



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Lands Tribunal for Northern Ireland - Tribunal  
Fees for Non-domestic Rating Valuation Appeals:  
Northern Ireland Courts and Tribunals Service

18 March 2015

# NORTHERN IRELAND ASSEMBLY

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### Lands Tribunal for Northern Ireland - Tribunal Fees for Non-domestic Rating Valuation Appeals: Northern Ireland Courts and Tribunals Service

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**Members present for all or part of the proceedings:**

Mr Alastair Ross (Chairperson)  
Mr Sammy Douglas  
Mr Tom Elliott  
Mr Paul Frew  
Mr Alban Maginness  
Mr Patsy McGlone  
Mr Edwin Poots

**Witnesses:**

Mr Ronnie Armour	Northern Ireland Courts and Tribunals Service
Ms Sharon Hetherington	Northern Ireland Courts and Tribunals Service
Ms Mandy Morrison	Northern Ireland Courts and Tribunals Service

**The Chairperson (Mr Ross):** I welcome Ronnie Armour, Sharon Hetherington and Mandy Morrison from the Northern Ireland Courts and Tribunals Service (NICTS). I advise you that Hansard is reporting this session, and it will appear on the website in due course. When you are ready, please brief us, after which we will open the meeting up for questions.

**Mr Ronnie Armour (Northern Ireland Courts and Tribunals Service):** Thank you, Chairman. Our proposal is made in the context of DFP's 'Managing Public Money Northern Ireland', which provides for the full recovery of costs associated with fee-earning business.

The Lands Tribunal statutorily transferred from the Department of Finance and Personnel to the Courts and Tribunals Service in April 2011. Nominal fees, which have not been changed in 40 years, are charged for the administration of business. On average, we process 38 non-domestic rate appeal cases a year. As a result, we generate an income of less than £1,000 per annum.

When you calculate the administrative and judicial time taken to process those cases and our overheads, the average operating cost to the Courts and Tribunals Service is £74,000 per annum or £1,948 per case. In the context of the revaluations of all non-domestic properties in Northern Ireland undertaken by DFP, there is potential for the number of appeals to increase significantly during the incoming year, so the cost to the Courts and Tribunals Service would also increase. We are operating in a challenging financial environment and do not have the funding to meet those additional costs.

We completed a pre-consultation exercise last summer, which was followed by a 12-week public consultation in the autumn involving over 300 consultees. The response rate was low, with only five substantive and two nil responses received. In summary, respondents recognised the need to

increase the fee for non-domestic rating appeals but expressed concern about the equability of the proposals, particularly for small businesses and the subsequent risk of preventing access to justice.

The Courts Service considers that the proposed fee structure based on 1% of an applicant's pre-appeal net annual value (NAV), subject to a minimum fee of £250 and a maximum fee of £15,000, strikes a balance between ensuring access to justice and meeting the cost recovery objectives.

The variable fee addresses the access to justice issue by ensuring that smaller businesses pay a smaller, more affordable fee that reflects the size of their premises. Conversely, businesses with a higher rateable value would pay a higher fee to reflect the potential for a higher payback if their appeal were successful.

The current non-domestic valuation list indicates that more than 80% of businesses in Northern Ireland have a net annual value of less than £20,000, which means that they would be charged the minimum fee of £250. Only 34 properties out of 73,401 have an NAV of £1.5 million and would be liable to pay £15,000. If a business is successful in its appeal, the fee and any costs taken are reimbursed by Land and Property Services (LPS).

It is only when a ratepayer has exhausted the internal LPS appeal stages and remains dissatisfied with the decision that the case is taken to the Lands Tribunal, and a fee is incurred. The formal LPS appeal process involves any application to review, which is made to the district valuer in the LPS. Should the matter not be resolved, ratepayers can appeal to the commissioner of valuation, which is part of DFP.

The proposed fee structure is comparable to arrangements in other parts of the United Kingdom for the equivalent appeals service. The options set out in the consultation were subject to equality impact screening. No adverse equality impacts were identified, and screening did not identify any other section 75 impacts. The Courts Service completed a regulatory impact assessment for the fee review, and findings indicate that an increase in fees for domestic rating valuation appeals would have a moderate impact on businesses in Northern Ireland. We believe, however, that that impact is moderate, as the new fee structure allows for the size of the NAV to be taken into account in assessments of the fee applied, so we think that it is more likely to be beneficial to small businesses.

That, hopefully, gives the Committee a brief summary of where we are with the issue.

**The Chairperson (Mr Ross):** Thank you. I have a question, and then I will open the meeting up to members. The briefing paper states that an increase in fees will result in additional income but that that will be offset by increased running costs. What is the expected increase in running costs, and what is the difference in procedure that means that running costs will increase?

**Ms Sharon Hetherington (Northern Ireland Courts and Tribunals Service):** Over a four-year period, running costs are forecast to be around £700,000. The main reason for that, as I am sure that you will be aware, is that DFP is in the process of creating new NAVs for non-domestic properties in Northern Ireland. That process means that we and DFP expect that there will be an increase in business. That is the driver.

**Mr McGlone:** I heard what you said about the NAV of a property at the upper echelons of the fee that people would have to pay. In the current climate, people are probably around the middle of the fees spectrum. You talked about it being on a scale, which is a bit unusual. Take someone at the upper echelon who pays that big fee to go before a tribunal. Correct me if I am wrong, but the level of detail that valuers would have to go into for a property of that size is not terribly different. I have done this sort of thing with valuers. I was not doing it professionally but was just present to see what they were doing. The level and extent of work, for example, that goes into preparing a case on two different properties is more or less the same. You should be paying for the same level of preparation. Some people commission professional valuers to represent them at these things. Would it not be a bit self-defeating if you paid a large fee up front to get a payback that comes to about the same amount as the fee that you paid? For example, if you win £15,000, or even less than £15,000, as it probably would be, because valuations are never that far out, would it not be self-defeating to even consider going down that route?

**Ms Hetherington:** As part of the consultation process, one option was a flat fee of £2,000 per case. None of the respondents was keen on that. They felt that that could have a disproportionate impact on a small business. At the upper end of the spectrum with its higher fees, if a business is successful,

as Ronnie said, Land and Property Services will reimburse it for those fees. If a business has a higher NAV, there is probably a bigger payback in terms of the potential variation.

**Mr McGlone:** Potentially, there is a bigger payback.

**Ms Hetherington:** Yes.

**Mr McGlone:** With the greatest respect, not too many of them are that far off the radar that LPS has got so wrong. Am I correct in saying that? In other words, are you saying that LPS is not doing a very good job?

**Ms Hetherington:** We do not collate those figures.

**Mr Armour:** We do not collate the figures, but we are certainly not casting any doubt on the work of LPS. We are trying to bring forward a set of proposals that is fair in addressing the needs of small businesses and larger valuations. As Sharon said, we looked at the flat fee suggestion, but, from the small number of consultation responses that we got, it did not find significant favour. That is why we propose it on the scale that we do, but we anticipate that a very small number of people will fall into that higher category with the £15,000. Based on the figures that we have, it will be a small number.

**Ms Hetherington:** From DFP's figures, 34 properties, potentially, fall into that category.

**Mr McGlone:** Is that 34 properties in total?

**Ms Hetherington:** Yes. That is not to say that all 34 properties will appeal their valuation.

**Mr McGlone:** I appreciate that. If you have sourced that figure, you must have done it for the remainder. What about the majority of the rest? What sort of pitch or level of fee will they come in at? In case I have not made that clear, I mean the majority of the rest of the rateable properties. On the scale that you outlined, where are they coming in?

**Ms Hetherington:** From the information that DFP provided, it seems that 80% of properties fall within the lowest fee band.

**Mr McGlone:** Which is?

**Ms Hetherington:** It is £250.

**Mr Armour:** We are saying that the vast majority are in the £250 fee category. Based on the figures that we have, that is 80%. The remainder will be on a sliding scale above that, with a very small number at the upper end.

**Mr McGlone:** Finally, may I just ask, with the Chair's forbearance and yours, about those who have gone to appeal in the last four or five years? Anybody who is trying to run a business is trying to cut costs. People running a business at the moment, successfully or maybe less so, are trying to make sure that they are in the black rather than the red. The last five years would be a fair indication of the troubled times that the economy has hit. Of those who appealed in that time frame, how many were in each of the brackets, and how many were successful at appeal?

**Ms Mandy Morrison (Northern Ireland Courts and Tribunals Service):** We have figures for only the last four years. There were 142 appeals, of which 85 were successful, five were unsuccessful, and 52 were withdrawn. I do not have the breakdown that you ask for because we do not base the appeal only on the NAV. We just look at whether appeals were successful or unsuccessful, because we have not based our costs on NAV to this date. In future, we will capture that information.

**Mr McGlone:** Chair, I think that it would be helpful for us, in coming to our conclusions, if the witnesses could get those figures from LPS. I am asking for an analysis of the brackets that the appeals fall into, and how many of those 142 appeals fall into the lowest category. It may be that all 142 appellants pay £250. That is grand. We just do not know.

**Ms Hetherington:** From our research into appellants going to the Lands Tribunal, about 50% of cases have an NAV of £100,000 or lower, and 50% have an NAV that is higher than £100,000. That is from such analysis as we have.

**Mr McGlone:** Can we get the other information from LPS?

**Ms Morrison:** Yes, we will need to go to LPS for that.

**Mr Armour:** We will do that and write to the Committee.

**Mr McGlone:** That is grand. Thank you.

**Mr Poots:** Will this deliver full cost recovery?

**Mr Armour:** Yes. That is what we seek to achieve, and we believe that it will.

**Mr Poots:** I think that you said that about four cases a year will come in between £7,500 and £15,000. I assume that you could probably still deliver full cost recovery if you put the cap at £7,500.

**Mr Armour:** We would certainly need to look at those figures. You may be right, but I do not have that figure off the top of my head.

**Ms Hetherington:** We are forecasting that there will be one or two cases at the higher end.

**Mr Poots:** So you are looking at a maximum of about £10,000 additional a year. It is not —

**Ms Hetherington:** Based on the business-as-usual activity, with running costs of £74,000, percentage-wise, that would be a significant gap.

**Mr Poots:** Do you consider reviewing this every 50-odd years to be good practice?

**Mr Armour:** Absolutely not. We inherited this. The Lands Tribunal was transferred to us in 2011, and we had a consultation on it last year. I do not think that it is good practice, but we did not have responsibility for it for the last 50 years. I generally take responsibility for the last four years.  
*[Laughter.]*

**Mr Poots:** Chair, in general, I think that it is reasonably fair. I think that, at the upper level, the cap could possibly be reduced without punishing yourselves or anybody else too much.

**Mr Armour:** Our proposal is £15,000. As we move forward, we will certainly keep it under review.

**The Chairperson (Mr Ross):** Thank you very much.