

# Review of Fees Charged in the Lands Tribunal for Non-Domestic Rating Valuation Appeals

*serving the community through the administration of justice*

## Consultation Document

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## Introduction and Background

1. This consultation paper seeks views on proposed changes to the fees charged for non-domestic rating valuation appeals in the Lands Tribunal for Northern Ireland (The Tribunal).
2. The Tribunal statutorily transferred into the Northern Ireland Courts & Tribunals Service (NICTS) in April 2011 from the Department of Finance & Personnel (DFP). The Tribunal fees have not been reviewed since the body's inception in 1964 and the present fee regime does not accurately reflect the costs associated with the appeals process or comply with NICTS current fee policy or DFP's Managing Public Money (Northern Ireland) (MPMNI).
3. MPMNI states that fees should generally be charged at full cost and if there is a fall in full cost recovery there should be a plan to achieve it within a reasonable period. In line with MPMNI the NICTS aims to recover 100% of the costs associated with fee earning business.
4. NICTS, an agency of the Department of Justice (DOJ), is currently working with Departmental colleagues to agree a strategy and resources to carry out a comprehensive fee review across all courts and tribunals in the medium to longer term. However due to the revaluation of non-domestic property taking place in April 2015, an increase in fees for non-domestic rating appeals is being brought forward in advance of the wider review to ensure that non-domestic rate appellants meet the cost of their appeal to the Tribunal rather than the cost being met by the taxpayer. In addition, NICTS has recently commenced work to examine proposals for an inflationary uplift to all court and tribunal fees.
5. The proposals outlined in this document have been developed to take account of those of limited means but will also ensure that those who use the appeal system for non-domestic rating valuations meet the cost of providing the service in line with general government policy on fee charging as set out in MPMNI.

## Current Rating Valuation Appeal Process

6. Under the current non-domestic rating process in Northern Ireland any ratepayer may request the District Valuer to review their valuation at any time. The following paragraphs lay out the route an appeal against the District Valuer's decision on review must follow in order to reach the Lands Tribunal. The procedure is the same where the appeal is against the District Valuer's decision when a property is first entered in the Valuation List or has had its entry in the list subsequently altered for any reason.
7. The process is commenced by a ratepayer (or another party as the case may be) completing an Application for Review form (a "CR3 form")<sup>1</sup> and forwarding this to the District Valuer. An application for review may also be made on-line or by telephone.
8. The District Valuer must then complete any revision to the valuation which arises out of an application to him within three months of the application date.
9. If the District Valuer cannot complete the revision within three months he must notify the applicant of the reason for delay and also specify the further period within which he will complete the revision. An extended period may be further extended by notice, but no period of extension may exceed three months.<sup>2</sup>
10. In relation to applications for review following a new valuation list coming into effect, the standard three month period for completion of the review is extended to six months provided the application is made during the first year after the new valuation list takes effect.<sup>3</sup>
11. This extension is deemed necessary given that many more applications can be expected in the year after a new valuation list comes into force.
12. A ratepayer or other interested party who is dissatisfied with the outcome of the District Valuer review then has 28 days to appeal to the Commissioner of Valuation. This may be done by telephone or by completing and submitting an appeal form (CR20) to the Commissioner of Valuation.
13. If the ratepayer or other interested party remains dissatisfied with the Commissioner's decision, they can:
  - i. where the property is mixed domestic and non-domestic and the Net Annual Value (NAV) is less than £12,500, appeal to the Northern Ireland Valuation Tribunal; or
  - ii. in all other cases appeal to the Lands Tribunal for Northern Ireland.

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<sup>1</sup> [http://www.dfpni.gov.uk/lps/index/about-](http://www.dfpni.gov.uk/lps/index/about-lps/publications_and_statistics/valuation_publications/application_and_appeal_forms.htm)

[lps/publications\\_and\\_statistics/valuation\\_publications/application\\_and\\_appeal\\_forms.htm](http://www.dfpni.gov.uk/lps/index/about-lps/publications_and_statistics/valuation_publications/application_and_appeal_forms.htm)

<sup>2</sup> Article 49(4) of the Rates (Northern Ireland) Order 1977 S.I. 1977 No. ("the Rates Order")

<sup>3</sup> Article 49(5) of the Rates Order

14. Ratepayers are still required to pay their rates when the appeals process is underway. If the appeal is successful Land and Property Service (LPS) will refund any amount overpaid, along with interest, if applicable.

## Lands Tribunal Current Fee Structure

15. The Lands Tribunal for Northern Ireland is an expert tribunal established by the Lands Tribunal & Compensation Act (NI) 1964. The Tribunal includes a valuation member as well as a legal president. It is supported administratively by the NICTS.
16. The Tribunal deals with both appeals from individuals and bodies and disputes referred directly to it, dealing mainly with issues such as:
- restrictive covenants affecting land;
  - disputes between landlords and business tenants;
  - rating valuations appealed from the Commissioner of Valuation or the Northern Ireland Valuation Tribunal;
  - compensation in respect of land compulsorily acquired; and
  - as an arbitrator, about rents and values of business properties.
17. A key area of work for the Tribunal is non-domestic or business rating valuation appeals which account for approximately 25% of Tribunal business. On average the Tribunal receives 167 cases per year.
18. The planned non-domestic revaluation by DFP will see a new valuation list come into effect in April 2015. This revaluation exercise is completed approximately every ten years and historically has resulted in a higher number of onward appeals to the Tribunal post implementation. DFP currently estimate that approximately 300 additional cases could be brought to the Tribunal as a result of the new valuation list.
19. The fees currently charged in the Tribunal for non-domestic rating appeals are:
- a £2<sup>4</sup> application fee (notice of appeal);
  - a £25<sup>5</sup> hearing fee (the legislation provides for the calculation of a hearing fee of £1:£100 net annual value (NAV) up to a value of £500);
  - a £1<sup>6</sup> fee for a certified copy of the order, award or decision; and
  - a 10p to 20p<sup>7</sup> for a photocopy of an order, award or decision.
20. In addition to the fees set by the Tribunal, parties may also incur other costs such as counsel representation. In cases where the appeal is successful, it is normal practice that costs incurred by the appellant are met by Land & Property Services, the opposing party.

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<sup>4</sup> Schedule 2 Item 2 Lands Tribunal Rules (Northern Ireland) 1976

<sup>5</sup> Schedule 2 Item 9 (d) (iii) Lands Tribunal Rules (Northern Ireland) 1976

<sup>6</sup> Schedule 2 Item 10 (b) Lands Tribunal Rules (Northern Ireland) 1976

<sup>7</sup> Schedule 2 Item 10 (a) (i) & (ii) Lands Tribunal Rules (Northern Ireland) 1976

## Options for Changes to Fee Structure

### Current Running Cost of The Lands Tribunal

21. This review has been completed in line with MPMNI with the full cost of the Tribunal and the cost of providing non-domestic rating valuation appeals being calculated.
22. The average annual running cost of the Land Tribunal is £435,000 (administrative cost £249,000 and judicial cost £186,000). This is made up of salaries, general expenditure, overheads and depreciation.
23. Non-domestic rating appeals currently account for 22% of administration time and 10% of judicial time. This means that on average £74,000 of the total running costs of the Lands Tribunal can be attributed to the area of non-domestic rating appeals.
24. On average the Lands Tribunal deals with 38 non-domestic rates appeals per annum. Therefore the cost of a non-domestic rates appeal case is in the region of £2,000.
25. Fee options have been developed which aim to recover 100% of the costs of providing non-domestic rating valuation appeals. Future costs have been estimated by extrapolating past trends and consulting with those who operate the appeals service and DFP to forecast future business levels. It is acknowledged that future business levels cannot be forecast precisely, but proposals have been developed using an assumption the Lands Tribunal will receive an additional 300 cases as a result of the revaluation.

### Fees in Other UK Jurisdictions

26. As part of the review the current fees charged in England and Wales and Scotland were considered. However, as the process in each jurisdiction differs caution must be applied when comparing fees.
27. At the time of writing the fees for rating appeals in England and Wales are:
  - a £250 fixed lodgement fee<sup>8</sup>;
  - a scaled final hearing fee based on 5% of the rateable value determined by the Tribunal subject to a minimum fee of £250 and a maximum fee of £15,000<sup>9</sup>; and
  - a minimum £10 fee to obtain a photocopy or certified copy of the a document<sup>10</sup>
28. At the time of writing the fees for rating appeals in Scotland are:

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<sup>8</sup> Article 4 Item 2 The Upper Tribunal (Lands Chamber) Fees (Amendment) Order 2010

<sup>9</sup> Article 4 Item 8 The Upper Tribunal (Lands Chamber) Fees (Amendment) Order 2010

<sup>10</sup> Article 4 Item 13 The Upper Tribunal (Lands Chamber) Fees (Amendment) Order 2010

- a banded application fee (four bands minimum £100 Maximum £500) dependant on the Net Annual Value (NAV)<sup>11</sup>;
- a final hearing fee based of £155 for each day the Tribunal sits<sup>12</sup>;
- a £7.50 fee to certify a copy of the order or determination<sup>13</sup>; and
- a £1.20 per page charge for a copy of any document<sup>14</sup>.

## Fee Options

29. There are numerous fee options which could be pursued, but following an internal evaluation process these have been shortlisted and are presented below for comment. Consultees are invited to comment on the proposals presented for an increase in fees in relation to non-domestic rating valuation appeals.

30. In addition to the options presented for an increase in the specific fees associated with non-domestic rating valuation appeals, NICTS is proposing that the fees for providing certified copies and photocopies of an order, award or decision are increased to £10 and £5 (5 sheets or less and £0.50 for each sheet thereafter) respectively, in line with fees charged for these services in other NICTS business areas.

31. The proposals in this consultation, with the exception of the above admin fees, are only in relation to the fees for non-domestic rating appeals. NICTS is not proposing any changes in the fees charged for other types of Lands Tribunal business at this point in time. These will be considered as part of the inflationary uplift exercise and wider fee review referred to at paragraph 4.

32. A table showing the current and proposed fee levels for each option can be found at Annex A.

### Option A

33. Option A proposes a single fee of £2,000 for the non-domestic rating valuation appeal process. This fee covers a customer's application and the process through to and including a hearing.

34. This option would provide a simple, single upfront fee mechanism which is in line with other NICTS business areas. It is the most simple and straightforward option and appellants would be clear from the outset the costs associated with bringing their appeal to the Tribunal.

35. However, NICTS recognises this option may not be considered equitable and there is a risk that this fee could prevent access to justice by restricting some appellants from pursuing their case. This fee option could be viewed as failing to consider smaller businesses, with smaller properties and comparably minimal NAVs. The adjustments

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<sup>11</sup> Item 3 Statutory Instrument 1996 No. 519 (S.52), The Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996

<sup>12</sup> Item 9 Statutory Instrument 1996 No. 519 (S.52), The Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996

<sup>13</sup> Item 10 Statutory Instrument 1996 No. 519 (S.52), The Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996

<sup>14</sup> Item 11 Statutory Instrument 1996 No. 519 (S.52), The Lands Tribunal for Scotland (Amendment) (Fees) Rules 1996



to lower NAVs may be minimal in comparison to the fee charged. Therefore, those businesses with lower NAVs may be discouraged from appealing as the fee does not effectively address the “fee to payback ratio”. For these reasons, this is why two further options have been included for consideration and comment.

Option B

36. Option B is based on a banding structure similar to that operated by the Lands Tribunal for Scotland. The fee charged is based on the pre-appeal NAV of the property.

<b>Net Annual Value (NAV)</b>	<b>Proposed Fee</b>
Less than £20k	£250
£20k or more, but less than £50k	£350
£50k or more, but less than £100k	£750
£100k or more, but less than £200k	£1,500
£200k or more, but less than £500k	£3,500
Over £500k	£7,500

37. This option would provide a simple, single upfront fee mechanism which is in line with fees charged in other NICTS business areas. Like option A it is a simple and straightforward option and appellants would be clear from the outset the costs associated with bringing their appeal to the Tribunal.

38. A banded fee would address the access to justice issue identified in option A by ensuring that smaller businesses pay a smaller, more affordable fee which is reflective of the size of their premises. Conversely, businesses with higher NAVs would pay a higher fee to reflect the potential for higher payback if their appeal is successful.

Option C

39. Option C proposes a single sliding scale fee based on a proportion of the applicant’s pre-appeal NAV, subject to a minimum and maximum fee:

	<b>Proposed Fee</b>
% of NAV	1%
Minimum fee	£250
Maximum fee	£15,000

40. This option provides a single upfront fee mechanism which is in line with other NICTS business areas. Like options A and B, appellants would be clear from the outset the costs associated with bringing their appeal to the Tribunal.
41. A sliding scale fee would address the access to justice issue identified in option A by ensuring that smaller businesses pay a smaller, more affordable fee which is reflective of the size of their premises. Conversely, businesses with higher rateable values would pay a higher fee to reflect the potential for higher payback if their appeal is successful.

### **Fee Remissions**

42. NICTS operates a system of fee exemption and remission to ensure access to justice is maintained for those of limited means. The system is essentially aimed at individuals and although companies, charities and other organisations cannot apply for a fee remission, sole traders<sup>15</sup> are eligible to apply for a fee remission.

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<sup>15</sup> You are defined as a sole trader if you are responsible for running your own business as an individual, and are directly and solely responsible for the losses the business makes. You are not a sole trader if your business is a limited company, an “ordinary” business partnership, a limited partnership, or a limited liability partnership or pays corporation tax or is registered with Companies House

## Impact Assessments

43. Section 75 of the Northern Ireland Act 1998 requires all public authorities in Northern Ireland to have due regard to equality of opportunity between the nine equality categories and have regard to promote good relations between persons of different religious belief, political opinion or racial group. Public Authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.
44. NICTS is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.
45. The options set out in this consultation have been subjected to equality impact screening. There have been no adverse equality impacts identified and initial screening has not identified any other Section 75 impacts. The full equality screening form is available on the NICTS and DOJ websites. Comments are also welcome on any aspect of the equality screening assessment.
46. NICTS has commenced a Regulatory Impact Assessment (RIA) and initial findings indicate that an increase in fees for non-domestic rating valuation appeals will have an impact on businesses within Northern Ireland. However, this impact is thought to be moderate and will be mitigated against through the fact that all properties will be subject to the same fee regime.
47. Responses to this consultation will be used to refine the impact assessments referred to in the paragraphs above.

## Responding to this Consultation

48. You are invited to comment on the proposals contained in this paper. NICTS welcomes responses to the following questions:

**Question 1** – Do you agree that the cost of appeals against non-domestic rating valuations should be met by users of the Tribunal? Please give reasons for your answer.

**Question 2** – Which option for determining fees outlined on pages 8 to 10 do you prefer? Please give reasons for your answer.

**Question 3** – How do you think the proposals could be improved?

**Question 4** – Please provide any information or comments you may have on the equality and regulatory impact assessments.

49. Responses or requests for further information should be made in writing and emailed to [FeeConsultation@courtsni.gov.uk](mailto:FeeConsultation@courtsni.gov.uk) or sent by post to:

Fee Consultation  
Finance Branch  
Northern Ireland Courts & Tribunals Service  
Laganside House  
23-27 Oxford Street  
BELFAST  
BT1 3LA

50. The consultation period will end at 5pm on Wednesday 31st December 2014.

51. When responding please complete the template at Annex C, state whether you are responding as an individual or representing the views of an organisation. If responding as an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

52. Responses will be analysed and we will aim to publish a summary of the responses to this consultation and the proposed way forward on the NICTS website within two months of the end of the consultation period. Unless individual respondents specifically indicate that they wish their response to be treated in confidence, their name and the nature of their response may be included in any published summary of responses. Respondents should also be aware that the Agency's obligations under the Freedom of Information Act may require that any responses not subject to specific exemptions under the Act, be disclosed to other parties on request.

53. This document is available in alternative formats; please contact us via the postal or email addresses above or by telephone on 028 9041 2338 to discuss your requirements.

54. A list of consultees who have been notified about this consultation is presented at Annex B.

**Annex A: List of Current and Proposed Fees**

Fee Description	Current Fee	Proposed Fee																
		Option A	Option B	Option C														
Application fee (notice of appeal)	£2	Two stage fee will be replaced by a fixed single fee of £2,000	Two stage fee will be replaced by a single fee based on the band the applicant's NAV falls into:	Two stage fee will be replaced by a single fee based on 1% of applicant's NAV, subject to a minimum fee of £250 and a maximum fee of £15,000														
Hearing fee	£25																	
			<table border="1"> <thead> <tr> <th>Net Annual Value</th> <th>Fee</th> </tr> </thead> <tbody> <tr> <td>Less than £20k</td> <td>£250</td> </tr> <tr> <td>£20k+ but less than £50k</td> <td>£350</td> </tr> <tr> <td>£50k+ but less than £100k</td> <td>£750</td> </tr> <tr> <td>£100k+ but less than £200k</td> <td>£1,500</td> </tr> <tr> <td>£200k+ but less than £500k</td> <td>£3,500</td> </tr> <tr> <td>Over £500k</td> <td>£7,500</td> </tr> </tbody> </table>	Net Annual Value	Fee	Less than £20k	£250	£20k+ but less than £50k	£350	£50k+ but less than £100k	£750	£100k+ but less than £200k	£1,500	£200k+ but less than £500k	£3,500	Over £500k	£7,500	
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Less than £20k	£250																	
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£200k+ but less than £500k	£3,500																	
Over £500k	£7,500																	
Certified copy of order, award or decision	£1	£10	£10	£10														
Photocopy of an order, award or decision	10p to 20p	£5 for 5 sheets or less and £0.50 for each sheet thereafter	£5 for 5 sheets or less and £0.50 for each sheet thereafter	£5 for 5 sheets or less and £0.50 for each sheet thereafter														

## Annex B: List of Consultees

Ballymena Chamber of Commerce	Northern Ireland Office
Bangor Chamber of Commerce	NI Economic Council
Belfast Chamber of Trade and Commerce	NI Judicial Appointments Commission
Belfast Solicitors Association	NI Government Departments
Causeway Chamber of Commerce	NI Independent Retail Trade Association
Citizens Advice Bureau	NI Law Commission
Confederation of British Industry	NI Local Government Association
Cookstown Chamber of Commerce	NI Members of the House of Lords
Economic Research Institute of NI	NI MPs, MEPs, Political Parties & MLAs
Equality Commission for NI	NI Ombudsman
Federation of Small Businesses NI	NI Retail Consortium
Fivemiletown Chamber of Commerce	Office of the Attorney General for NI
Health Organisations	Office of the Lord Chief Justice
Hollywood Chamber of Commerce	Omagh Chamber of Commerce and Industry
Human Rights Commission	Portadown Chamber of Commerce
Institute of Directors	Police Service of Northern Ireland
Institute of Revenues, Rating and Valuation	Public Prosecution Service
Invest NI	Queen's University of Belfast
Irvinestown Chamber of Commerce	Rating Surveyors Association
Judiciary	Roe Valley Chamber of Commerce
Kilkeel Chamber of Commerce	Strabane Chamber of Commerce
Land & Property Services	The Bar Library
Law Centre (NI)	The General Consumer Council for NI
Legal Deposit Libraries	The Law Society of NI
Lisburn Chamber of Commerce	The Royal Institution of Chartered Surveyors
Lisnaskea Chamber of Commerce	University of Ulster
Local Councils	
Londonderry Chamber of Commerce	
Manufacturing NI	
National Association of Estate Agents	
National Library of Ireland	
Newcastle Chamber of Commerce	
Newry Chamber of Commerce And Trade	
NI Assembly	
NI Business Info	
NI Chamber of Commerce & Industry	

## Annex C: Response Template

**Question 1.** Do you agree that the cost of appeals against non-domestic rating valuations should be met by users of the Tribunal?

Please give reasons for your answer.

**Question 2.** Which option for determining fees outlined on pages 8 to 10 do you prefer?

Please give reasons for your answer.

**Question 3.** How may the proposals be improved?

**Question 4.** Please provide any information or comments you may have on the equality and regulatory impact assessments.

**Question 5.** Do you have any other comments?

**Name:**

**Date:**

**Address:**

**Telephone:**

**Email:**

**Organisation:**

Details of who your organisation represents and, where applicable, how the views of members were assembled:



Northern Ireland Courts and Tribunals Service  
Laganside House  
23-27 Oxford Street  
Belfast  
BT1 3LA  
[www.courtsni.gov.uk](http://www.courtsni.gov.uk)

