**VA2**

**Department of Agriculture, Environment and Rural Affairs**

**TUBERCULOSIS AND BRUCELLOSIS INDEPENDENT VALUATION APPEALS PANEL**

**Guidance on Appeals Procedure**

**for Animal Owners**



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This leaflet provides a guide to the valuation appeals procedure for resolving disputes about the market value of cattle under the Tuberculosis Control Order (Northern Ireland) 1999 (as amended) (“the TB Control Order”) and the Brucellosis Control Order (Northern Ireland) 2004 (as amended) (“the Brucellosis Control Order”).

The valuation appeals procedure is intended to ensure that there is a formal appeals procedure for both the Department of Agriculture, Environment and Rural Affairs (DAERA) and the owners of animals who wish to challenge valuations made under the above legislation.

The appeals procedure will involve an appeal being reviewed by an independent Valuation Appeals Panel (VAP).

Following consideration of an appeal submitted by DAERA or the owner of the animal(s), the VAP shall determine the market value of the animal(s) and such determination(s) shall be final and binding on both DAERA and the animal owner.

# **What valuations are covered by the valuation appeals procedure?**

Valuations made under the TB Control Order or the Brucellosis Control Order for animals which have or are intended to be slaughtered owing to tuberculosis or brucellosis may be appealed by either the owner of the animal(s) or by DAERA.

**What are the stages in the valuation procedure?**

In the first instance, the market value of each animal for slaughter will be determined before slaughter by agreement between DAERA and the owner of the animal(s).

* If DAERA and the owner fail to agree a valuation within 3 working days, the owner has the option to choose an Independent Valuer (IV).
* DAERA must be informed of the owner’s nominated IV within 2 working days. **If the owner fails to inform DAERA of his or her nomination within the 2 working days, DAERA will determine the value of the animal(s)**.
* DAERA must receive the independent valuation within 8 working days of this nomination. **If this does not occur, DAERA will determine the value of the animal(s)**.

*Should either scenario outlined in bold above occur, the right of appeal to the VAP is in no way infringed.*

DAERA or the animal owner may submit an appeal to the VAP for the purpose of resolving disagreement about the determination of the market value of any animal(s).

* An appeal to the VAP must be submitted in writing to the Tuberculosis and Brucellosis Valuation Appeals Secretariat (“the Secretariat”) at the address on page 8 below **within 30 working days of the determination of market value** to which it relates; and it shall be accompanied by full details of the grounds upon which the appeal is sought, including documentary or other evidence and the change sought to the valuation.
* Form VA1 on which the appeal should be lodged by the animal owner as an owner appellant is available at the back of this booklet. The appeal must be accompanied by the fee of £100 and must give full details of the grounds upon which the appeal is sought, including documentary or other evidence, and the change sought to the valuation.
* Under the Diseases of Animals (Valuation) (Fees) Order (Northern Ireland) 2004 (“the Valuation Fees Order”), the £100 fee is only applicable to an appeal being brought forward by the owner appellant and not in the case of an appeal being brought forward by DAERA.
* The determination of the market value of an animal by the VAP shall be final and binding on both DAERA and the owner appellant.

### How to submit a valuation appeal.

* The appeal, together with the required fee of £100, must be sent by the owner appellant to the Secretariat in Clare House, Belfast **within 30 working days** of the determination of market value to which it relates. The full address is cited on page 8 below.
* Cheques shouldbe made payable to the Department of Agriculture, Environment and Rural Affairs and crossed “A/C payee only”. An acknowledgement of the receipt of any cheque(s) will be sent to the owner appellant.

The appeal will not be accepted if:

* the appeal is received after the time limit set out on page 4 above; or
* the correct fee is not submitted with the appeal.

The appeal may also not proceed if it is not accompanied by full details of the grounds upon which the appeal is sought, including documentary or other evidence, and the change sought to the valuation. The VAP or its Chair will rule on whether these grounds have been satisfied. The owner appellant should ensure therefore that any appeal is submitted to the correct address as cited on page 8 below.

The owner appellant should indicate on Form VA1 whether or not he/she wishes to attend the VAP’s review of the appeal. Attendance is at the owner appellant’s own expense and will not be paid for by DAERA. The name(s) of any person(s) representing or accompanying the owner appellant need to be declared on Form VA1, along with a clarification of their role.

If the owner appellant opts to attend the review, or nominates a third party to attend on his/her behalf, he/she will be contacted and notified of the date, time and location of the VAP review. If he/she later decides not to attend, he/she should contact the Secretariat as soon as possible so that the VAP can be informed. If the owner appellant does not attend, the VAP may proceed.

The VAP will consider the evidence presented and will discuss the appeal without the owner appellant being present. The owner appellant will be notified in writing of the outcome and the reasoning for the decision reached.

The Secretariat will notify the owner appellant of the VAP’s decision as quickly as possible and will confirm in writing as follows: the full facts upon which the appeal was considered; the reasons for the decision reached; and the effect of that decision on the payment of any compensation.

### How does the VAP operate?

The VAP will meet in DAERA premises at a number of locations and will comprise an independent chairperson with a legal background, an independent person with farming interests and a member nominated by DAERA.

The VAP will consider the facts of the case, including all evidence and information that is submitted. If an independent valuation has been carried out, it may be in the interest of the owner appellant for the IV to attend the hearing to provide additional information or explain the reasons behind the valuation(s) or both. However, the attendance of the IV is not mandatory and will not be paid for by DAERA.

The VAP’s role is to review the facts and make a decision based on the evidence presented to them. The recommendation of the VAP may be either a unanimous or a majority view. It is considered that the make-up of the VAP will provide the members with sufficient knowledge to enable a determination on the market value of the animal(s) to be made on the merits of the evidence presented.

The Secretariat provides administrative support to the VAP to facilitate, among other things, the following: photocopying of all necessary documentation; arranging the logistics of hearings; and distributing all necessary documentation.

The Secretariat will notify the owner appellant in writing of the decision of the VAP as already stated above. The decision will also be notified to other DAERA officials so that any necessary corrective action can be taken, such as an adjustment to the compensation award and, where appropriate, the return of the fee paid for the review. The opening hours of the Secretariat are from Monday to Friday,

9.15 a.m. to 4.30 p.m.

### Can the animal owner be present at the VAP review?

If the animal owner as an owner appellant has indicated that he/she wishes to attend, he/she will be given the opportunity to present their case to the VAP and to respond to any questions put to them.

The owner appellant may also bring a third party along or choose to have a third party present on his/her behalf. He/she or the nominated third party will be asked to present their case and to provide any additional information that is considered to support their case.

All parties to the case will be allowed to hear all evidence presented to the VAP which has responsibility to ensure that both the owner appellant and DAERA are given a fair hearing, with the opportunity to present all relevant evidence.

Should any party wish to challenge the evidence provided by another party, it will be in the interest of the smooth running of the appeal hearing that the VAP or its Chair should rule on: any objections to questions; or any cross-examination which, in the opinion of the VAP, becomes irrelevant or offends against the principles of natural justice. The VAP will then consider the issues and reach a conclusion.

As attendance before the VAP is optional, DAERA will not provide any reimbursement for costs incurred if the owner appellant chooses to attend or to send/bring a third party to attend before the VAP.

Neither an owner appellant, nor a third party acting on his/her behalf, should ever contact a member of the VAP about any appeal.

**What is the outcome of the valuation appeal?**

The VAP will consider whether, taking into account all the facts presented, the appeal is justified.

The outcome of an appeal will be to confirm the market valuation of the animal(s) in question, which could be: the original DAERA valuation; the valuation of the IV; or some other value based on the evidence presented.

### When will the animal owner be advised of the outcome of the valuation appeal?

The animal owner as an owner appellant will receive written notification of the outcome of his/her appeal as quickly as possible from the Secretariat by means of Recorded Delivery post and, most certainly, within 30 working days of the VAP’s recommendation having been made.

### How much will the valuation appeals procedure cost?

As previously stated above, a fee of £100 is required form an owner appellant under the Valuation Fees Order for any appeal to be considered by the VAP. This fee will be returned if the VAP decides in the owner appellant’s favour. If the decision is against the owner appellant, the fee will be retained to offset some of the administrative costs of the VAP.

### Where to contact the Secretariat:

|  |
| --- |
| Tuberculosis and Brucellosis Valuation Appeals Secretariat Post Room – DAERA Ground Floor WestClare House303 Airport Road WestBELFASTBT3 9ED**Tel:** (028) 9052 0932**e-mail**: valuationappealssec.adc@daera-ni.gov.ukOpening Hours: Monday to Friday 9.15 a.m. to 4.30 p.m.  |

### VA1

# **APPLICATION FOR APPEAL TO THE TUBERCULOSIS AND BRUCELLOSIS**

# **VALUATION APPEALS PANEL (VAP) BY OWNER APPELLANTS**

**IMPORTANT NOTES**

1. When completed, this form, together with a fee of £100, must be returned by you as an owner appellant to the Tuberculosis and Brucellosis Valuation Appeals Secretariat (“the Secretariat”) within 30 working days of the date of the determination of market value. The appeal form and fee should be posted or delivered to:Tuberculosis and Brucellosis Valuation Appeals Secretariat
Post Room - DAERA

Ground Floor West
Clare House
303 Airport Road West

BELFAST

BT3 9ED

The fee should be in the form of a cheque made payable to the Department of Agriculture, Environment and Rural Affairs and crossed “A/C Payee Only”. The form must be completed by you as the owner appellant (or by your authorised agent).

1. An acknowledgement of your appeal form will be issued. If you do not receive an acknowledgement within 10 working days of posting your form, you should contact the Secretariat immediately (tel. (028) 9052 0932) so that, in the event of its not having been received, you will have time to submit another form within the period allowed. We recommend that you retain a copy of this form, along with all the documentation that you submit.
2. It is important that you act to ensure that your appeal form has been received by the stipulated deadline, since a late appeal may only be accepted if you can show that your original appeal was lodged on time. A late appeal cannot be accepted where the original appeal was lost or delayed in the post.

On page 2, you should list the relevant ear tag number(s) in Column 1 and, against each ear tag, you should list the valuation(s) you wish to dispute in Column 2 and the valuation(s) you wish the VAP to consider in Column 3.

## **Section 1: COMPLETE IN BLOCK CAPITALS**

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Telephone No: (Home) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mobile) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

e-mail address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Fax No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

###### Herd No(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## **Section 2: Give details of the valuation you wish to appeal.**

## I wish to appeal the DAERA\*/Independent Valuer\* valuation(s) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and listed in column 2 below. I wish the VAP to consider the valuation(s) listed in column 3 of the table below\*/in the attached sheet\*. (You may complete the table below or attach a separate sheet showing the valuation(s)).

## \*Delete as applicable.

|  |  |  |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Ear Tag Number | Valuation disputed£ | Valuation to be considered by the VAP£ |
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If you have continued on separate sheet(s) indicate in the box the number of extra sheets

attached in relation to section 2:-

**Section 3:- Give full details below of your grounds for appeal and any related evidence you wish the VAP to consider. You may use extra sheets if necessary.**

If you have continued on separate sheet(s), please indicate in the box the number of extra sheets attached in relation to section 3:-

Section 4: List below any supporting documents which you have enclosed with this form.

If you have continued on separate sheet(s), please indicate in the box the number of

extra sheets attached in relation to section 4:-

**Section 5: Please indicate your preferred form of review:**

1. I will not attend the VAP review
2. The following person will be present on my behalf

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Status: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 e.g. Agent

(c) I wish to attend the VAP review to present my case

(d) I will not be accompanied

1. I will be accompanied by

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Status: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 e.g. Agent

I enclose a cheque for the fee as indicated in the Notes on page 1 above.

*(Please tick the box to confirm that you have done so.)*

**Signature of owner appellant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**or authorised agent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SUBMIT FORM TO TUBERCULOSIS AND BRUCELLOSIS** **VALUATION APPEALS SECRETARIAT, POST ROOM – DAERA, GROUND FLOOR WEST, CLARE HOUSE, 303 AIRPORT ROAD WEST, BELFAST BT3 9ED**