

PRACTICE DIRECTION 6: Agreement between the parties and Final Decision

- 6.1 **OVERVIEW:** The Tribunal has power under Section 17 of the Act, to issue a final decision where parties have conducted a Section 17 conference (or ADR as set out above), agreed to a settlement which the Tribunal is satisfied is appropriate and lawful. This Practice Direction provides information regarding preparation and consideration of agreement between the parties.
- 6.2 **FORMAT OF AGREEMENTS BETWEEN PARTIES:** An agreement must:
- 6.2.1 Be in writing and clearly identify the proceedings (i.e. the full citation appearing in Tribunal correspondence and file number);
 - 6.2.2 Confirm that the parties have reached an agreement to resolve the appeal;
 - 6.2.3 Fully detail the terms of the agreement reached. The entire permit in its final amended form must be contained in the agreement;
 - 6.2.4 Must include submissions which address Section 17(2)(c)(i) and (ii) with specific reference to the decision sought being within the powers of the Tribunal to approve and the decision would be appropriate to make.
 - 6.2.5 Be signed by each party to the proceedings (including the agreement and all documents forming part of the settlement);
 - 6.2.5 Where relevant, comply with Practice Direction 11 – Representatives & Witnesses; and
 - 6.2.6 Where necessary append any document.
- Appendix 6A is a template for an agreement.
- 6.3 **TERMS AND CONDITIONS OF AGREEMENTS:** If the parties are overturning a decision of an original decision maker, they should provide the full details of the agreed replacement decision. For example, if the parties have agreed to overturn a refusal to issue a planning permit by a local planning authority, they must provide the entire permit they seek the Tribunal to endorse. The parties should consider the need for legal advice in the preparation of consent orders, and consider an agreement regarding any costs orders to be made (see Practice Direction 15 - Costs).
- 6.4 **TRIBUNAL'S POWERS TO DECLINE A PROPOSED AGREEMENT:** Section 17(2)(c)(ii) requires the Tribunal to be satisfied that a proposed agreement is appropriate to make. Merely because the parties have reached agreement as to the terms of a settlement does not bind the Tribunal to accept that outcome. The Chairperson may direct that the agreement be scrutinised by a suitably qualified expert of the Tribunal to confirm whether the outcome is appropriate. The Tribunal may decline to make orders in the terms of the Agreement if it is not satisfied either that the proposed settlement is within the Tribunal's legal power to issue, or is not appropriate. In those circumstances, the parties will be notified of any decision to decline an agreement between the parties and the reasons for so doing. The parties will ordinarily be afforded an opportunity to proceed to hearing to produce evidence and make submissions in relation to the matters that were unacceptable to the Tribunal. Alternatively, parties may revise the proposed agreement to resolve any offending aspects.
- 6.5 **TRIBUNAL ENDORSEMENT OF AGREEMENT:** If the Tribunal is satisfied that the terms of the agreement are within the powers of the Tribunal and that the decision is appropriate, it will issue a final decision which will be sent to each party to the proceedings and published.