Communicating appeal rights – land categorisation

Background

In two recent complaints about local councils, landowners complained to the Ombudsman that the rating category applied to their property was incorrect and the rates charged were excessive.

The Local Government Regulation 2012 (LG Regulation) allows landowners to challenge the rating category in which their land is placed for levying differential general rates. This involves lodging an objection with the council in the form approved by the council within 30 days, or a longer period granted by the council, after receiving a rate notice.

The chief executive officer (CEO) of the council determines the objection.

Investigation

The complaints were investigated to determine whether the properties had been correctly categorised.

Relevant documents were reviewed in relation to the councils' handling of the objections and the communication of their decisions.

In both cases the investigation concluded that the properties had been correctly categorised, with regard to:

- the category definitions
- the council's budget resolutions
- the revenue statement information.

Outcome

In the course of these investigations, it was noted that neither council advised the landowners that they could appeal the CEO's decision in the Land Court. This right is contained in s.92 of the LG Regulation.

There is no statutory obligation on councils to advise landowners of this rightof appeal.

However, as a matter of good practice, councils should advise landowners of their appeal rights in decision letters, in the objection form or information sent out with rate notices. Both councils accepted this guidance.

Making a difference

Following these best practice guidelines will ensure that landowners receive consistent advice about the right of appeal to the Land Court and ensure they have the opportunity to appeal within the required statutory timeframes, should they choose to do so.