



Valuation Office  
Agency

# Resolving Non-Domestic Rating and Council Tax Disputes

VOA Non-Domestic Rating and Council Tax  
Litigation and Settlement Strategy



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# VOA's Litigation and Settlement Strategy

## Scope and purpose

1. VOA's Litigation and Settlement Strategy (LSS) is the framework within which valuation officers (VO) and listing officers (LO) seek to resolve non-domestic rating (NDR) and council tax (CT) disputes, through civil law processes and procedures in accordance with the law. It applies irrespective of whether the dispute is resolved by agreement with the customer or through litigation.
2. The LSS is designed to facilitate resolution of disputes in relation to NDR and CT arising from statutory proposals under the Local Government Finance Acts 1988 and 1992 and regulations made thereunder.
3. The role of the VOA in relation to HM Revenue & Customs (HMRC) administered taxes (Inheritance Tax, Capital Gains Tax etc) is to support litigation conducted by HMRC by providing valuation expert witnesses as required. The VOA does not initiate or settle such litigation, so it is outside the scope of this LSS, but is covered by HMRC's own LSS.
4. In relation to Community Infrastructure Levy (CIL) the 'Appointed Person' acts in a quasi-judicial capacity when determining the appropriate sum, and any subsequent appeal is by way of Judicial Review falling outside the scope of this LSS.
5. The role of the VOA in relation to Housing Allowances, Housing Benefit and Fair Rents is to support any litigation conducted by others by providing expert witnesses as required. The VOA does not initiate or settle such litigation, so it is outside the scope of this LSS.
6. Work carried out by the VOA's Other Public Bodies (OPB) business is also outside of the scope of this LSS as VOA involvement with any litigation is again only in the capacity of providing expert witness evidence, for example for an acquiring authority that is conducting litigation in the Upper Tribunal Lands Chamber (UTLC).
7. 'Dispute' is interpreted as covering all situations in which the VOA and the customer or their representative have a difference in view over what is the correct entry to be shown in a rating list or valuation list, including where this arises from a challenge to VOA's interpretation of the law. The definition of 'dispute' also includes a disagreement with an owner or occupier with respect to proper completion of a Form of Return.
8. 'Litigation' refers to the resolution of a dispute through a statutory appeal to an independent body, including the valuation tribunals and the appeal courts. It also includes common law claims to the courts or an application for judicial review.
9. The LSS applies to all disputes resolved through civil procedures and to all decisions taken by VOs and LOs respectively in relation to such disputes.
10. 'Civil procedures' are defined as litigation or related procedures not involving criminal prosecution.

11. 'Costs' refer to the routine operating costs of the VOA, the costs to ratepayers and the legal costs involved in litigation, as appropriate.
12. 'Customer' is defined as the ratepayer, CT payer, interested person, or interested party as defined in regulations. A 'representative' is defined as a person who is being or may be paid or recompensed for representing the customer.
13. The statutory officers responsible for litigation in respect of NDR and CT matters are valuation officers and listing officers respectively. Although there is a distinction between the statutory officers and the Valuation Office Agency, for the purposes of this document they are collectively referred to as 'VOA'.

## Minimising the scope for disputes

14. A key aim of VOA's LSS is to help reduce the likelihood of situations arising which may give rise to a dispute. Disputes are costly for both VOA and its customers, so it is advantageous for all parties to ensure the rating and council tax lists are correct, thus mitigating the need to resolve issues through litigation.
15. The LSS complements the many strands of existing VOA activity which play a significant role in helping to minimise disputes, such as working with other government departments to develop clear legislation, publishing guidance, improving valuation transparency, and engaging with agent representatives and professional bodies.

## Engaging in disputes

16. VOA applies the law fairly and consistently as part of its statutory duty to maintain accurate rating and council tax lists. Entering into, or taking forward, disputes can contribute to meeting this duty and involves considering not only the rateable value or council tax at stake in the dispute itself but also – in circumstances where a precedent may be set, or where VOA is seeking to influence customer behaviour – potential impact on the rateable values of other hereditaments.

## Handling disputes

17. VOA will handle disputes professionally and work collaboratively with the customer or (if they have one) their representative wherever possible. In the majority of cases, this is likely to be the most effective and efficient approach. A collaborative approach requires all parties to be open, transparent, and focused on resolving the dispute.
18. Working collaboratively can also offer benefits in terms of effective and efficient dispute resolution in all civil cases, including where disputes are ultimately resolved through litigation. VOA will endeavour to work with customers on resolving disputes but may need to determine a dispute through the appropriate courts or tribunals if a collaborative approach cannot resolve the matter or collaboration from the customer is not forthcoming.
19. VOA will ensure that appeal cases are allocated to suitably qualified and experienced members of staff, having regard to the complexity and nature of the issues in dispute.
20. VOA will seek to articulate clearly the issue(s) in dispute and tribunal and court timescales will be adhered to wherever possible.

21. In any dispute, VOA will establish and understand the relevant facts as quickly and efficiently as possible. A collaborative approach can help to identify and establish relevant facts. Wherever possible, VOA will clarify and confirm their understanding of the relevant facts with the customer. Where appropriate, however, VOA will make use of statutory powers to obtain the relevant facts and evidence quickly and efficiently.
22. Where it is necessary to do so this may itself entail pursuing litigation to obtain the information required.
23. In complex cases, once sufficient facts have been established, taking early specialist advice can bring important efficiency savings. However, no single piece of advice is necessarily decisive as valuation, legal, financial, and operational issues all have to be considered in determining the VOA's position.
24. VOA will seek to work with the customer to understand fully the relevant facts and law, testing its own arguments, and those of the customer, before reaching a considered view on the strength of its case.
25. VOA will always seek to ensure that respective arguments are fully shared. Only exceptionally would VOA consider the exchange of copies of Counsel's or other legal opinions. The VOA would not expect legal professional privilege to be waived in respect of confidential legal advice.
26. VOA will always consider whether something in issue is genuinely 'all or nothing' or is in fact a case where there is a range of acceptable possible figures.
27. VOA will address disputes to the same professional standard whether or not the disputes are ultimately resolved by agreement or through litigation. Furthermore, VOA will not usually persist with a dispute unless the circumstances involved justify doing so and VOA believes the case would be successful in litigation.

## Resolving disputes

28. Disputes must, in all cases, be resolved in accordance with the law.
29. VOA must be satisfied that both the substance of any decision leading to dispute resolution and the way that resolution is put into effect are fully in accordance with the law.
30. Where there is more than one dispute between a customer and VOA, each separate dispute must be considered and resolved on its own merits, not as part of any overall 'package'. As a matter of process, however, it may be that a number of separate disputes will be resolved at the same time (each on their own merits).
31. Disputes may be resolved either by agreement or through litigation. In most cases, resolution by agreement is likely to offer the most effective and efficient outcome. Where there is a range of possible valuation figures, the terms on which the VOA will settle by agreement will have regard to future as well as immediate costs and the effect on wider customer behaviours. In considering settlement terms for one dispute, VOA will take account of the potential read across to other open or prospective disputes. VOA will not settle by an agreement for an amount which is less than it would reasonably expect to obtain from litigation.

32. VOA will not compromise on its view of the law to secure agreement, and in that context, there will be cases where litigation offers the most effective and efficient means of resolving disputes, especially at the UTLC where binding authority is established. In such circumstances, VOA will seek to reach resolution as quickly as possible.
33. Where VOA assesses that it is unlikely to succeed in litigation it will, in the majority of cases, settle the dispute. Taking a case to litigation where VOA's assessment is that it is unlikely to succeed would need to be justified by the particular circumstances, such as a very large amount of rateable value (either individually or aggregated) at stake in respect of comparable hereditaments, or a fundamental point of principle or behaviour at issue.
34. A decision to litigate does not mean that VOA will stop taking steps to ensure an efficient and effective resolution to the dispute. A decision to litigate would be implemented expeditiously and opportunities for collaboration would continue where it could help reduce the costs or uncertainty of litigation for both parties. VOA will continue to be open to considering the impact of any new information and/or analysis which may be put forward by the other party(ies).

# Commentary on the VOA Litigation & Settlement Strategy

## Background

1. The VOA LSS relates to all non-domestic rating (NDR) and council tax (CT) disputes.

## Council Tax

2. Listing Officers (LOs) are appointed by the Commissioners for Revenue and Customs, and each have statutory responsibility for compiling and maintaining accurate Council Tax lists for their area, containing valuation bands ascribed to each dwelling (broadly speaking domestic property) in that area.
3. Litigation in respect of the accuracy of a valuation band ascribed to a particular dwelling is confined to the first-tier tribunal; the Valuation Tribunal for England or for Wales, as appropriate. There is a right of appeal to the High Court on a point of law only and, in view of the LO's statutory responsibility for maintaining an accurate list, the LO will always respond to appeals made by taxpayers.
4. Appeals may be made against decisions of the High Court by a party with permission, to the Court of Appeal and subsequently to the Supreme Court on a point of law.

## Rating

5. Valuation Officers (VOs) are appointed by the Commissioners for Revenue and Customs, and each have statutory responsibility for compiling and maintaining accurate non-domestic rating lists for their authorities. A Central Valuation Officer (CVO) is appointed in the same capacity in relation to the Central Lists for England and for Wales.
6. The lists contain entries in respect of all relevant non-domestic property, known as hereditaments, against which, amongst other things, is shown the rateable value (RV) and the date from which that value has effect for rate liability calculation purposes.
7. It is open to defined persons ('Interested Person') to challenge the VO's valuation, and other matters related to the list entry, by proposing that the list be altered in some respect. Where the VO does not agree to make the proposed alteration, a disagreement may arise, and the Interested Person may appeal in the first instance to the valuation tribunal.
8. The valuation tribunal (the Valuation Tribunal for England [VTE] or the Valuation Tribunal for Wales [VTW], as appropriate) is a statutory body established by The Local Government and Public Involvement in Health Act 2007 [England] and The Valuation Tribunal for Wales Regulations 2010 [Wales] to determine appeals arising in respect of those disputes between valuation officers and appellants.
9. Valuation tribunal panels determine appeals in accordance with the statutory schemes and their decisions may be determinative of the issues before them for the purposes of the particular appeal, but their decisions do not create binding precedent on either themselves or other tribunal panels. Because of the VO's statutory function in considering list alterations proposed by the defined persons, the VO is always the respondent party in an appeal before the valuation tribunal.

10. Valuation tribunals do not have the power to award costs against any party.
11. An appeal against a decision of a valuation tribunal lies to the Upper Tribunal Lands Chamber (UTLC) by any party represented at the valuation tribunal hearing and consequently the VO may be either the appellant or respondent in a UTLC appeal. Fees must be paid to lodge an appeal and for it to be heard.
12. An appeal to the UTLC is 'de novo', that is a fresh appeal, rather than a review of the decision of the valuation tribunal and issues of both valuation assessment or law may be considered.
13. Decisions of the UTLC have binding authority on the valuation tribunal and on future judgments of the UTLC. Decisions on valuation matters are final and not susceptible to further appeal.
14. Parties to UTLC appeals are often professionally represented by surveyors, solicitors, and counsel. These costs, together with the lodging and hearing fees, may be significant. The UTLC has the power to award costs against any party, although 'costs-shifting' is the normal rule.
15. Appeals may be made against decisions of the UTLC, by a party with permission, to the Court of Appeal and subsequently to the Supreme Court, on a point of law.

### Civil Penalty

16. VOs are empowered by statute to seek information from the owner or occupier of property if it is necessary for carrying out their functions. Where the information requested is not provided, or it is incomplete, it is open to the VO to issue a penalty notice to levy a fine.
17. Where an Interested Person makes a materially inaccurate statement during the 'Check' stage prior to making a Proposal they may be liable to penalty.
18. A person may appeal against the imposition of a fine to the valuation tribunal.
19. Where the duly determined fine is not paid the VO may ultimately seek to recover the fine as a civil debt in the County Court. The VOA procedures for operating the Civil Penalty provisions are set out in the Rating Manual, [available on GOV.UK](#).

### Valuation Tribunal Appeals

20. Litigation in the first-tier tribunal is routine, and as described above, the role of the VO is as respondent in every case. By applying the strategy set out above the VO seeks wherever possible to resolve disputes by agreement, efficiently, fairly and promptly. VOA Assurance processes provide governance of the settlement of disputes in this way.
21. Where it has not been possible to settle the dispute, the appeal will proceed to a hearing of the appropriate valuation tribunal. The procedures and governance of appeals in the valuation tribunals are set out in relevant Regulations and the Rating Manual, available on GOV.UK.
22. The law makes provision for appeals in the first-tier to be referred for arbitration with the consent of the parties. The VOA policy in relation to such referrals is set out in the Rating Manual, available on GOV.UK.

## Upper Tribunal Appeals (and beyond)

23. Litigation beyond the first-tier is subject to authorisation processes. The procedure and governance relating to appeals following first-tier tribunal decisions are set out in the Rating Manual, available on GOV.UK.
24. Litigation in the UTLC is assigned by the Registrar to one of four procedures: Simplified, Standard, Special or Written Representations.
25. **Simplified Procedure:** primarily used for valuation-only disputes where the amount of rateable value in issue is not significant and the impact of the judgment will be limited to the subject hereditament. Costs are not normally awarded by the UTLC and therefore each party is liable for their own costs. Any party may request this procedure having regard to the issues, complexity, and RV at stake.
26. Such cases are managed in the VOA by a Chief Valuer Group Technical Adviser who is also likely to appear as advocate for the VO. In view of the desire to minimise costs it is not usual to instruct HMRC Solicitor or to engage Counsel to represent the VO.
27. **Standard Procedure:** primarily used where the issues are complex or the amount of valuation in dispute, either for the subject hereditament or consequentially for a class, is significant. HMRC Solicitor will usually be instructed and go on the record and Counsel is commonly engaged to advise and represent the VO in the hearing. Costs are usually awarded and follow the event (the successful party receives its costs from the losing party).
28. **Special Procedure:** a variation on Standard Procedure, where bespoke requirements have been directed by the UTLC. These may relate to the timetable, completion of tasks by a party or provision of documents or evidence. The VO will normally have instructed HMRC Solicitor and Counsel, and costs are awarded as for Standard Procedure.
29. **Written Procedure:** this procedure is not normally followed because an oral hearing will enable all parties to argue the case more fully and to test the evidence presented. Some unrepresented parties could be disadvantaged by having to present formal written submissions although others may find it easier to put their contentions in writing rather than orally. VOA approach in respect of this procedure follows that for the written representations process in the valuation tribunals in the Rating Manual, available on GOV.UK. It is not considered appropriate to consent to the written procedure solely on the grounds that the party will find it easier or preferable to present a case in writing rather than orally and all requests for written procedure will be referred for prior approval.