

Standard Directions for 2023 Rating Lists and later

These directions apply to Non-Domestic Rating appeals submitted against Rating Lists compiled on or after 1 April 2023 and are formal orders that must be complied with. They are intended to assist parties and the Tribunal to deal with appeals fairly and to avoid delay in their determination.

A party may apply to the Tribunal for any of these directions, including time limits, to be varied, or for any other appropriate direction to be issued.

Any reference to “the Regulations” within these directions is reference to the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023.

1. Directions regarding notice of appeal information and evidence

(1) No later than four weeks after being notified of the appeal, the respondent Valuation Officer must serve notice on the Tribunal and all parties to the appeal if they believe the appeal was not submitted with the evidence or information required by regulation 26(3) of the Regulations. The notice must:

- (a) in the case of missing material, state the date on which the information or evidence was disclosed under reg. 15, provide supporting evidence of its service, and provide a copy of the missing material;
- (b) in the case of material which was submitted with the appeal but which had not been disclosed under reg. 15, identify the material and state why they object to it being included; and
- (c) in all cases, advise the appellant that they can object in accordance with para. 1(2).

(2) No later than two weeks after a notice has been served on the parties as set out above (where material provided with the appeal is disputed), the appellant can serve notice on the respondent, any other party to the appeal and the Tribunal disputing the notice and providing reasons why the material should or should not be included.

(3) Where such a dispute arises, the Tribunal will decide the point on the papers, at a pre-hearing review or as a preliminary point at the substantive hearing. If the appellant does not dispute the inclusion or removal of the evidence or information provided by the respondent, it will automatically be added to or removed from the appeal documentation considered by the Tribunal when disposing of the appeal.

2. Directions regarding applications for the extension or shortening of the time for complying with regulations

(1) Regulation 44(3)(a) permits the VTW to extend or shorten the time for complying with any regulation. Any application for a variation in the time for complying with regulations should be made in writing to the Clerk of the Tribunal and copied to all parties to the appeal (unless the application is made before the appeal is lodged).

(2) Where all parties have agreed in writing to the application for a variation in time limits, a copy of the agreement(s) must be provided to the Tribunal at the time that the application is submitted.

(3) Where an application is made under paragraph 2(1) above, starting from the date the copy of the application is served on them, parties to the appeal have two weeks to raise any objection, in writing, with the Tribunal and issue copies to all other parties.

(4) The Clerk's decision regarding any variation in the time for complying with regulations is final and there is no right of appeal.

3. Directions regarding the submission of late appeals

(1) A notice of appeal submitted later than the relevant time limit must be accompanied by reasons for its late submission.

(2) The President will consider the reasons supplied and determine whether to accept the appeal outside the prescribed time limit in accordance with regulation 25(3), provided the notice of appeal meets the requirements in all other respects.

(3) The President's decision regarding the acceptance or otherwise of a late appeal is final and there is no right of appeal to the Tribunal against their decision.

4. Standard Directions for NDR appeals issued with notice of hearing

Further evidence

(1) Any application for the admission of new evidence under reg. 50 must be submitted in writing to the Tribunal and copied to all other parties to the appeal no later than four weeks before the date of the hearing.

(2) Where all parties have agreed in writing to the submission of new evidence, a copy of the agreement(s) must be provided to the Tribunal at the time of the application for the admission of new evidence.

(3) If the application is to admit new evidence which relates to the grounds on which the proposal was made, was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the Regulations, that application must set out:

- (a) why the evidence was not available earlier; and
- (b) when it came into the possession of the party.

(4) Where an application is made under paragraph 4(3) above, starting from the date the notice is served on them requesting the inclusion of the new evidence, parties to the appeal have two weeks to raise any objection, in writing, with the Tribunal and issue copies to all other parties.

(5) Where the Tribunal decides to admit new evidence, it will notify the parties to the appeal and any other party may make an application within one week of the notification by the Tribunal for further new evidence to be considered at the hearing. In making the application the party must state:

- (a) how it relates to the evidence that the Tribunal has already agreed to include; and
- (b) how it relates to the grounds on which the proposal was made.

(6) The application must be accompanied by a copy of the evidence the party wishes to include and copies of the application and evidence must be served on all other parties at the same time. Those parties have one week from the date that the application is served to make any objection in writing to the Tribunal, copying in all other parties.

The hearing

(7) All parties are expected to appear at the hearing.

(8) If a party wants the case to be heard at a hearing without them being present, they must notify the Tribunal at least two weeks before the hearing.

(9) Where an offer to settle has been made by the respondent but the appeal remains outstanding, the panel may confirm the figure at the hearing if a copy of the settlement offer is submitted to the Tribunal by the appellant, in advance, together with a request for confirmation to be made.

(10) Statements of case, plans and photographs should be exchanged between parties and forwarded to the Tribunal at least two weeks before the hearing.

(11) Any appellant failing to comply with these directions could have their appeal struck out or dismissed. If a respondent or any other party other than the appellant, fails to comply with these directions, the Tribunal may decide to bar them from taking further part in proceedings, although the appeal will still be heard based on the documentation submitted with the appeal and any new evidence allowed.

5. Varying these Directions

(1) A party may apply to the Tribunal for any of these directions, including time limits, to be varied, or for any other appropriate direction.

6. General

(1) An act which these directions require to be done by a particular day must be done by 5pm on that day.

(2) Unless a party has no access to email, all documents and applications filed under these directions must be served electronically on the Tribunal and any party who has provided an email address for service in the proceedings (unless they have objected to service in this manner).

Explanatory Note for the Standard Directions for 2023 List and later List NDR appeals

These directions set out the way in which the Tribunal disposes of proceedings following the Welsh Government's reform of rating appeals and changes to the legislation, in particular:

The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023

Appeal information and evidence

1) The appeal will be decided based on the documentation provided at the time the appeal is made (unless new evidence is allowed by the Tribunal). It is therefore important that evidence and information that either party wishes to rely on when the appeal is decided is provided with the appeal. As the respondent does not submit their own evidence and information to the Tribunal but relies on copies provided by the appellant, it is important that the respondent has an opportunity to examine what has been submitted.

2) Where the respondent considers that information and evidence which was provided when the proposal was being considered is missing from the appeal documentation, or that evidence or information has been included with the appeal which was not provided by the parties when the proposal was being considered, they have an opportunity to point this out to the Tribunal and the other parties within four weeks of receiving the appeal details.

3) If the appellant objects to the inclusion or exclusion of the information referred to by the respondent, it is important that they do so within two weeks of being notified by the respondent. They must explain why they object and provide supporting evidence. If the appellant does not object within two weeks, the Tribunal and respondent can assume the material is not disputed and forms or does not form part of the appeal documentation.

4) Where a dispute arises, the Tribunal will try to resolve matters on the papers before the hearing, if it can, or it may arrange a pre-hearing review to decide the point or might decide to resolve the dispute as a preliminary matter at the hearing. The Tribunal will notify the parties of the course of action it intends to take.

Extensions or shortening of time periods for compliance

5) Applications for a variation in the time for complying with regulations should be served in writing on the Clerk of the Tribunal (and any other parties to the appeal) at the earliest opportunity and before any regulatory time limit has expired.

Late submission of appeals

6) Appeals forwarded to the Tribunal later than the statutory time limit must be accompanied by reasons for its late submission, which will be considered by the President if the appeal notice is compliant in all other respects. There is no further redress if the President decides that the appeal should not be entertained.

Further evidence

7) There are legislative limitations regarding the evidence that the Tribunal can accept after the appeal documentation has been lodged. There are two ways in which evidence can be admitted:

- a) where all the parties agree in writing to the evidence being provided; or
- b) where the evidence provided by a party relates to the grounds of the proposal and was not known to the party before the respondent issued a decision notice or, if one was not issued, the cut off point for it to be issued (that is the date when an appeal can be made).

8) Such an application must be made four weeks before the hearing date. In making the application the new evidence must be provided to all parties and the Tribunal.

9) Where the Tribunal allows new evidence, other parties to the appeal may seek to provide further evidence themselves in response, provided it is in respect of the new evidence and within the grounds of the proposal.

10) Parties may object in writing to any application to include new evidence but in doing so must give their reasons within the prescribed timescale.

The hearing

11) Unless it is informed otherwise, the Tribunal assumes that all parties will attend the hearing.

12) Non-attendance of the appellant, without prior notice that they wish the Tribunal to hear the case in their absence, risks the possibility of the appeal being struck out or dismissed. If the respondent or any other party does not attend, the Tribunal will proceed to hear the appeal and will decide it based on the submissions from those parties present, the documentation submitted with the appeal form and any new evidence allowed.