



Valuation Tribunal Users' Group

Minutes of the Meeting held via MS Teams on Tuesday 1 December 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)
	Blake Penfold -	Royal Institution of Chartered Surveyors
	Simon Green -	Royal Institution of Chartered Surveyors
	Tim Johnson -	Rating Surveyors' Association
	Dennis Broughton -	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
	Mike Heiser -	Local Government Association
	Cain Ormondroyd -	Planning & Environment Bar Association
	Nicola Hunt -	Secretary

1 Welcome and apologies for absence

1.1 The Chair welcomed all attendees to the meeting and apologies were noted from Roger Jones (Local Government Association) and Chris Sykes (Valuation Office Agency). Absent from the meeting were Charles Golding (Royal Institution of Chartered Surveyors) and Daniel Bellis (Federation of Small Businesses).

2 Minutes of the meeting held on 2 September 2020

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

2.2 There were no matters arising.

3 Progress of remote hearings

3.1 Gary Garland reported that remote hearings were progressing well and it is inevitable they will be a way of working in the future. He had presided on a number of hearings and on the whole feedback had been most positive.

3.2 Tony Masella pointed out that remote hearings have provided tangible user benefits, such as no requirement for parties to travel, a hearing in familiar home/office surroundings. The added bonus is that parties appear to be more focussed on the issues they want considering, which in turn leads to better and more effective decision making.

3.3 Jon Bestow advised that there had only been 15 cases (Council Tax appeals) where remote hearings had not been appropriate due to connectivity or IT issues. Other options are being explored to facilitate these, including audio hearings.

3.4 Lee Anderson elucidated that technology is the key aspect to ensure remote hearings run smoothly. The Tribunal Support Officer's (TSO Team) spend time providing support and guidance to appellants to ensure they understand how the hearing will proceed and are comfortable with the environment. Some broadband issues have been experienced, but this is out of the control of the VTS. While the new system was being trialled 28 hearings were scheduled for September, with two cases listed per hearing. From October the number of hearings and cases listed was increased, by the end of March 450 hearings will have been convened and a normal level of activity reached. Currently four cases per hearing were being listed, but this is being constantly monitored. Lessons are being learned on how hearings are managed and any improvements which may be required.

3.5 All hearings continue to be open to the public. It was noted that since the introduction of remote hearings, the number of observers had increased compared to those observing face-to-face hearings previously. Andrew Hetherington advised he had observed a number of remote hearings and thought the experience was useful for those who had a forthcoming hearing. Simon Green added that he had attended a remote hearing the previous day and found the experience to be a positive one, very similar to a live hearing.

3.6 In addressing a question from Andrew Hetherington regarding how many cases were successful and appeal fees refunded, Lee Anderson reported during September and October the majority of appeals listed were Council Tax. He added that in total 773 2017 NDR appeals were listed, of which 440 were cleared, 333 remained outstanding and 294 of the cleared cases resulted in a positive outcome for the appellant.

3.7 Dennis Broughton queried that given the efficiency of remote hearings, how likely was it that remote hearings would become normal business post COVID? Gary Garland re-confirmed that this new way of working has provided courts and tribunals with a more flexible way of working and a more responsive approach to managing hearings in previously remote locations and provides a more user-friendly process. Tony Masella pointed out that due to the nature of certain cases there will still be a need for face-to-face hearings. However, his expectation was that around 75% of hearings could be held remotely in future.

4 Current progress on clearance of ATM appeals

4.1 Helen Zammit-Willson explained that as of today 18,222 appeals have been cleared, this included appeals that had been well-founded, with the ATM element removed from the List, and 5,500 being withdrawn which were redundant appeals. There were another 1,899 seeking to remove the ATM from the List, some of which would require agreement forms to be processed. It is expected that around 250 involve a third party and will require a listing so that the third party may be added; it may be the first time they are aware of the outstanding appeals. There are around 14,573 appeals involving valuation issues on the host assessment and the compiled list has not been agreed. These are being discussed by region. The remaining 17,440 outstanding appeals were likely to be redundant appeals and therefore to be withdrawn.

4.2 Helen Zammit-Willson felt that discussions are progressing well and she is confident that by the end of June the work will be completed and a small number of appeals identified which will require tribunal resolution. Tony Masella thanked Helen for the update and requested that the list of appeals requiring tribunal assistance is transmitted as soon as possible so that planning can take place on how these appeals may proceed. He added that regular meetings are taking place to monitor progress (the next meeting will take place on 16 December 2020).

5 Appeal fees

5.1 Andrew Hetherington posed a question asking whether the appeal fee process is working, as it appeared to be an unnecessary burden on all parties. He opined that the introduction of a fee was not driving down the number of cases submitted, but created a long process where fees have to be collected, recorded and in many cases refunded. It was also likely that VTS was incurring transaction costs. Tony Masella opined that whilst it may be appropriate for the profession to raise their concerns about any benefit of appeal fees as part of the Fundamental Business Rates Review, the VTS is required to apply the regulations and has to manage the collection, refunding and transfer of appeal fees.

5.2 Lee Anderson explained that work and discussions continue with GovPay in respect of agents not being able to make batch payments and the separation of submission and subsequent payment of appeals in the process.

6 Forms of Return evidence

6.1 Blake Penfold raised two points relating to the forms of return evidence: the selection of rental evidence and the presentation of it. He expressed concern that the selection of evidence by Respondent valuers, which forms part of the documentation presented to the VT, is expressed as “supporting the basis of valuation” but rents not selected are not referred to at all and in some cases appear prima facie to be relevant. He would like reassurance that guidance is provided to all valuers that all relevant evidence should be presented and not just partial evidence. In respect of presentation of rents, he accepted it is difficult to look at original forms under the current circumstances, but he felt it was unsatisfactory when summary schedules are presented which, for example, do not include statements explaining any adjustments made.

6.2 Michael Pearce advised that guidance has been provided to the VOA network that when reviewing evidence staff should not only choose rents that support their case but

also those that may show discrepancies, with explanations of why they rely on particular evidence. He added that while it is problematic to access original forms at the moment, under no circumstances should evidence be submitted without an explanation of any adjustments. All adjustments should be listed and the source of information explained. Michael accepted that there may be occasions when evidence is accidentally omitted, but this should be rare. If this occurs it should be challenged in tribunal.

6.3 Blake Penfold elucidated that he is less concerned whether evidence is submitted in paper or electronic form, but that the information submitted is the original information provided, and not someone's interpretation of facts. Michael Pearce confirmed that the VOA is moving towards using the RALD system. This is online, no adjustments are made to the data as it is keyed in directly.

6.4 Helen Zammit-Willson agreed to redistribute instructions reported by Michael Pearce to both the National Valuation Unit and the Regional Valuation Units so that the message is permeated again to VOA staff.

7 BA appeal update

7.1 Jon Bestow advised that despite some initial issues experienced with evidence bundles, the remote hearings regarding billing authority appeals are progressing well. Staff continue to liaise with BAs to improve the quality of the evidence bundles.

7.2 Lee Anderson stated that despite the consequences of COVID, the anticipated surge of appeals had not been received. Since starting remote hearings in September 190 Council Tax cases have been decided. The following appeals remain outstanding:

- 473 Council Tax Completion Notice
- 765 Council Tax Liability
- 2 Council Tax Penalty
- 631 Council Tax Reduction

7.3 Jon Bestow reported that there are between 20-30 Council Tax exemption cases outstanding, the President will hear the test cases which may be of interest to the BAs. These cases fall into three categories:

- Appellants who couldn't travel to their second home due to lockdown
- Landlords who could not let properties due to lockdown
- Holiday homes which could not be used because the site had been closed due to lockdown

7.4 Andrew Hetherington, Carla-Maria Heath, Louise Freeth and Mike Heiser requested details of when these cases are listed for hearing.

8 Any other business

8.1 Jon Bestow advised that VOA were asking for declarations of truth to be added to 2017 case hearing bundles shortly before the hearing. As such a declaration was not in itself evidence, but this was being allowed by the Tribunal.

8.2 A recent VTE case had highlighted that Council Tax invalidity of proposal notices

must be served within four weeks of proposal receipt. Where this didn't occur a decision notice must be issued. The Listing Officer was issuing such decision notices but they were being worded as invalidity decisions which was causing confusion to the Tribunal's administration. Jon Bestow advised it would be appreciated if the VOA could assist by looking at the wording of the decision notice.

8.3 Jon Bestow reported that twelve new senior members (Chairs) will commence sitting in December/January for the first time following comprehensive online training, a judgecraft session and observations of hearings.

8.4 Jon Bestow stated that following the *Berg* decision at the High Court the Listing Officer should delete entries and enter new hereditaments where part of the land is sold. This doesn't always occur which means that appeal rights of taxpayers are not made clear to them.

8.5 Tony Masella reiterated that evidence bundles need to be in a helpful format when submitted to the VTE. Bundles should be designed to assist the tribunal by being as succinct as possible and focussed on the issues in dispute. At present there was a 'kitchen sink syndrome' where everything was being sent, much of which added no real value. Consideration is being given to potentially prescribing in what format evidence is required.

9 Date of next meeting

9.1 The meeting closed at 12:10 pm. Dates for future meetings will be circulated in due course.



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Tony Masella
Chairman