

VTW BEST PRACTICE PROTOCOL 2B

THE ROLE OF THE CLERK

Introduction

1. The general role of the Clerk/Tribunal Officer is to provide technical and administrative support to the Tribunal/Appeal Panel.

During the Hearing

2. The Clerk/Tribunal Officer should:
 - Advise the Tribunal/Appeal Panel on
 - (a) questions of law
 - (b) questions of mixed law and fact
 - (c) practice and procedure
 - (d) any relevant decision of the superior courts and tribunal
 - (e) the decision making structure to be applied in any given appeal
 - keep an accurate and full note of the evidence and submissions of the parties at the hearing
 - only ask questions of the parties/witnesses for clarification of the evidence

At the conclusion of the Hearing

3. The Clerk/Tribunal Officer will normally be invited to retire with the Tribunal/Appeal Panel.
4. If in the course of discussions in the retiring room, the Clerk/Tribunal Officer, gives substantive advice to the Tribunal/Appeal Panel which has not been previously canvassed during the hearing, it will be necessary to reconvene the hearing for that advice to be tendered in the presence of the parties and for them to be given an opportunity to comment on it.
5. In the retiring room, the presiding member shall ensure that the Clerk/Tribunal Officer is informed of the Tribunal/Appeal Panel's reasoning and their understanding and findings on the facts, so that the final written decision with reasons may be drafted. In addition, the Clerk/Tribunal Officer may assist the presiding member with the wording of any oral decision that is to be communicated.
6. Where there is no separate retiring room and the Tribunal/Appeal Panel must deliberate in the hearing room, the above provisions should be read accordingly with the parties, their representatives, members of the public and the Clerk/Tribunal Officer withdrawing from the hearing room or being called in as appropriate.
7. Where the Tribunal/Appeal Panel has decided to conduct a site visit, the Clerk/Tribunal Officer will accompany it.

Decision

8. The Clerk/Tribunal Officer is responsible for recording the Tribunal/Appeal Panel's reasons and drafting the decision for approval or amendment by the presiding member, who will sign the final version of the decision before it is sent to the parties.
9. The draft should accurately record the findings of fact and law made by the Tribunal/Appeal Panel.
10. It is the duty of the Tribunal/Appeal Panel to reach a reasoned decision.