regulatory requirement and not a VTS process. The regulations envisage the person who submits an appeal is to pay the fee as part of the appeal lodging process.

6.2 Blake Penfold clarified that there are three separate issues around this, VAT, regulatory process in handling client money and payment problems when a large number of appeals are submitted. Where agents act for small businesses, they would prefer to lodge the appeal but not pay the appeal fee because if an agent pays on behalf of a client it is providing a service which could then be potentially subject to VAT, whereas the appeal isn't. Therefore, it would be simpler if the ratepayer could pay the appeal fee separately. Handling client money was surrounded by financial regulatory requirements which many rating firms would have to implement and abide by. If a large number of appeals are submitted by the same agent, the electronic process requires individual payment by card, but after three transactions the card locks for security reasons.

6.3 Lee Anderson understood the position of the agents but explained that the VTS has to work within the confines of GovPay and there are limitations to what it can do. It is an integrated service which goes from the provision of information to payment, without an

option to have a pending stage or a separate payment link. A potential solution could be that the person making the payment enters the appeal number when they pay. However, if the appeal number was transposed it would cause problems regarding the validation of the appeal as the VTS would have no way of checking where the money had come from. For this reason, this solution was rejected and the integration was retained. Lee added that he is happy to speak with individuals where assistance is required.

6.4 As a way forward discussions are currently taking place regarding online registration which may make it possible in future to create a link to payment using the API link which allows agents to submit bulk appeals. This may provide scope to separate the payments thus addressing agents concerns regarding appeal fee payments. Simon Green asked if there was any possibility to allow BACS payments yet; Lee Anderson confirmed that this was subject to Gov Pay requirements and was not something they currently offered.

7 BA Appeal update

7.1 Due to COVID-19 there had been no hearing activity. Lee Anderson reported that there had not been a noticeable spike in CTR receipts to date due to the pandemic. When creating the new process for remote hearings it had become clear that BAs are set up differently, so it is not yet known what IT facilities are available. However, VTS staff are pro-actively contacting the BAs to identify any potential issues. Louise Freeth advised that discussions are taking place with Magistrates as they are also moving to remote hearings and concern had been expressed around the safety of their staff if appellants want to use BA WIFI.

7.2 Jon Bestow referred to the recent UT decision 'London Borough of Newham v Rad Phase 1 Type B Property Company No 1 Ltd', where the judgment states the VTE has the power to determine a completion date outside of the three-month period. He was of the opinion that this needs to be tested to see if it is correct. Gary Garland stated that the UT decision is binding even if it appears incorrect.

8 Any other business

8.1 Charles Golding thanked the Chair for the invitation to today's meeting. He added that RICS have been running disciplinary hearings by video conferencing since March and he offered to provide any assistance if the VT require it as they move forward with remote hearings.

8.2 Mike Heiser referred to the recent statistics published which suggested a large increase in checks which may or may not be COVID-19 related, and asked if there were any views on whether there are many COVID-19 related appeals? Lee Anderson advised that a significant increase in checks means little until appeals materialise, but it is anticipated there will be a higher volume of appeals received in future. Helen Zammit-Willson confirmed that the vast majority of checks have been cleared, many people are waiting to obtain the evidence they need before challenging. Discussions are taking place and an increase in MCC challenges has been seen.

8.3 Tony Masella asked the Group to provide any feedback on remote hearings to ensure any issues are addressed and required improvements can be made.

9 Date of next meeting

9.1 The meeting closed at 12:20 pm. The next meeting will take place on Tuesday 1 December 2020.

A handwritten signature in black ink, appearing to read "Tony Masella". The signature is fluid and cursive, with a long horizontal stroke at the end.

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Tony Masella
Chairman