



## Valuation Tribunal Users' Group

### Minutes of the Meeting held at Black Lion House on 5 November 2012

<b>Present:</b>	Professor Graham Zellick QC	VTE
	Jon Bestow	VTE
	Tony Masella	VTS
	Lee Anderson (substitute)	VTS
	John Elcox	RSA
	Richard Guy (substitute)	IRRV
	Peter Scrafton	IRRV
	Andrew Hetherington (substitute)	RICS
	Jerry Schurder	RICS
	Michael Pearce	VOA

#### 1 Apologies and Membership

1.1 Anne Galbraith (VTS), Roger Messenger (IRRV), Donald Scannell (Lands Chamber, Upper Tribunal), Blake Penfold (RICS) Carla-Maria Heath (LGA), David Subacchi (VOA), Melanie McIntosh (PEBA), Mark Higgin (RSA) and Siobhan McGrath (FTT Property Chamber-designate) tendered their apologies.

#### 2 Minutes of the meeting held on 25 June 2012

2.1 The minutes were confirmed.

#### 3 Matters arising

3.1 **Minute 3.1:** The President reported that there had not been any progress since the last meeting on the transfer of the Tribunal into the FTT. The FTT Property Chamber was due to be established on 1 May 2013 without the Valuation Tribunal. Recently a new junior Minister had been appointed who had responsibility for the VTS, as well as a new Senior President of Tribunals and an appointment is shortly to be made to replace the President of the UT Lands Chamber. [Post-meeting note: Mr Justice Lindblom of the Queen's Bench Division has been appointed from 1.1.13.] With all these changes, it might take some time for momentum to build towards the transfer.

3.2 **Minute 3.2:** It was reported that just prior to this meeting Mr Penfold had circulated the draft paper on "Appeals Direct" for NDR following discussions with the VOA. It was agreed that this paper would be considered at a future meeting.

3.3 **Minute 5.3:** The Registrar's draft letter to parties regarding the electronic service of Statements of Case was endorsed subject to a few minor changes. It was agreed with the professional bodies and the VOA that they would circulate a copy to their members with a copy also being placed on the VTS website.

3.4 Mr Anderson reported that the VTS electronic communication system was working extremely well and that no problems had been reported in the past six months.

3.4 **Minute 7.1:** The Registrar advised that further discussions were taking place with the VOA and VTS over arrangements to shorten the timeframe for the respondent to apply to lift a bar.

3.5 **Minute 12.2:** The President reported that following a number of redrafts he had abandoned the revised Practice Statement D1: *Professional Representatives*.

#### **4 Council Tax Support**

4.1 The President reported that the Tribunal was facing the biggest crisis in its history. The good news was that the Local Government Finance Act 2012 had been passed, containing a power for the VTE President to request FTJ judges to hear CTS appeals in the VTE. However, the new Minister had written to him asking about arrangements for the existing lay membership to hear all but the most complex appeals.

4.2 The Minister suggested there might be 14,000 appeals in the first year. This additional work would result in a substantial increase in the number of hearing days required.

4.3 Mr Scrafton suggested that the VTS might like to discuss the training needs of the lay membership with the IRRV.

#### **5 Appeals from VTE and VTW to the Lands Chamber.**

5.1 The President invited comment on the paper prepared by the President of the Upper Tribunal (Mr G Bartlett, QC) which proposed a permission filter for parties seeking to appeal VTE decisions to the UT.

5.2 There were mixed views with some welcoming the proposal and others voicing concerns. The President agreed to ask Mr Bartlett where comments should be sent. [Post-meeting note: Mr Bartlett advises that comment at this stage is premature as it is not clear whether any action is being taken on the proposal.]

## **6 Can the Tribunal determine rateable value at a figure below that suggested in the proposal?**

6.1 This paper was endorsed subject to one minor amendment.

## **7 New and revised Practice Statements:**

- **VTE/PS/C3-1: *Publication of Decisions;***
- **VTE/PS/A4: *Postponements and Adjournments;***
- **VTE/PS/B4: *Hearings in Private and Extraordinary Venue;***
- **VTE/PS/A10: *Points of Law;***
- **VTE/PS/A3: *Complex Cases: Case Management;***
- **VTE/PS/C2: *Applications for Reinstatement Following Striking Out and Withdrawal and Lifting of a Bar.***

7.1 A number of minor amendments were suggested to some of the Practice Statements which were all endorsed with the exception of VTE/PS/A4 where there were significant objections to the wording in paragraph 4. The President agreed to rewrite the paragraph and then circulate the revised version to members.

## **8 Review of Practice Statement VTE/PS/A7-1**

8.1 A special meeting would be arranged as a preliminary to a review of the arrangements.

## **9 Duties of the parties before the Tribunal and Status of opinion evidence**

9.1 Mr Hetherington believed that Mr Penfold wished to raise this matter in relation to parties being selective with the evidence they put forward at a hearing. Concern was being expressed by a number of professional representatives that the VO was not always issuing all the relevant Regulation 17(3) evidence in respect of an appeal. This he believed was contrary to their own published working practice. Mr Guy raised concerns over three fairly substantial appeals where he believed the Valuation Officer had withheld evidence either in part or in full.

9.2 Concern was expressed about panels being reluctant to give weight to opinion evidence. It was reported that at a hearing the VO stated that in his opinion there was no case to answer and had not put forward any evidence. The case had been won by the VO even though the only evidence before the panel was that of the expert valuer for the appellant. Some members believed this highlighted the problem.

9.3 The Registrar advised that one such incident had been reported to him but that he was satisfied with the explanation given by the clerk for the panel's decision.

9.4 Mr Scrafton thought that some panels found it difficult to identify the different roles of parties as both advocate and expert witness.

9.5 Mr Pearce was of the view that the onus in an appeal rested on the appellant and not the respondent.

9.6 The President accepted that was so in civil litigation but in rating matters, if the initial valuation by the respondent was lacking in substance and information, it was difficult for an appellant to produce a meaningful case on appeal. This raised the question of whether the ordinary civil litigation principle applied.

9.7 The President considered that this discussion could form part of the review of Practice Statement A7-1.

## **10 Any other business**

10.1 Mr Higgin had circulated prior to the meeting a letter from CVS regarding evidence and disclosure which contained a number of recommendations to improve the system. It was agreed that the private practice representatives would consider this in connection with the meeting on the review of PS A7-1.

11.2 Mr Anderson provided members with the hearing statistics for October 2012.

## **12 Date of next meeting**

12.1 Members would be consulted about the date of the next meeting. [This has now been arranged for January 8.]

18 March 2013

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President