FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AJ/HSL/2017/0002**
Property	**:**	**TRS Apartments, The Green, Southall, Middlesex UB2 4FE**
Applicant	**:**	**TRS Asset Management Limited**
Representative	**:**	**Mr Richard Hanstock (Counsel) instructed by Winckworth Sherwood LLP**
Respondent	**:**	**Ealing Council**
Representative	**:**	**Mr Dean Underwood (Counsel) instructed by respondent**
Type of Application	**:**	**Appeal under schedule 5 to the Housing Act 2004**
Tribunal Members	**:**	**Mr Jeremy Donegan (Tribunal Judge)** **Mr Charles Norman FRICS (Valuer Member)**
Date and venue of Hearing	**:**	**28 February 2018** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**06 April 2018**

DECISION

Decision of the tribunal

The Tribunal strikes out the whole of the proceedings pursuant to rule 9(2)(a) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the 2013 Rules').

The background and procedural history

1. This appeal concerns a purpose-built, residential block comprising 149 self-contained flats known as TRS Apartments, The Green, Southall, Middlesex UB2 4FE ('the Block').

2. The respondent is a local housing authority ('LHA'). The Block is situated in an area designated by the respondent as subject to selective licensing under Part 3 of the Housing Act 2004 ('the 2004 Act'). The applicant is the freehold proprietor of the Block.

3. Mr Jadav of the applicant met with Ms Pitera of the respondent on 03 March 2017, when they discussed selective licences for the Property. In an email to Mr Jadav of the same date, Ms Pitera stated *"..all of the selective licences for the TRS Apartments in Southall have to be submitted online, individually within the next three weeks."*

4. On 20 March, the respondent's solicitors ('WS') wrote to Ms Pitera and disputed the need for individual licences for each flat at the Block. They referred to sections 79, 85 and 99 of the 2004 Act and asked for confirmation that *"...only one selective license application need be made by TRS, accompanied by the sum of £500."*

5. Ms Zeb of the respondent replied to WS in a letter dated 02 May 2017. She expressed the respondent's view that each of the occupied flats was *"...capable of being a Part 3 house and therefor requires an individual licence."* She then went on to say *"You will no doubt advise your client that if indeed he is aggrieved by the Councils position he has a right to appeal to the First Tier Tribunal (Property Chamber) on grounds that the authority should have granted him a licence (or licences) for a different Part 3 house (or houses)."*

6. WS submitted an application to the Tribunal on form HMO on 30 May. The grounds of the application were set out at section15 and the type of application was stated to be *"Appeal against decision to grant/refuse a Licence."* The final paragraph read:

   "The letter dated 2nd May neither purports to be, nor in substance amounts to a "decision" for the purposes of paragraphs 7 and/or 8 of Schedule 5 to the 2004 Act. The appeal is accordingly brought (initially at least) for protective purposes whilst Ealing is invited to issue a formal

notice of its decision. If and when Ealing issues such a notice, the Applicant may apply to amend its grounds to include an appeal against that notice as well as the letter dated 2nd May."

7. WS also wrote to Ms Zeb on 30 May, challenging the respondent's interpretation of a "*Part 3 house*". The final two paragraphs of the letter are set out below:

"We note from Ms Zeb's letter LB Ealing's position that, if our client is aggrieved by its approach to licensing the apartments, then it should appeal to the First Tier Tribunal. However, as yet LB Ealing has issued no decision notice in accordance with paragraphs 7 and/or 8 of Schedule 5 to the 2004 Act against which any such appeal can be brought under paragraph 31 thereof. For protective purposes, we are today issuing an appeal to the First Tier Tribunal pursuant to paragraph 31 of Schedule 5 to the 2004 Act in respect of Ms Zeb's letter which, if necessary, we shall seek permission to amend if and when a formal decision has been notified.

We accordingly invite LB Ealing within 7 days of the date hereof either to accept that our client requires one Licence for all apartments, or to issue a formal decision compliant with Schedule 5 to the 2004 Act."

8. The Tribunal acknowledged the application in a letter to WS dated 01 June 2017 and requested copies of any notices, licences or refusals under schedule 5 to the 2004 Act.

9. On 06 June, Ms Zeb wrote to WS reiterating that no determination had been made and suggesting it was premature to refer the matter to the Tribunal. She went on to suggest *"…that if, having reviewed the application requirements, your position remains that your client should seek a single licence for TRS Apartments then you should make that application on that basis."*

10. WS replied in a letter dated 08 June, stating *"Whilst it is correct that the local authority has failed to serve notice of refusal on our client under Schedule 5 to the Housing Act 2004, we do not accept that the present proceedings are "premature"."* They referred to the respondent's letter of 02 May, notifying them of the right to appeal to the Tribunal. They also sought clarification on whether the respondent was willing to consider an application for one licence for all flats at the Property.

11. WS copied the letters of 06 and 08 June to the Tribunal and asked that the matter be left in abeyance for 7 days.

12. Ms Zeb wrote to WS on 13 June, suggesting that her letter of 02 May had been misinterpreted and *"…cannot be treated as a decision of the Council particularly given that the Council have received no application from*

your client for selective licensing of the TRS apartments and we are merely exchanging correspondence on this matter." She went on to say that a formal licence application was required but that *"…the Council have not made a decision that one application is acceptable in your client's circumstances."*

13. On 14 June 2017 the respondent wrote to the Tribunal, expressing the view that the appeal was premature *"…given that no application has yet been made to the Council for a selective licence for a selective licence for TRS Apartments."*

14. On 19 June, Ms Welby of WS submitted a draft consent order to Ms Zeb, which provided for a stay of the Tribunal proceedings pursuant to rule 6(3)(m) of the 2013 Rules. Later that day, Ms Zeb informed Ms Welby that the proposed consent order was not agreed.

15. On 23 June Mr Jadav submitted an on-line application for a single selective licence for Flat 101 at the Block, on behalf of the applicant. He received an email acknowledgement the same day, which stated *"We will tell you and any other interested parties whether we plan to grant or refuse a licence within <u>eight weeks</u> of receiving your application."*

16. On 03 July 2017 WS sent the draft consent order to the Tribunal and requested a stay on the terms of the draft. On 04 July, the respondent wrote to the Tribunal asking that the appeal be struck out pursuant to rule 9(3)(d) of the 2013 Rules. WS repeated their request for a stay in a letter to the Tribunal dated 05 July.

17. On 09 July the Tribunal issued a notice that it was minded to strike out the appeal. Paragraph 2 read:

> *"(2) The Tribunal is minded to strike out your application on the ground that the tribunal does not have jurisdiction in relation to the proceedings a no decision was made by the local authority that is capable of appeal."*

Paragraphs 3 and 4 invited written representations by 24 July 2017. The Tribunal would then reconsider the matter (paragraph 5).

18. The respondent made brief representations in an email from Ms Zeb dated 20 July, which stated *"I write further to the Tribunal Notice and confirm that the Council's position remains as per correspondence already sent to the court."*

19. The applicant's representations were contained in a long letter from WS dated 24 July, which identified the critical question as whether the Tribunal has *"…jurisdiction to entertain the proceedings?"* WS submitted that the respondent's letter of 02 May was a decision. They also referred

to the licence application made on 23 June and their expectation of a decision by 18 August. They requested a stay of proceedings for 4 weeks pursuant to rule 6(3)(m). WS also referred to the overriding objective at rule 3.

20. On 26 July, the Tribunal notified the parties that the proceedings were stayed until 01 September 2017. The opening paragraph of the notification letter read:

"A tribunal judge has considered the correspondence received from the Applicant's Representatives following the strike out Notice dated 7 July. The judge has considered in the light of that correspondence that this matter should not be struck out but should be stayed for a period, first of all to enable the Local Authority to make a decision on the application for licensing, which it is believed will be made before 18 August 2017, and then to give the Applicant an opportunity following receipt of that decision to decide on the best course of action in relation to this appeal."

21. The licence application was not decided by 18 August 2017. On 30 August, WS wrote to the Tribunal requesting a further stay for at least six months on the basis that respondent was *"…conducting a wider policy review of their approach to selective licensing, and are considering introducing a block licence. They wish to do this in consultation with the Greater London Authority and so have advised that this may take up to six months or more."* The Tribunal responded on 07 September and allowed a stay of 3 months until 01 December 2017.

22. Ms Zeb sent an email to WS on 01 December, stating that the respondent was finalising its response to the licence application and should be able to provide this by 05 December. It suggested a further stay to give the respondent time to consider the response. Ms Chadwick replied the same day, agreeing an additional stay and suggesting a period of two months. Both emails were copied to the Tribunal.

23. Ms Zeb sent a long letter to WS on 05 December, rejecting their interpretation of sections 79, 85 and 99 of the 2004 Act and giving her reasons. She stated that the respondent required individual licence applications for each flat at the Property but had streamlined its procedure for multi-flat applications. A copy of the new procedure was enclosed with that letter.

24. The final two paragraphs of Ms Zeb's letter read:

"With the above in mind, therefore, the Council will require your client to make an application for a licence for each of the flats in the TRS Apartments, using the Council's new streamlined application process and paying the appropriate fee of £350 for each licence. He may – and will

be expected to – do so as soon as the Council's decision (enclosed) has taken effect on Monday 15th January 2017 (sic).

In the circumstances, we look forward to confirmation that your client will apply to the Council accordingly and that the current proceedings before the First Tier Tribunal can be dismissed."

25. On 07 December 2017, WS wrote to the Tribunal requesting a further stay for 8 weeks *"…to consider the detailed response from the London Borough of Ealing and to best decide how to progress the matter."* The Tribunal wrote to the parties on 13 December, granting a further stay until 01 February 2018.

26. WS wrote to the Tribunal on 01 February stating their client *"…wishes to proceed with its appeal and to seek permission to amend its grounds. Consequently, an application will be made within the next few working days for permission to amend; for consequential directions and for a hearing date to be fixed."*

27. Ms Zeb wrote to the Tribunal on 02 February and advised that no multi-flat licence application had been submitted under the respondent's new streamlined procedure. Rather the only application was that made on 23 June 2017 and WS had not responded to her letter of 05 December. Ms Zeb reiterated that the appeal was premature and the Tribunal had no jurisdiction. As an alternative to striking out the appeal, she suggested a further short stay so the applicant could respond to the letter of 05 December and clarify whether it still sought to rely on the application of 23 June.

28. The Tribunal issued directions on 09 February 2018 and listed the appeal for a jurisdiction hearing on 28 February 2018. Paragraphs (1) and (2) read:

> *"(1) Having reviewed this it appears that the tribunal has no jurisdiction to consider the appeal for the simple reason that the respondent has never made an appealable decision. Indeed it seems from the respondent's letter of 2 February 2018 that the applicant has not even applied for a selective licence. Even if the respondent were to make an appealable decision now I cannot see that it would validate a previously invalid application.*
>
> *(2) It follows that the application should have been struck out following Judge Wayte's notice of 7 July 2017. However given the delay since then and the subsequent stays granted by the tribunal it is appropriate that the tribunal should formally consider the extent of its jurisdiction at a short oral hearing."*

The issues

29. The issues to be decided by the Tribunal are whether it has jurisdiction to entertain the appeal and, if not, whether it should strike out the appeal under Rule 9(2)(a) of the 2013 Rules or grant a further stay pursuant to Rule 6(3)(m).

30. The relevant legal provisions are set out in the appendix to this decision.

The jurisdiction hearing

31. Mr Hanstock appeared at the hearing on 28 February 2018, on behalf of the applicant. Mr Underwood appeared on behalf of the respondent and was accompanied by Ms Zeb.

32. Both parties produced hearing bundles in accordance with the directions. The Tribunal members were also supplied with helpful skeleton arguments.

33. There was no evidence at the hearing. Rather, both counsel made oral submissions, expanding on the points made in the skeleton arguments. Having considered these submissions and all of the documents in the bundles, the Tribunal has made the determinations set out below.

Submissions

34. Mr Hanstock suggested that the appeal raised an important issue; whether individual licences were required for each flat in a multi-flat block in common ownership. This has a significant financial consequence for the applicant, as individual licences at the Property would result in a total fee of £52,150 (149 x £350), whereas a single licence would cost £500. Mr Hanstock drew support from ***Tuitt v Waltham Forest LBC (CO/612/2017)***, where the Divisional Court quashed convictions under section 95(1) of the 2004 Act and accepted the local authority's concession that a practice of requiring individual licences in every case was unlawful.

35. Mr Hanstock submitted that the WS letter of 20 March 2017 was effectively a multi-flat licence application. There was no other way to make such an application, as the on-line procedure only permitted applications for single units. WS had asked for confirmation that only one licence application was needed for the Block. This was refused in the respondent's letter of 02 May. This refusal was an appealable decision, as evident from the statement regarding the right of appeal. The respondent was entitled to treat the 20 March letter as an application and had clearly done so. The refusal letter did not comply with the statutory notification requirements at paragraph 8 of schedule 5 to the 2004 Act but the respondent could not rely on its own omission as a defence.

36. Mr Hanstock also submitted that the respondent's letter of 05 December 2017 was an appealable decision. This should be read as a refusal of the application dated 23 June 2017. The respondent agreed to issue a decision on that application, which was reflected in the Tribunal stays granted on 26 July and 07 September. The decision was made on 05 December. Although this did not comply with the statutory notification requirements it was clearly a refusal of the 23 June application.

37. The 23 June application and the 05 December letter both post-dated the appeal, which was filed on 30 May. Mr Hanstock submitted that this did not *"rob the Tribunal of its jurisdiction to determine them."* Rather the grounds of appeal could be amended to include this new cause of action. The Tribunal pointed out that it had not seen any application to amend the grounds of appeal. Mr Hanstock was unsure whether such an application had been made but thought this unlikely. Mr Underwood advised that the respondent had received no application to amend.

38. Mr Hanstock invited the Tribunal to grant a further stay, rather than decide the jurisdictional issue. He pointed out that the Tribunal had previously declined to strike out the appeal, following service of the minded to notice. Rather it had granted a stay to enable the respondent to decide the 23 June licence application, as notified in its letter of 26 July. The respondent had made no attempt to overturn this decision and the Tribunal could not (or should not) strike out the appeal now. Rather a further stay should be granted

39. If the Tribunal concluded that the 23 June application had not been decided then further proceedings might be required, once that application is decided. If the application is refused, which is highly likely based on the 05 December letter, then this may be appealed. Mr Hanstock submitted that the Tribunal should have regard to the overriding objective when interpreting its powers under rule 9(2)(a) of the 2013 Rules. It would not further that objective, having regard to rule 3(2)(a), (b) and (e) to strike out the appeal when further proceedings were inevitable. Granting a further stay would *avoid the need to delve back*" once the 23 June application was decided.

40. Mr Underwood submitted that the Tribunal had no choice but to strike out the proceedings under rule 9(2)(a), as the respondent had made no decision that could give rise to an appeal under schedule 5 to the 2004 Act. The wording of this rule is clear and admits of no discretion or alternative. Mr Underwood suggested there was no discretion to grant a further stay under rule 6(3)(m), as this rule is subject to the provisions of the Tribunals, Courts and Enforcement Act 2007 and "*any other enactment*" (rule 6(1)). Rule 9(2)(a) is an enactment and effectively 'trumps' rule 6(3)(m) and the overriding objective.

41. Mr Underwood referred to paragraph 31 of schedule 5, which requires both an application for a licence and a decision on that application before an

appeal to the Tribunal. What constitutes an application is governed by section 87 and it is for the LHA to determine the form of the application and the information required to decide it. Once an application is made the procedure by which the LHA deals with that application is prescribed by section 94 and paragraphs 5-8 of schedule 5. If the LHA intends to refuse the application then it must first serve a notice under paragraph 5 that complies with rule 6. If it then refuses the application it must serve a notice that complies with paragraph 8.

42. Mr Underwood submitted that service of a notice under paragraph 8 is an essential component of the LHA's decision making process and pointed out that time for bringing an appeal runs from the date specified in the notice, pursuant to paragraph 8(2)(b).

43. Mr Underwood's position was that no application for a licence had been made at the date the appeal was filed and there had been no decision that could give rise to an appeal. The 20 March letter was not an application and the 02 May letter was not a decision. The latter was acknowledged in the final paragraph of section 15 of the Tribunal application.

44. A licence application had been submitted on 23 June, but this was after the appeal had been filed and had not been determined.

45. Mr Underwood rejected the notion that the 05 December letter was a decision. This had only been raised in the applicant's skeleton argument and was not borne out by the final two paragraphs of the letter, which invited separate applications for each flat. Crucially, the letter did not comply with the notice requirements at paragraph 8. Mr Underwood also referred to the applicant's failure to respond to the letter.

46. In response, Mr Hanstock suggested that the mandatory language at rule 9(2)(a) would only bite if the Tribunal made a determination. Any conflict between this rule and the overriding objective would not arise if the stay was extended, without a determination. If the Tribunal was minded to strike out the appeal on the basis of no decision then it could, as an alternative, order the respondent to decide the 23 June application within a fixed period.

47. Mr Hanstock also drew attention to the potential criminal liability for his client under section 95(1) of the 2004 Act, if the appeal was struck out (rather than stayed). However, as pointed out by Mr Underwood, it is a defence to proceedings under this subsection if an application for a licence has been made and that application is still effective.

Determinations

48. It was necessary for the Tribunal to determine the status of the 20 March, 02 May and 05 December 2017 letters before deciding whether to extend the stay.

49. The Tribunal determines that the 20 March letter was not a licence application under section 87. Rather, WS were seeking to persuade the respondent that only one licence application need be made for the Block. There was nothing in the letter to suggest it was an application, or should be treated as such and it was not accompanied by an application fee. To the contrary, the final paragraph made it clear that the letter was sent with a view to clarifying the position prior to submitting an application.

50. The Tribunal determines that the 02 May letter was not a section 88 decision for three reasons. Firstly, there was no application before the respondent that could be decided. Secondly, the letter did not purport to be a decision and thirdly, there was no compliance with the notice requirements paragraphs 5-8 of schedule 5. To use Mr Underwood's words, the letter "*did not bear any of the statutory hallmarks of a decision*". The reference to appeal rights was potentially confusing but did not transform the letter into a decision. WS clearly did not consider the letter to be a decision, given the contents of section 15 of the Tribunal application and their letter to Ms Zeb of 30 May.

51. There is no dispute that a licence application was made on 23 June. The issue is whether that application was decided in the respondent's letter of 05 December. The Tribunal determines that it was not for the following reasons. Again, the letter did not purport to be a decision and did not comply with the statutory notice requirements. It neither granted nor refused the application, as required by section 88(1). Rather, the final two paragraphs invited the applicant to make multi-flat applications under the respondent's new streamlined procedure. It is clear from these paragraphs that no decision had been made on the 23 June application, which is still effective.

52. Having decided that there was no licence decision, the Tribunal then considered whether to extend the stay. As things stand, the Tribunal has no jurisdiction to determine the appeal, as there is no appealable decision. The position may change, when the 23 June application is finally decided. However, the Tribunal is unwilling to extend the stay on the basis that it might acquire jurisdiction at some uncertain date in the future. This would only arise if the 23 June application is refused and the grounds of appeal are amended, to include the refusal. The proceedings have already dragged on for 10 months and should not be allowed to continue. It follows that the Tribunal is unwilling to extend the stay.

53. The Tribunal cannot order the respondent to decide the 23 June application, as this is outside its jurisdiction. Over 9 months have elapsed

since the application was made. If the applicant is aggrieved by this delay then it may have a remedy elsewhere.

54. Having decided not to extend the stay, the Tribunal then considered whether to strike out the proceedings. The grant of the original stay, following service of the minded to notice, does not preclude the Tribunal from striking out the case now. Indeed it must strike out the proceedings if it has no jurisdiction. The wording of rule 9(2)(a) is mandatory. The Tribunal has no jurisdiction in relation to these proceedings, for the reasons set out above. It follows that it must and does strike out the appeal.

Costs

55. In his skeleton argument, Mr Underwood raised the prospect of an application for costs under rule 13 of the 2013 Rules. At the hearing, he and Mr Hanstock acknowledged that any rule 13 application should await the Tribunal's decision. The parties are reminded of the time limit for making such an application to be found at rule 13(5).

Name: Tribunal Judge Donegan **Date:** 06 April 2018

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix of relevant legal provisions

Housing Act 2004

Section 87 Applications for licences

(1) An application for a licence must be made to the local housing authority.

(2) The application must be made in accordance with such requirements as the authority ay specify.

(3) The authority may, in particular, require the application to be accompanied by a fee fixed by the authority.

...

Section 88 Grant or refusal of licence

(1) Where an application in respect of a house is made to the local housing authority under section 87, the authority must either -

(a) grant a licence in accordance with subsection (2), or

(b) refuse to grant a licence.

...

Section 94 Procedural requirements and appeals against licence decisions

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

Section 95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

...

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time -

(a) a notification has been duly given in respect of the house under section 62(1) or 86(1), or

(b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

...

(7) For the purposes of subsection (3) a notification or application is “effective” at a particular time if that that time it has not been withdrawn, and either –

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

Schedule 5

Part 1

Procedure relating to grant or refusal of licences

....

Requirements following grant or refusal of licence

7. – (1) This paragraph applies where the local housing authority decide to grant a licence.

(2) The local housing authority must serve on the applicant for the licence (and, if different, the licence holder) and each relevant person -

(a) a copy of the licence, and

(b) a notice setting out –

(i) the reasons for deciding to grant the licence and the date on which the decision was made,

(ii) the right of appeal against the decision under Part 3 of this Schedule, and

(iii) the period within which an appeal may be made (see paragraph 33(1)).

(3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

8. - (1) This paragraph applies where the local housing authority refuse to grant a licence.

(2) The local housing authority must serve on the applicant for the licence and each relevant person a notice setting out -

(a) the authority's decision not to grant the licence,

(b) the reasons for the decision and the date on which it was made,

(c) the right of appeal against the decision under Part 3 of this Schedule, and

(d) the period within which an appeal may be made (see paragraph 33(1)).

(3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

....

Part 3

Appeals against licence decisions

Right to appeal against refusal of licence

31. – (1) The applicant or any relevant person may appeal to the appropriate tribunal against a decision of the local housing authority on an application for a licence –

(a) to refuse to grant he licence, or

(b) to grant the licence.

(2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any fo the terms of the licence.

….

Time limits for appeals

33. - (1) Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made.

(2) Any appeal under paragraph 32 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 16, 21, 24 or 28 as the date on which the decision was made.

(3) The appropriate tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Overriding objective and parties' obligations to co-operate with the Tribunal

3.-(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes –

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the Tribunal effectively; and

(e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it –

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(3) Parties must

(a) help the Tribunal to further the overriding objective; and

(b) co-operate with the Tribunal generally.

...

Case management powers

6.-(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

(2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may –

(a) extend or shorten the time for complying with any rule, practice direction or direction, even if the application for an extension is not made until after the time limit has expired;

(b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat a case as a lead case (whether under rule 23 or otherwise);

(c) permit or require a party to amend a document;

(d) permit or require a party or another person to provide or produce documents, information or submissions to any or all of the following –

(i) the Tribunal;

(ii) a party;

(iii) in land registration cases, the registrar;

(e) direct that enquiries be made of any person;

(f) require a party to state whether that party intends to –

(i) attend,

(ii) be represented, or

(iii) call witnesses,

at the hearing;

(g) deal with an issue in the proceedings as a preliminary issue;

(h) hold a hearing to consider any matter, including a case management issue;

(i) decide the form of any hearing;

(j) adjourn or postpone a hearing;

(k) require a party to produce a bundle for a hearing;

(l) require a party to provide an estimate of the length of the hearing;

(m) stay proceedings;

(n) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and

(i) because of a change of circumstances since the proceedings were started, the Tribunal no longer has jurisdiction in relation to the proceedings; or

(ii) the Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case;

(o) suspend the effect of its own decision pending the determination by the Tribunal or the Upper Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

…

Striking out a party's case

9.-(1) The proceedings or case, or the appropriate part of the, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the directions by a stated date would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal –

(a) does not have jurisdiction in relation to the proceedings or case or that part of them; and

(b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

(3) The Tribunal may strike out the whole or a part of the or case if –

(a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to striking out of the proceedings or case or that part of it;

(b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly or justly;

(c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case or which has been decided by the Tribunal;

(d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or

(e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings or case under paragraph (2) or paragraph (3)(b) to (e) without first giving the parties an opportunity to make representations in relation to the proposed striking out.

…

Orders for costs, reimbursement of fees and interest on costs

13.-(1) The Tribunal may make an order in respect of costs only –

(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in –

(i) an agricultural and land drainage case,

(ii) a residential property case, or

(iii) a leasehold case; or

(c) in a land registration case.

…

(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends -

(a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or

(b) notice of consent to withdrawal under rule 22 (withdrawal) which ends the proceedings.