

VTW BEST PRACTICE PROTOCOL 2A

CONDUCT OF THE HEARING

Introduction

1. The Tribunal/Appeal Panel must conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; and must so far as appears to it appropriate, seek to avoid formality in its proceedings.

Legislation

- Regulation 25 of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 (SI 1993/290)
 - Regulation 30 of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (SI 2005/758)
 - Regulation 37 of the Valuation Tribunal for Wales Regulations 2010 (SI 2010/713)
2. The conduct of hearing procedure within this practice statement is to be followed in all hearings unless it is in the interests of justice to depart from it. Any departure is to be noted by the clerk, and a record of the reason signed by the chairman.
 3. In this procedure, “clerk” includes tribunal officer and “chairman” means the person presiding at the hearing. (The role of the clerk is set out fully in VTW Best Practice Protocol 2B)

General

4. In accordance with the provisions of the Welsh Language Act, the Tribunal treats Welsh and English on an equal basis. If you have a preference, or you require a translator or signer, you should contact the clerk at least two weeks prior to the hearing.
5. Parties should ensure that they have sufficient copies of all documentation to which they intend to refer at the hearing. Three copies are required for the Tribunal, one for the clerk and one copy for each other party to the appeal.
6. Parties wishing their appeal to be heard in their absence should provide sufficient copies of their submission at least two working days prior to the hearing.
7. In general terms, the burden of proof rests with the party seeking redress.
8. The Tribunal/Appeal Panel will treat all parties equally.

9. The parties will be greeted by the clerk, on arrival, and called in to the hearing room. The Tribunal/Appeal Panel may already be present or may enter at a later stage. It is unnecessary for persons to stand when the panel enters or leaves or when addressing the panel or asking questions.
10. Any health or safety announcements will be made by the clerk before the hearing begins.
11. The clerk will introduce the parties to the chairman and Tribunal/Appeal Panel before the hearing begins.
12. The Tribunal/Appeal Panel has the power to request a party or witness to give evidence under oath or affirmation.
13. The Tribunal/Appeal Panel may not make any order in respect of costs.
14. The recording of proceedings (other than in writing) will not generally be permitted unless a party can show special needs or circumstances (such as a disability or language difficulty).

The Hearing

15. The chairman will open the proceedings in accordance with the introductions set out in Appendix 1.
16. The clerk will introduce each case by referring to the grounds of the appeal.
17. The Tribunal's normal order of proceedings is set out in Appendix 2, however the Tribunal may conduct the hearing as it sees fit.
18. The Tribunal will normally reserve its decision and the chairman will give an indication of the timescale for issue.
19. The Tribunal/Appeal Panel may decide to inspect the appeal premises and/or its locality. (Appendix 3)

APPENDIX 1

INTRODUCTIONS

1. The Chairperson will introduce himself/herself by name.
2. The Chairperson will introduce the other members by name and will:
 - emphasise members sit as lay people;
 - if they are councillors, emphasise they sit as lay persons (and in respect of Council Tax appeals, emphasise that they do not sit within their own authority area); and
 - emphasise complete neutrality, having no financial or other interest in the appeals.

If only two members are in attendance

3. The Chairperson will seek the agreement of the parties to proceed.

If a new member is in attendance

4. The Chairperson will:
 - introduce the member;
 - emphasise that they are attending as observers and are present only to gain experience as part of their training;
 - seek permission for them to remain with the Tribunal when it makes its decision; and
 - emphasise that they will not take any part in the proceedings or decision process
5. The Chairperson will introduce the clerk and any other staff by name and:
 - emphasise the role of the clerk as advisor on law, practice and procedure; and
 - if the clerk is invited to retire with Members to consider the appeal(s), emphasise that they do so as advisors only and that it is the Members who make the decision(s).
6. The Chairperson will introduce the Valuation Officer/Listing Officer/Billing Authority Representative(s) by name.

APPENDIX 2

VALUATION TRIBUNAL ORDER OF PROCEEDINGS

Appeals arising from proposals to alter an entry in the “Compiled List”

1. Appellant¹ presents evidence
 - Valuation Officer ² cross - examines evidence
2. Valuation Officer presents evidence
 - Appellant cross - examines evidence
3. Valuation Officer summarises case
4. Appellant summarises case

Appeals arising from proposals against Valuation Officer’s Notice of Alteration

1. Valuation Officer presents evidence
 - Appellant cross - examines evidence
2. Appellant presents evidence
 - Valuation Officer cross - examines evidence
3. Valuation Officer summarises case
4. Appellant summarises case

¹ The appellant is the Rate or Council Tax payer.

² In Council Tax banding cases substitute “Valuation Officer” with “Listing Officer”.

Where the billing authority attends a hearing (Council Tax liability), the tribunal will normally adopt the procedure used for “compiled list” appeals.

In most cases the tribunal will adopt one of the formats referred to above. However, in some cases it may conduct the hearing in a manner which it considers are most suitable towards the clarity of the issues before it.

Should you have any queries about the procedures at tribunal hearings, please contact your regional tribunal office.

APPENDIX 3

SITE INSPECTIONS

1. At the conclusion of the hearing the tribunal may decide to inspect the appeal property and the locality in which it is situated.
2. In Council Tax cases the tribunal is only able to enter the appeal property. In Non domestic rating cases the tribunal may subject to conditions, enter the premises of comparable properties that were admitted in evidence.
3. The tribunal members who heard your case will be the same ones to attend the site inspection.
4. It is important to remember that the site inspection is an extension of the hearing. However, the parties will not be allowed to introduce new evidence at this stage of the proceedings.
5. The clerk will liaise with the parties about the logistics and timing of the inspection as well as discuss any issues associated with health and safety.