

Appendix 1

Scrutiny Inquiry into Business Rates

Provision for Loss on Appeals

Introduction

- Since April 2013 Local Authorities effectively retain 50% of the business rates payable in their area. This now forms significant part of the Council's budget.
- In determining the potential income from business rates provision must be set aside for the potential loss due to successful appeals against the rateable value.
- The provision must be calculated based on assumptions of the likely outcome of outstanding appeals, and the impact of them on the income received from Business Rates.

Rateable Values

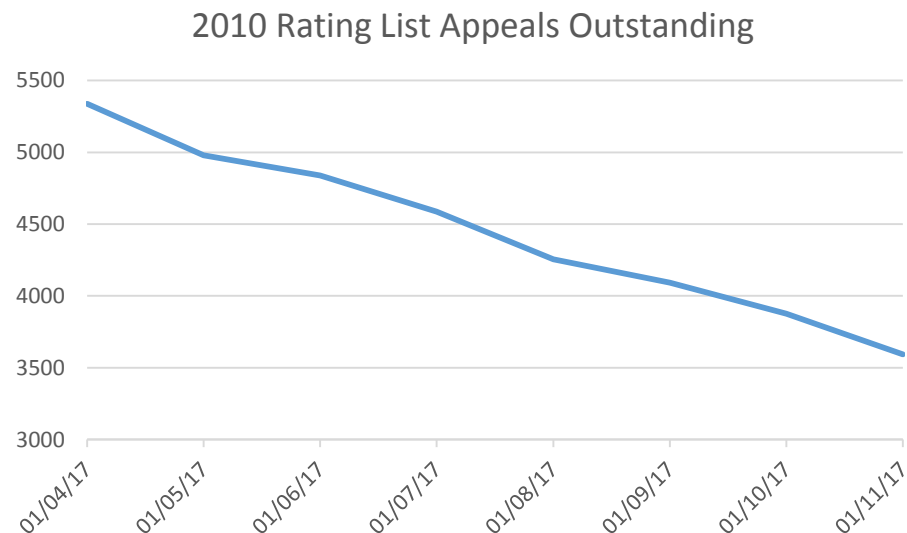
- Rateable Values are set by the Valuation Office Agency (VOA) which is part of HMRC. In the majority of cases they are an estimate of the market rent a property would attract at a particular point in time.
- The occupiers and owners of a commercial property have the right to submit an appeal against the rateable value if they believe that it is incorrect. Due to the large number of appeals submitted and the complexity of many of the calculations it can take several years before an appeal is settled either way.
- Appeals are dealt with initially by the VOA themselves. If no agreement can be reached they go before the Valuation Tribunal. A small number, usually test cases, are ultimately determined by The Supreme Court

Appeals Statistics for Leeds

- There are currently 28500 assessments in the non-domestic rating list for Leeds.
- A total of 20948 appeals were submitted against the entry in the 2010 rating list. Some properties received more than one appeal.
- Of these:
 - 11708 have been withdrawn or dismissed
 - 6517 have resulted in an amendment to the rating list
 - 3593 are still outstanding

Appeals statistics for Leeds 2

- Until April 2017 the number of appeals outstanding stayed relatively constant with new appeals replacing those which were withdrawn or settled. However appeals against the 2010 list are now closed except in a limited number of circumstances. The number outstanding is now beginning to fall as illustrated below:



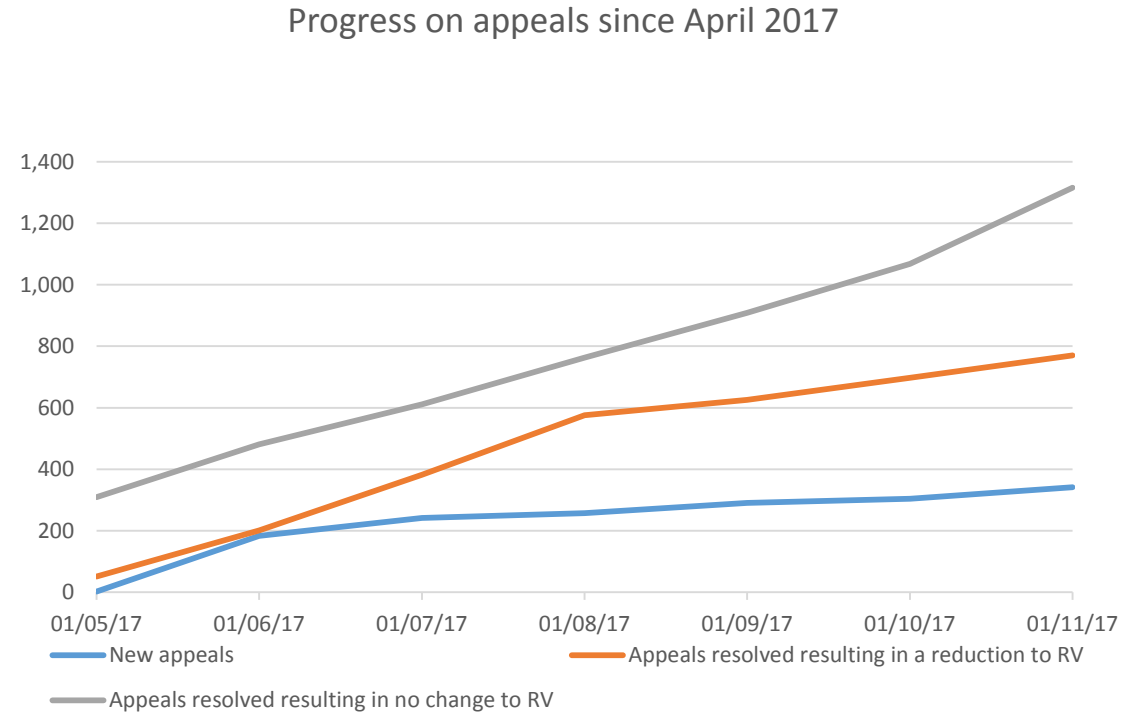
Appeals statistics for Leeds 3

- The following table provides the number of outstanding appeals presented highlighted on the previous slide:

Number of appeals as at: -	Apr 2017	May 2017	June 2017	July 2017	Aug 2017	Sept 2017	Oct 2017	Nov 2017
2010 Rating List Appeals Outstanding	5337	4979	4838	4586	4255	4093	3876	3593

Appeals statistics for Leeds

- The graph below shows the number of new, settled and dismissed appeals since April 2017.

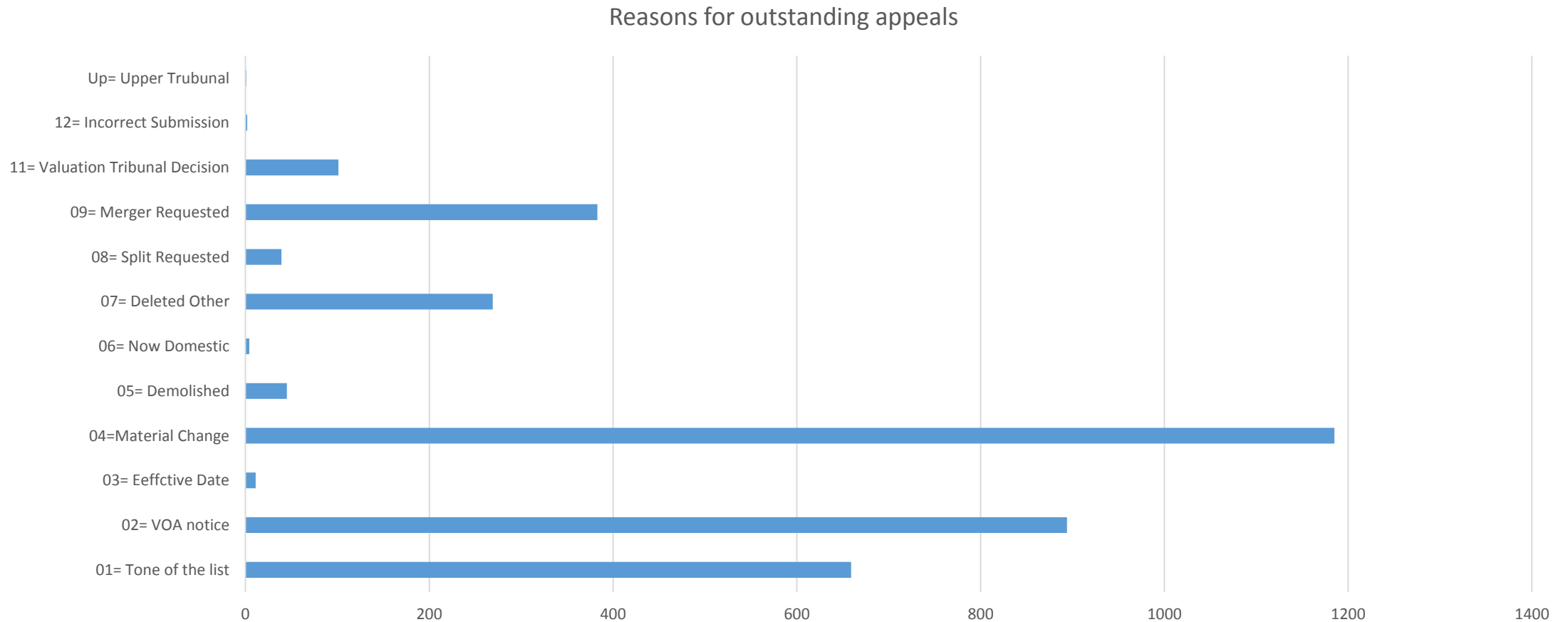


Reasons for appeals

- The VOA use a series of codes for the different grounds of appeal. These are:

Reason	Description
01= Tone of the list	The calculation of the market rent was incorrect
02= VOA notice	The VOA have amended the rateable value
03= Effective Date	The effective date of entry in the rating list is incorrect
04=Material Change	There has been a change in the locality which affects the market rent
05= Demolished	The property has been demolished
06= Now Domestic	The property is now use for domestic purposes
07= Deleted Other	Any other reason why it should be removed
08= Split Requested	The property should be shown as two or more in the list
09= Merger Requested	Two or more assessments should be shown as a single assessment in the list
11= Valuation Tribunal Decision	The decision of the VT in respect of another assessment affects this assessment
12= Incorrect Submission	The description in the rating list is incorrect
Up= Upper Tribunal	Appeal submitted against a decision of the Valuation Tribunal

Breakdown of outstanding appeals in Leeds



Calculating The Provision for losses on appeal

- Although the reason for appeal code is a useful indicator a different set of criteria is used in calculating the provision based on an analysis of the previous outcomes of appeals based on the date of submission, the location of the assessment, or the description.
- In addition the actual number of appeals is not as important in terms of the impact on income as the total rateable value of the assessments which have an appeal outstanding.
- An analysis is therefore undertaken monthly of the total rateable value of different types of appeal.

Assumptions in calculating the provision

- The following assumptions are made based on an analysis of historical data.
- 28.8% of appeals will result in a reduction in rateable value. This is the Yorkshire and Humberside average success rate as published by the VOA.
- In 2015 a deadline of 31st March 2015 was announced by which appeals must have been submitted in order to be backdated, potentially to 1st April 2010. As a result a large number of speculative appeals was received and it is assumed that these will have a lower success rate of 14.4%
- A similar increase in the number of appeals received occurred in February/March 2017 in order to meet the deadline for most 2010 appeals of 31st March 2017. Again a success rate of 14.4% is assumed.

- The average reduction in rateable value achieved by a successful appeal is 14%
- As appeals can be potentially backdated to 1st April 2010 the impact of the backdating must be factored into the provision. For appeals received prior to 1st April 2015 a factor of 2.254 is used, whilst for those received after it is 0.964.
- For certain categories, i.e. medical centres and appeals based on the impact of the Trinity Shopping Centre slightly different parameters are used as it is possible to forecast the result of these with greater accuracy.

Future Risks

- The number of outstanding appeals and their value is now reducing significantly, and will continue to do so as the 2010 rating list is now effectively closed. However appeals remain outstanding against 25.8% of the total rateable value in the 2010 rating list.
- Whilst the method of calculating the provision is sound in terms of historical trends it cannot accurately reflect the risk of reductions on very large assessments.
- There is still potential for cases resolved in the higher courts to have an impact on a particular sector – e.g. as with medical centres in the past

The Collection Fund and the General Fund

- Business rates income is collected into the Council's Collection Fund. Payments are then made from the Collection Fund with 50% going to the Council's General Fund, from which local services are funded, and 50% going to central government.
- Before the start of the year the Council forecasts how much business rates income it will collect. The forecast is the figure used to calculate the payments from the Collection Fund to the General Fund and to central government in that year. These amounts are then fixed.
- At the end of the year the difference between the amount forecast and the amount actually collected is the deficit or surplus on the Collection Fund. The cost of appeals will reduce the amount actually collected.
- Local and central government share any cost of a deficit, or benefit from a surplus 50:50 in the following year, allowing councils time to adjust their spending plans without having to use reserves.

The impact of appeals costs on the Council's resources

- Appeals become a cost to the Council when new appeals are received and the Council has to set money aside for them. These 'provisions' are created in the Collection Fund.
- Because all costs relating to business rates first impact the Collection Fund there can be a delay of up to two years before the cost of new provisions impacts on the General Fund.
- The General Fund bears 50% of the cost of new provisions in the same way as any other reduction to business rates income.
- As such the cost of repayments to ratepayers will not reduce the Council's income in-year but instead be charged to the provisions set aside in the Collection Fund.

