



Section 8 of the new Practice Directions for the Upper Tribunal (Lands Chamber) demystifies those twin conundrums of appeals: the review and the rehearing.

An appeal may take the form of: a) a review of the decision; b) a review of the decision, with a view to a re-hearing of the original proceedings if the appeal is successful; or c) a re-hearing of the original proceedings.

Appeals usually involve a review of the FTT's decision: the Upper Tribunal considers oral or written argument but does not hear evidence.

A re-hearing may be ordered where a) the appeal raises “an important issue of valuation”, b) “an issue of natural justice which cannot be resolved on the material available”, or c) where the FTT's decision is “obviously wrong”. At a re-hearing the Upper Tribunal will receive evidence and make its own decision, without reviewing the decision of the First-tier Tribunal.

To save the time and cost of sending a successful appeal back to the FTT for further consideration, an appeal may be dealt with by a review “with a view to re-hearing”. In those cases, the Upper Tribunal hears argument on the appeal, and if the appeal is allowed, re-hears all or part of the evidence (usually at the same hearing) before making a new decision.

