



Property Chamber Land Registration Division First-tier Tribunal

A short guide for users

**Issued by the Property Chamber,
First-tier Tribunal,
Land Registration division**

February 2023 edition

Contents	Page
Useful contact information	4
The law we must follow	4
1 Introduction	4
1.1 This leaflet	4
1.2 Who we are	5
1.3 The types of cases we deal with covered by this Guide	5
1.4 The 'overriding objective'?	5
2 Extent of the Tribunal's jurisdiction in reference cases	6
3 Procedure	7
3.1 Reference cases	7
(a) What is a reference case?	7
(b) How reference cases start	7
(c) Statements of case	7
(d) Order to start court proceedings	8
(e) Notice of court proceedings	9
3.2 Rectification cases	9
(a) What is a rectification case?	9
(b) How rectification cases start	10
(c) Objections	10
4 Representation	11
5 Orders	11
5.1 Directions	11
5.2 Consolidated proceedings and lead cases	12
5.3 Security for costs	12
5.4 Adding to and replacing the people involved	12
5.5 Witness statements and Further Information	13
5.6 Witness summonses	13
5.7 Site visits	13
5.8 Preliminary issues	13
5.9 Extensions of Time	14
5.10 Withdrawals	14
5.11 Striking out/Summary disposal	14
6 Hearings	15
6.1 What is a hearing?	15
6.2 What is evidence?	15
6.3 Decision without a hearing	16
6.4 Notice of hearing	16
6.5 Where the hearings take place	16
6.6 Representation	16
6.7 Absence from a hearing	16

6.8	What will happen on the day of the hearing?	16
6.9	What happens at the hearing?	17
7	Decisions	17
7.1	Will there be a written decision?	17
8	Costs and fees	17
8.1	Will I have to pay fees to the Tribunal?	17
8.2	Will I have to pay costs to someone else involved in the case?	17
8.3	Can I get Legal Aid?	18
9	Setting aside a final decision	18
10	Appeals	18
10.1	Right of appeal	18
10.2	Permission to appeal	19
10.3	Stay	19
11	Standards and complaints	20
11.1	Standards	20
11.2	Comments or complaints	20
12	Mediation	21
13	Key words and phrases	21

Useful contact information

Property Chamber, First-tier Tribunal, Land Registration division

3rd Floor
10 Alfred Place
London
WC1E 7LR

Phone: 020 7291 7250

DX: 305001 Tottenham Court Road 5

E-mail: landregistration@justice.gov.uk

Website: <https://www.gov.uk/apply-land-registration-tribunal>

You can contact us from 9am to 5pm, Monday to Friday.

Land Registry

Royal Mail address for members of the public (general enquiries):

*HM Land Registry Citizen Centre
PO Box 74
Gloucester
GL14 9BB*

Royal Mail address for business customers (general enquiries):

*HM Land Registry
(Insert the name of your closest office)
PO Box 75
Gloucester GL14 9BD*

Address for service for anyone wishing to serve proceedings:

*Chief Land Registrar
HM Land Registry
Litigation and Indemnity Lawyers
PO Box 2079
Trafalgar House
1 Bedford Park
Croydon CR90 9NU*

Phone: 0300 006 0411 (0422 for Welsh language enquiries)

Website: www.gov.uk/government/organisations/land-registry

The law we must follow

Land Registration Act 2002 as amended by the Transfer of Tribunal Functions Order

2013¹. This Act as amended is referred to in this Guide² as ‘**the Act**’. Section numbers in the notes to this Guide refer to sections in the Act unless stated.

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013³. These are referred to in this Guide as ‘**the Rules**’. Rule numbers in the notes to this Guide refer to these Rules unless stated.

Note that some of the Rules do not apply to Land Registration cases.

1 Introduction

1.1 This leaflet

This leaflet applies to:-

- cases received by the Tribunal on or after Monday 1 July 2013; and
- cases which are in progress in the Tribunal on that date, unless some or all of the Rules are expressly dis-applied in individual cases.

It aims to give you helpful information on what we do. It is not a substitute for the Act or the Rules and has no legal power. Further information can be found at www.justice.gov.uk. If you are not sure about your position or your options, you should get professional legal advice.

1.2 Who we are

We are part of the Property Chamber of the First-tier Tribunal. We deal with Land Registration cases⁴. The areas we are responsible for are set out in paragraph 1.3 below. We carry out our responsibilities in line with the ‘overriding objective’ set out in paragraph 1.4.

We can make decisions on cases or order⁵ people to start court proceedings.

Our offices and permanent hearing rooms are in London and it is easier to arrange a hearing here, but we can arrange a hearing anywhere in England and Wales if necessary, as long as a hearing room is available.

1.3 The types of cases we deal with covered by this Guide

This Guide covers

- **Reference cases** - applications to the Land Registry where there is a dispute between the people involved and no agreement has been reached. The

¹ Statutory Instrument 2013 no. 1036

² In the Rules it is referred to as ‘the 2002 L R Act’.

³ Statutory Instrument 2013 no. 1169

⁴ i.e. cases which before 1 July 2013 were being, or would have been, dealt with by the Adjudicator to Her Majesty’s Land Registry, now abolished.

⁵ Section 110(1) of the Act

Registrar must refer these cases to us⁶.

- **Rectification Cases** - applications to correcting or set aside certain documents relating to registered land⁷ made direct to the Tribunal.

We also have jurisdiction to hear appeals against Land Registry decisions regarding the entry into, alteration or termination of Network Access Agreements⁸. Network Access Agreements govern the terms on which people can gain electronic access to the registers held by Land Registry and, in certain circumstances, carry out transactions with the Registry electronically. These appeals are not covered by this guide.

Other divisions of the Property Chamber of the First-tier Tribunal deal with other types of cases, but those are also not covered by this guide.

1.4 The 'overriding objective'

The overriding objective of the Rules is to enable us to deal with cases as fairly and justly as possible⁹.

This involves:-

- (a) dealing with cases in ways that are in proportion to:
 - how important the case is;
 - how complex the case is;
 - the anticipated costs; and
 - the resources of each person involved and of the Tribunal
- (b) seeking to be flexible and avoiding unnecessary formality
- (c) making sure that everyone can take part in the proceedings, as far as practicable;
- (d) saving expense;
- (e) using the Tribunal's expertise effectively; and
- (f) avoiding delay, provided that doing so does not interfere with proper consideration of the issues¹⁰

We must aim to meet the overriding objective when:

- using any power given to us under the Rules; or

⁶ Sections 108(1) and 73(7) of the Act

⁷ Section 108(2) of the Act

⁸ Section 108(1)(b) and paragraph 4 of Schedule 5 of the Act.

⁹ Rule 3(1)

¹⁰ Rule 3(2)

- interpreting the Rules or any Practice Direction¹¹

Everyone involved in the case must help us to meet the overriding objective and co-operate with us generally¹².

2 Extent of the Tribunal's jurisdiction in Reference Cases

In Reference Cases, we can only deal with the application referred by the Land Registry¹³ and the costs of its proceedings¹⁴. We have no power, for example, to order that a property be sold, or that one party pay compensation (as opposed to costs). The court does have power to make such orders if appropriate.

The final order therefore usually only requires the Chief Land Registrar to cancel or give effect to the whole or part of the original application¹⁵ and deals with costs¹⁶.

There are some limited exceptions:-

- We can specify exactly what entry/ies should be made in the register¹⁷;
- We can specify that any future application to the Land Registry of a specified kind by one or more parties to the proceedings be rejected by the Land Registry, conditionally or unconditionally¹⁸; and
- We have additional powers¹⁹ where the referred application is based on adverse possession²⁰ and an 'equity by estoppel'²¹ is also involved.

3 Procedure

3.1 Reference cases

This section sets out the procedure in a typical reference case. The Tribunal has power to give directions to alter the procedure in appropriate cases.

(a) What is a reference case?

A reference case is where an application has been made to the Land Registry and it has been objected to by someone else. The Land Registry will encourage the people involved to resolve the matter, but if they cannot reach an agreement, the

¹¹ Rule 3(3)

¹² Rule 3(4)

¹³ Section 108(1) and 73(7) of the Act

¹⁴ Section 29(1)(a) Tribunals, Courts and Enforcement Act 2007 and rule 13(1)(c)

¹⁵ Rule 40(2)

¹⁶ Rule 13(1)(c) and (2)-(9)

¹⁷ Rule 40(3)(a)

¹⁸ Rule 40(3)(b)

¹⁹ Section 110(4) of the Act

²⁰ i.e. applications which were made to Land Registry under paragraph 1 of Schedule 6 to the Act (some applications based on adverse possession where the land involved is already registered).

²¹ An 'equity by estoppel' arises in some (but not all) circumstances where one person makes representations to a second person which that second person relies on to their detriment. The Tribunal cannot offer advice as to whether a particular case falls into this category or not.

Land Registry refers the matter to us under the Act²².

(b) How reference cases start

The Registrar at the Land Registry refers a case to us with a summary of the case to date. Please note, however, that we will approach the case with a “fresh start”.

We will send a notice to everyone involved setting out details of the case.²³

The notice will also explain who is the Applicant and who is the Respondent in our proceedings²⁴. We may decide that the Objector at the Land Registry should be the Applicant and that the Applicant at the Land Registry should be the Respondent. Generally, the party who we consider should have to prove their case will be named as Applicant.

(c) Statements of Case

Applicant

The notice will also usually direct the Applicant to send to us and to the Respondent, within 28 days²⁵, a Statement of Case containing²⁶:-

- (a) the name and address of the Applicant;
- (b) the name and address of the Applicant’s representative (if any);
- (c) an address where documents can be served on the Applicant;
- (d) the Applicant’s reasons for supporting or objecting to the original application to the Registrar - this should identify all relevant facts and matters relied upon; and
- (e) a list of and copies of all documents which
 - (i) are important to the Applicant’s cases; or
 - (ii) the Tribunal and/or any other party to the proceedings will require in order properly to understand the Applicant’s case

Respondent

The Respondent will normally be required to serve their Statement of Case within 28 days of receiving the Applicant’s Statement of Case. The Respondent’s Statement of Case should be served on the Applicant and on the Tribunal and

²² Section 73(7) of the Act

²³ Rules 28(3)(a) and (b)

²⁴ Rule 28(3)(c)

²⁵ Rule 27(3)

²⁶ Rules 28(4), 6(3)(d) and 16(2)(b)

should contain:-²⁷

- (a) the Respondent's reasons for supporting or objecting to the original application – this should identify all relevant facts and matters relied upon;
- (b) a list of and copies of all documents which
 - (i) are important to the Respondent's case; or
 - (ii) the Tribunal and/or any other party to the proceedings will require in order properly to understand the Respondent's case

We may extend these time limits if the applicant or respondent applies to us to do so, but only if we consider it appropriate. We will make whatever arrangements are necessary for the case to be properly prepared. Please see below for more information on Extensions of Time²⁸

(d) Order to start court proceedings

At any stage in the proceedings, we can decide to order²⁹ one of the people involved to start court proceedings.

This is usually because our jurisdiction is limited. The Tribunal can only deal with the application referred to it by the Land Registry³⁰ and the costs of its proceedings³¹. Further information on this is given above³².

The people involved may make representations as to³³:-

- * Whether we should make an order to start court proceedings.
- * Who we should order to start court proceedings.
- * The time within which court proceedings should start.
- * The questions the court should decide on.

(e) Notice of court proceedings

If any party starts court proceedings, whether we have directed them to do so or not³⁴, that party must, within 14 days of the start of the court proceedings, send us a written notice stating³⁵:-

- (i) that court proceedings have been issued;
- (ii) the date court proceedings were issued;
- (iii) the names and any known addresses of the people involved in the court proceedings;

²⁷ Rule 30(1)

²⁸ Paragraph 5.9 below

²⁹ Section 110(1) of the Act

³⁰ Sections 108(1) and 73(7) of the Act

³¹ Section 29(1)-(3) Tribunals Courts and Enforcement Act 2007 and rule 13(1)(c)

³² Paragraph 2 above

³³ Rule 37

³⁴ Rule 38(1)

³⁵ Rule 38(2)(a)

- (iv) the name of the court at which the court proceedings will be heard;
- (v) the case number given to the court proceedings; and
- (vi) the way and extent to which the court proceedings concern or relate to the matter before the Tribunal.

If court proceedings are issued under a direction to do so from the Tribunal, our proceedings are automatically stayed on service of this notice³⁶. If court proceedings are issued when no such direction has been given, we will normally stay our proceedings but need not do so³⁷.

Where the court gives a decision on an application for an extension of time, the same party must serve on us a copy of that decision within 14 days³⁸.

The same party must, within 14 days of the date that the matter before the court is finally disposed of, serve on us a copy of the final court order³⁹.

3.2 Rectification cases

This section sets out the procedure in a typical rectification case. The Tribunal has power to give directions to alter the procedure in appropriate cases.

(a) What is a rectification case?

We have power to correct or set aside certain documents relating to registered land⁴⁰

The power is the same as that used in the High Court. The general law about the effect of an order of the High Court will apply to an order we make.

(b) How rectification cases start

The person applying for rectification or setting aside must apply directly to us. An application form is available on our website. A rectification application must⁴¹ be signed and dated and include

- the name and address of the Applicant;
- the name and address of the Applicant's representative (if any);
- an address where documents can be served on the Applicant;
- the name and address of each Respondent;
- the address of the premises or property to which the application relates;
- the Applicant's connection with the premises or property;
- the name and address of any landlord or tenant of the premises to which the application relates;
- the result the Applicant is seeking;
- the Applicant's reasons for making the application – this should identify all

³⁶ Rule 39(2)

³⁷ Rule 6(3)(m)

³⁸ Rule 38(2)(b)

³⁹ Rule 38(2)(c)

⁴⁰ Section 108(2) of the Act

⁴¹ Rule 26(2)

- relevant facts and matters relied upon; and
- a statement that the Applicant believes the facts stated in the application are true

If the application is outside our jurisdiction we will strike it out⁴², but we must give the parties a chance to make representations before doing so⁴³.

Otherwise, we will send, or direct the Applicant to send⁴⁴ a copy of the application⁴⁵ to the person the Applicant wants the order to be made against and any other person we think should be a party to the proceedings⁴⁶.

(c) Objections

If a person wishes to object, their response be served on the Applicant and on the Tribunal within 28 days⁴⁷ of receiving the copy application and should contain⁴⁸:-

- the Respondent's reasons for objecting to the original application – this should identify all relevant facts and matters relied upon; and
- a list of and copies of all documents which
 - are important to the Respondent's case; or
 - the Tribunal and/or any other party to the proceedings will require in order properly to understand the Respondent's case

The Respondent should also provide any correction to their address for service as provided by the Applicant at this stage.

An objection form can be downloaded from our website.

4. Representation

Any of the people involved may represent themselves or ask another person (whether legally qualified or not) to represent them or help them⁴⁹. If you want us to correspond with your representative rather than with you, you or they must give us and the other party their address⁵⁰. We can correspond either with you or with your representative, but will not normally write to both at the same time.

Getting evidence together and arguing a case at a hearing is not always easy. If you want advice, you should get professional help from a solicitor, direct-access barrister, Law Centre, Citizens Advice Bureau or other adviser.

We will respond to correspondence and phone calls and give advice only on matters of

⁴² Rule 9(2)

⁴³ Rule 9(4)

⁴⁴ Rule 16(2)

⁴⁵ Rules 29(8)(a)

⁴⁶ Rule 29(8)

⁴⁷ Rule 29(8)(b)

⁴⁸ Rule 30(1)

⁴⁹ Rule 14(1)

⁵⁰ Rule 14(2)

procedure. We cannot give you advice on your case or how to prepare it.

5 Orders

5.1 Directions

We may issue directions in relation to the conduct or disposal of proceedings at any time. This can include a direction amending, suspending or setting aside a previous direction⁵¹. Directions are usually given:-

- to manage the proceedings in accordance with the overriding objective⁵²;
- so that the people involved can prepare for the hearing; or
- to make a decision on the matter or any questions of dispute in the proceedings without a hearing⁵³.

Non-compliance with our directions may result in sanctions being imposed⁵⁴. Anyone involved in a case may ask us to issue a direction. They must give reasons for applying⁵⁵. A request can be made in writing or orally in the course of a hearing⁵⁶. Please note we cannot accept applications for directions by telephone.

The Tribunal may hold a Case Management Conference or Pre-Trial Review⁵⁷.

5.2 Consolidated proceedings and lead cases

If a reference or rectification application is related to another reference or rectification application, we may (if we feel it is appropriate or practical to do so) direct that:-

- * any or all of those related references or rectification applications should be dealt with together ('consolidated')⁵⁸; or
- * one or more of the cases should be treated as a lead case, with the other related cases being stayed to await the outcome of the lead case(s)⁵⁹

5.3 Security for costs

The Tribunal may order that an Applicant provides security for the costs a Respondent will incur in the proceedings⁶⁰.

The Tribunal can make such an order if it is just to do so⁶¹, the Applicant can comply with the order⁶² and one or more of the following conditions applies⁶³:-

⁵¹ Rule 6(2)

⁵² Rule 3

⁵³ Rules 9, 31 and 39(4)

⁵⁴ Rule 8

⁵⁵ Rule 7(3)

⁵⁶ Rule 7(2)

⁵⁷ Rule 6(3)(h)

⁵⁸ Rule 6(3)(b)

⁵⁹ Rules 6(3)(b) and 23

⁶⁰ Rule 12(1)

⁶¹ Rule 12(4)(b)

⁶² Rule 12(4)(c)

⁶³ Rule 12(4)(a) incorporating rule 25.13(2) Civil Procedure Rules 1998 (S.I. 1998 no. 3132) as amended

- (a) the Applicant is resident outside England and Wales and does not reside in the European Union, Iceland, Norway or Switzerland
- (b) [omitted]
- (c) the Applicant is a company or other corporate body and there is reason to believe that it will be unable to pay the Respondent's costs if ordered to do so.
- (d) the Applicant has changed his address since the case began with a view to evading the consequences of the litigation.
- (e) the Applicant has either failed to give his address in the document starting proceedings or has given an incorrect address in that document.
- (f) the Applicant is acting as a nominee for someone else and there is reason to believe that he will be unable to pay the Respondent's costs if ordered to do so.
- (g) the Applicant has taken steps in relation to his assets that would make it difficult to enforce an order for costs against him.

Any application must be accompanied by written evidence and the Respondent must provide copies of the application and evidence to the Applicant(s) ⁶⁴. The Tribunal cannot order security for costs if it has directed one of the parties to commence court proceedings⁶⁵.

5.4 Adding to and replacing the people involved

The Tribunal may give directions for any person to:

- become involved;
- cease to be involved; or
- replace someone who is already involved⁶⁶.

The parties⁶⁷ or a person who is not already a party⁶⁸ can apply for such directions

5.5 Witness statements and further information

We may give directions requiring a party to serve documents, information or submissions on the Tribunal, another party and/or the Land Registry⁶⁹.

This could take the form of, for example:-

- * a statement of facts;
- * a summary of arguments, or
- * such further information as reasonably required for determination of the matter.
- * a witness statement;

A witness statement should contain:-

⁶⁴ Rule 12(3)

⁶⁵ Rule 12(2)

⁶⁶ Rule 10(1)

⁶⁷ Rule 7(1)

⁶⁸ Rule 10(3)

⁶⁹ Rule 6(3)(d)

- the case number;
- the names of the parties to the case;
- the name, address and occupation of the witness; and
- on whose behalf the statement is being made.

The statement should clearly differentiate between facts in the knowledge of the witness and any matters referred to that are a matter of belief.

A statement of truth, signed by the witness and made in the following terms, should verify the statement:

“I believe the facts and matters contained in this statement are true.”

5.6 Witness summonses

We can issue a witness summons requiring any person to come to a hearing to give evidence, or to produce any relevant document we ask for which is in that person’s possession or control⁷⁰. If that person does not comply, the Upper Tribunal can enforce the order on our behalf⁷¹.

5.7 Site visits

We may want to visit a property to help us make a decision on the matter⁷². If so, we will send a formal request to the person who owns or controls the property. We will give reasonable notice of the proposed visit and will send copies to everyone involved.

5.8 Preliminary issues

If any of the people involved asks us to, or the Tribunal thinks it is appropriate, we may decide part of the case that is in dispute as a ‘preliminary issue’⁷³ (with or without a hearing⁷⁴). If our decision on the preliminary issue will decide on the whole of the matter, we will treat that decision as the final order

5.9 Extensions of Time

Any party may request an extension of time to comply with a direction at any point of the proceedings⁷⁵. If a party gets the consent of all other parties involved and gives proof of this consent to us, the Tribunal will grant the extension of time request if it is appropriate to do so. This is the most efficient way of applying for an extension of time and it is recommended that the consent of the other parties be gained before an application is made.

If a party does not show proof of the consent of all other parties, we will usually contact those other parties to see if they agree or object to the request. If the other parties object to the extension of time, or the request is for longer than 4 weeks, the Tribunal will consider the request and make the appropriate order. |

⁷⁰ Rule 20

⁷¹ Section 25 Tribunals, Courts and Enforcement Act 2007 and Rule 8(5)

⁷² Rule 21

⁷³ Rule 6(3)(g)

⁷⁴ Rule 31

⁷⁵ Rules 7(1)-(2) and 6(3)(a)

An extension of time should not be taken as granted until written confirmation has been received from us. An extension of time cannot be granted on the telephone.

5.10 Withdrawals

In Reference Cases it is not possible for a party to withdraw the application (or any objection) unilaterally by letter after the reference to the Tribunal has been made.⁷⁶ This applies whether the letter is sent to the Land Registry or to the Tribunal. An order of the Tribunal or the court will still be required to dispose of the referred application.

Any party who wishes to withdraw should agree the terms of a consent order with the other party or parties. The body of a consent order should include a direction from the Tribunal requiring the Chief Land Registrar to cancel or (as applicable) to give effect to the original application, and any provision as to costs. Other matters agreed between the parties can be included in a schedule to the order if desired, but this is not obligatory.

5.11 Striking out/Summary disposal

(a) Automatic strike-out

If a party fails to comply with a direction of the Tribunal which warns them that their case will be struck out if they do not do so, that party's case will automatically be struck out⁷⁷.

(b) Mandatory strike-out

The Tribunal must strike out the proceedings if it has no jurisdiction to hear the case and cannot or does not transfer it to a court or tribunal which does have jurisdiction⁷⁸.

(c) Discretionary strike-out

If any of the parties to the proceedings asks us to, or the Tribunal thinks it appropriate, the Tribunal may strike out all or part of a party's case⁷⁹ if :-

- (a) that party has failed to comply with a direction of the Tribunal which warns them that their case may be struck out if they do not do so;
- (b) that party has failed to co-operate with the Tribunal to such an extent that the Tribunal cannot deal with the case fairly and justly;
- (c) the Tribunal has already dealt with a previous case between the same parties involving all or most of the same facts;

⁷⁶ Court of Appeal decision in Chief Land Registrar –v- Silkstone and others [2011] EWCA Civ. 801 (14 July 2011)

⁷⁷ Rule 9(1) (Applicant) and 9(7)(a) (Respondent)

⁷⁸ Rule 9(2) (Applicant) and 9(7)(a) (Respondent)

⁷⁹ Rule 9(3) (Applicant) and 9(7)(a) (Respondent)

- (d) the proceedings, or the way that party has conducted them, are frivolous, vexatious or otherwise an abuse of the Tribunal's process; or
- (e) there is no reasonable prospect of all or part of that party's case succeeding.

Except where automatic strike-out operates, the Tribunal will give the parties a chance to make representations before making a strike-out order.

In Reference Cases, where any strike-out brings the case to an end, the Tribunal will also make an order specifying how the Chief Land Registrar is to dispose of the referred application(s).

6 Hearings

6.1 What is a hearing?

A hearing we control is similar to a hearing in a court of law, although in some ways it is slightly less formal. It is usually held in public⁸⁰. The people involved come with their witnesses to argue their case and to present their evidence. Each side is expected to put their evidence together and let the other side see it before the hearing. This allows each side to see how strong a case they have and to prepare a reply to the other side's evidence, if they need one. The people involved must also help us to maintain the 'overriding objective'. Directions regarding the preparation and exchange of evidence will normally be given after the parties have served their statements of case.

6.2 What is evidence?

Evidence is anything that can be used to prove or disprove facts which can help to support either side's case. It includes what witnesses say in witness statements or at the hearing itself. We take more account of witnesses who go to the hearing and who can be asked questions in cross-examination, except where we have directed that they do not need to attend. Evidence can also include title deeds, plans, photographs and other documents, and experts' reports if we allow an expert witness to give evidence.

The people involved cannot call an expert witness at the hearing, or use an expert's report as evidence, without our permission⁸¹. The Tribunal will normally give directions as to when an expert's report has to be provided after service of Statements of Case⁸².

6.3 Decision without a hearing

We may make a decision without a hearing if either all the people involved agree⁸³ or we give notice to the people involved and no party objects to our proceeding in this way⁸⁴. The people involved may also ask us to make a decision without a hearing.

We may also make a decision without a hearing to strike some or all of a party's case⁸⁵, or to implement a decision of the court where court proceedings were issued in

⁸⁰ Rule 33(1)

⁸¹ Rule 19(2)

⁸² This will almost certainly be earlier than 7 days before the hearing (the time given in rule 19(4))

⁸³ Rule 31(2)(a)

⁸⁴ Rule 31(3)

⁸⁵ Rule 9 – see paragraph 5.11 above

compliance with a direction of the Tribunal to do so⁸⁶.

6.4 Notice of hearing

We will send everyone involved a written notice of our intention to hold a hearing at least 14 days before the hearing, unless all parties agree to shorter notice, or in urgent or exceptional circumstances⁸⁷. We will give the date, time and place of the hearing.

6.5 Where the hearings take place

Our main premises for holding hearings are in London and it is usually possible to arrange hearings more quickly there. We can also hold hearings at local venues. If the people involved want a hearing to take place locally, we will normally arrange for a suitable hearing room to be available.

6.6 Representation

Your representative⁸⁸ can represent you or help you at the hearing.

6.7 Absence from a hearing

If a party does not go to a hearing and is not represented, the Tribunal may continue with the hearing and reach a final decision in their absence if the Tribunal considers that the absent party has been notified of the hearing or that reasonable steps have been taken to do so, and that it would be in the interests of justice to continue⁸⁹.

6.8 What will happen on the day of the hearing?

On the day of the hearing, you will be shown to the room where the hearing will be held. Do not worry if you have not been to a hearing before. You will be shown where to sit. You will also be given other necessary information, such as how to address the Judge and where witnesses sit when giving evidence.

6.9 What happens at the hearing?

The usual order of events is:

- The Applicant or their representative begins the hearing by giving a summary of the questions that the Tribunal has to decide.
- The Applicant's witnesses are called in turn to give evidence on oath or affirmation.
 - Usually, each witness is asked to give his or her name and address and to confirm that the contents of his or her statement are true.
 - The Respondent or their representative may then cross-examine the witness about the facts set out in the statement.
 - If the Applicant or their representative has any questions for the witness which arise from the cross-examination, they can ask them once the cross-examination has finished.
- The Respondent's witnesses are then called to give evidence. The procedure

⁸⁶ Rule 39(4)

⁸⁷ Rule 32

⁸⁸ See paragraph 4 above

⁸⁹ Rule 34

is similar to that of the Applicant's, with the Applicant or their representative cross-examining and the Respondent or their representative asking further questions if necessary.

- The Respondent or their representative puts his or her legal arguments to the Judge, referring to the evidence that has been given.
- The Applicant or their representative does the same.
- The Judge may ask questions at any time.

7. Decisions

7.1 Will there be a written decision?

At the end of the hearing, the Judge may give a decision straight away. He or she may also give detailed reasons for the decision at the same time. In most cases, however, the decision will be delayed, with the reasons given later in writing and sent to the people involved as soon as possible⁹⁰.

8. Costs and fees

8.1 Will I have to pay fees to the Tribunal?

No. Our services are free of charge.

8.2 Will I have to pay costs to someone else involved in the case?

We can decide whether to make an order that a party must pay all or part of the costs of the other side in relation to proceedings we control⁹¹, unless the people involved have agreed who should pay. We may decide that the losing side should pay all the costs of both sides. This will not always happen because we must take account of all the circumstances and try to do what is fair in each case.

An application for costs must be made within 28 days of the date the Tribunal sends the order recording the decision which disposes of the proceedings at the latest⁹². The Tribunal will not usually make an order for costs until the end of the proceedings.

An order for costs may also say that we will assess the costs if the amount cannot be agreed⁹³. We have similar powers to courts in respect of costs⁹⁴. We may set the time limit within which the costs are to be paid, or order a payment on account of costs to be paid before costs are assessed⁹⁵.

8.3 Can I get Legal Aid?

⁹⁰ Rule 36(2)

⁹¹ Rule 13(1)(c)

⁹² Rule 13(5)

⁹³ Rule 13(7)(a) and (c)

⁹⁴ Rule 13(8), incorporating Parts 43-47 of the Civil Procedure Rules 1998 (S.I. 1998 no. 3132) as amended, section 74 County Courts Act 1984 and the County Court (Interest on Judgment Debts) Order 1991 (S.I. 1991 no. 1184) in each case with necessary modifications

⁹⁵ Rule 13(9)

No. Legal Aid is not available for our proceedings.

9. Setting aside a final decision

A party can apply to the Tribunal to set aside its own decision⁹⁶. The application must be received by the Tribunal within 28 days of the date we send out the written decision (or, if later, the written reasons for the decision)⁹⁷. The Tribunal can only set aside its own decision if it is in the interest of justice to do so⁹⁸ and if⁹⁹:

- (a) a relevant document was not received by that party or their representative at an appropriate time;
- (b) a relevant document was not received by the Tribunal at an appropriate time;
- (c) a party or their representative was not present at a hearing in the proceedings; or
- (d) there has been some other procedural mistake in the proceedings.

10 Appeals

This section applies where any right to appeal is exercised on or after 14 May 2018.

10.1 Right of appeal

There is a right of appeal to the Upper Tribunal¹⁰⁰, Lands Chamber¹⁰¹ on questions of both law¹⁰² and fact¹⁰³, but only if permission to appeal is given¹⁰⁴.

10.2 Permission to appeal

If a party wishes to appeal they must first ask in writing¹⁰⁵ for permission from us. A letter setting out the reasons for the appeal will suffice. That request must be received by us within 28 days of the latest of the date the Tribunal sends to the person making the request¹⁰⁶:-

- (a) the written decision;
- (b) any amended reasons for, or correction of, the decision following a review;
- (c) notification that an application to set the decision aside has been unsuccessful

⁹⁶ Rule 51(1)

⁹⁷ Rule 51(3)

⁹⁸ Rule 51(1)(a)

⁹⁹ Rule 51(2)

¹⁰⁰ See notes 102 and 103 below

¹⁰¹ Article 12 of the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (Statutory Instrument 2010/2655 as amended), as inserted by Article 7 of the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2013 (Statutory Instrument 2013/1169) and as subsequently reamended (by removing the exception for Land Registration cases) by Article 2(2) of the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2018, S.I. 2018 no. 509

¹⁰² Sections 11(1) and (2) of the Tribunals, Courts and Enforcement Act 2007

¹⁰³ Section 111(1) of the Act as amended by paragraph 231(a) in Part 3 of Schedule 1 to the Transfer of Tribunal Functions Order 2013.

¹⁰⁴ Section 11(3) of the Tribunals, Courts and Enforcement Act 2007

¹⁰⁵ Rule 52(1)

¹⁰⁶ Rule 52(2)

On receipt of an application for permission to appeal, a Judge here will consider whether or not to review our decision¹⁰⁷. The Judge will only review the decision if satisfied that a ground of appeal is likely to be successful¹⁰⁸.

If the we do not review or change the decision the Judge will go on to consider whether or not to give permission to appeal¹⁰⁹.

If (but only if¹¹⁰) we refuse permission to appeal, then the person making the request may make a further application for permission to the Upper Tribunal, Lands Chamber. Any such application must be received by the Upper Tribunal within 14 days of the date we sent out our decision to refuse permission¹¹¹.

For information about appealing or permission to appeal visit our pages or those of the Upper Tribunal, Lands Chamber on www.gov.uk or contact

The Upper Tribunal, Lands Chamber
5th Floor, Rolls Building,
7 Rolls Building, Fetter Lane,
London, EC4A 1NL

Tel: 0207 612 9710

E-mail: lands@justice.gov.uk

10.3 Stay

If you want a stay of our order pending an application for permission to appeal you should apply for that stay expressly at the same time as you apply for permission to appeal¹¹² and give reasons. You must also serve a copy on the other parties to the case¹¹³. A stay of the order is not automatic even if we grant permission to appeal.

If you want a stay of an order addressed to the Chief Land Registrar in a Reference Case, you should also notify the Land Registry immediately on receipt of the order, of your intention to appeal and to ask for a stay. If you do not, the Land Registry may give effect to our order before the appeal is decided.

11 Standards and complaints

11.1 Standards

There are certain standards of service and performance that we are committed to achieve. These are to:

¹⁰⁷ Rule 53(1)

¹⁰⁸ Rule 55(1)(b)

¹⁰⁹ Rule 53(2)

¹¹⁰ Rule 21(1) Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (Statutory Instrument 2010/2600) as amended

¹¹¹ Rule 21(2) Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (Statutory Instrument 2010/2600) as amended

¹¹² Rule 54(1)

¹¹³ Rule 54(2)

- process new cases and acknowledge we have received notices of cases within 5 working days;
- offer hearing dates within 10 weeks of the case being ready;
- tell everyone involved the hearing date within 5 working days of fixing the date;
- draw up and send everyone involved signed decisions within 5 working days of receiving them;
- deal with all enquiries and correspondence politely and promptly; and
- reply to 95% of correspondence within five working days and 100% of correspondence within 10 working days.

11.2 Comments or complaints

If you have any comments or complaints about the service you have received from us, contact the Delivery Manager:

Shazan Nazir
3rd Floor
10 Alfred Place
London WC1E 7LR

Phone: 020 7291 7250
E-mail landregistration@justice.gov.uk

The HMCTS information note “Unhappy with our service- what can you do?” (EX 343) is available through a link at <https://www.gov.uk/government/publications/form-ex343a-complaint-form>

This procedure cannot be used to complain about an order of the Tribunal. If you are not happy with an order of the Tribunal, you can ask for it to be set aside¹¹⁴ or for permission to appeal¹¹⁵

12 Mediation

The Tribunal offers free mediation in many Land Registration cases.

Mediation is a voluntary process which aims to assist the parties to reach agreement to resolve their differences and avoid the delay and expense of a full hearing. It is only available if all parties agree to use it. No solution can be imposed on any party in a mediation.

¹¹⁴ See paragraph 9 above

¹¹⁵ See paragraph 10 above

Mediation is normally limited to 1 day. You will usually be offered mediation at the start of your case in the Tribunal, unless there is a good reason not to (e.g. there are court proceedings already underway). The Tribunal will also normally consider whether or not your case is suitable after the parties have served their Statements of Case. If your case is suitable, you will then be asked again whether or not you agree to mediation.

13 Key words and phrases

The Act:	the Land Registration Act 2002.
Address for Service:	address of the party or party's representative where correspondence will be sent and documents served.
Applicant:	In Reference Cases the person we name as such to serve their Statement of Case first. In Rectification Cases, the person who makes an application to put right or set aside a document.
Cross Examination:	questions asked by an opposing party of a party's witness.
Document:	anything in which information is recorded in any form.
Land Registration Case:	Tribunal cases under the Land Registration Act 2002, principally Reference Cases and Rectification Cases (both defined below).
Matter:	the subject of a Reference Case or a Rectification Case.
Original application:	in a Reference Case, the application originally made at the Land Registry that resulted in a reference.
Proceedings:	the matter we are dealing with.
Rectification Case:	an application to us made to put right or set aside a document.
Reference Case:	a reference from the Registrar to us under section 73(7) of the Act of a disputed application to the Land Registry.
Registrar:	the Chief Land Registrar.
Respondent:	in <u>Reference</u> Cases, any person who we name as such to provide a response to the Applicant's Statement of Case. In <u>Rectification</u> Cases the person making an objection to an application to put right or set aside a document.
The Rules:	The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Statement of Truth: a statement at the end of the document in the form

'I believe that the facts and matters contained in this statement are true'

The Tribunal/Us/We The Property Chamber, Land Registration division of the First-tier Tribunal.

Witness statement: a written statement signed by a witness containing the evidence that the witness intends to give and verified by a statement of truth (defined above).

