

# VTE Procedure: scope of the proposal and jurisdiction

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# Topics Covered



- A brief overview of the relevant legislation
- The case law on the VTE's jurisdiction, and how the proposal affects this
- The state of play today, and how to safeguard your client's position
- Completion notice appeals

## The legislative framework

- s. 55 LGFA - the starting point
- Schedule 11 – creates the VTE
- NDR Regs 2009, Reg 13 – the VO refers the disagreement to the VTE
- VTE Regs, Reg 38 – the VTE's order-making powers

## The role of the proposal: the case law

- First “modern” authority: Shaw v Hughes [1991]
- “the jurisdiction of the [valuation] tribunal is restricted to determining whether or not the contention of the “appellant” as reflected in the appellant’s proposal is well-founded. ... The jurisdiction of both tribunals is thus limited to the issue raised by the proposal and can be extended no further.”
- Decided under the GRA, but still applies under the LGFA: Courtney Plc v Murphy [1998]

## Effective dates: two approaches

- Courtney Plc v Murphy: no jurisdiction to differ from the date in the proposal, where the proposal did not put the date in issue and where the issue not raised until appeal
- Compare with Marks & Spencer Plc v Fearney [2000]: VTE did have jurisdiction where VO actively disputed the effective date from the outset

## The interpretation of proposals

- Considered in Davey (VO) v O'Kelly [1999]
- “[The proposal should] be construed solely by reference to the wording of that document. We cannot look outside the proposal. We cannot have regard to extrinsic material, that is to say any special knowledge of the valuation officer as to the position, the covering letter and the earlier proposal ... The test is: how would the proposal be reasonably understood by those on whom it was served, disregarding any extrinsic material.”

## Interpretative latitude – changing approaches



- Galgate Cricket Club v Doyle (VO) [2001]
- RV proposal that the assessment was “bad in law”: VTE able to consider rateability.
  
- Leda Properties Ltd v Howells (VO) [2009]
- Rateability proposal that the assessment was “incorrect excessive and bad in law” ... VTE not able to consider RV.
  
- The difference: box ticking and the conduct of the hearing

## Ancillary orders

- Appears that Reg 38(10) has a narrow scope
- Leda (para 20):
- “An alteration of the assessment pursuant to a proposal to delete the hereditament from the list would not be a matter ancillary to the subject matter of the appeal. It would be a separate principal course of action that could only be based on the consideration of evidence and arguments different from those of relevance to the issue of deletion. The VT did not have power, and this Tribunal does not have power, to direct an alteration of the list pursuant to the proposal that has led to this appeal.”

- See also:
- Johnson (VO) v H&B Foods Ltd [2013]
- Metis Apartments Ltd v Grace (VO) [2014]

## Where are we now?

- The proposal is critical to the VTE's jurisdiction ... so errors in the proposal cannot be saved by judicial discretion
- Cannot solve jurisdiction problems by agreement:  
Reeves (VO) v VTE [2015]
- Proposal must incorporate any possible issue for determination, and must be self-contained

If you don't propose it, it cannot happen!

## Completion notice appeals: Tull Properties



- High Court (Holgate J) very recently considered VTE jurisdiction on completion notice appeals: Reeves (VO) v VTE (aka Tull Properties)
- VTE cannot order a list amendment on a successful completion notice appeal
- VTE probably cannot consider the validity of a completion notice on a completion notice appeal ... but point remains to be confirmed