



Valuation Tribunal Users' Group

Minutes of the Meeting held at Black Lion House on 20 June 2011

Present:	Professor Graham Zellick QC	VTE
	Jon Bestow	VTE
	Lee Anderson (substitute)	VTS
	Mark Higgin	RSA
	Richard Guy (substitute)	IRRV
	Peter Scrafton (substitute)	IRRV
	Blake Penfold	RICS
	Michael Pearce	VOA
	Paul Sanderson	VOA
	Melanie McIntosh	PEBA
	Cara-Maria Heath	LGA

1 Apologies:

1.1 Anne Galbraith (VTS), Tony Masella (VTS), Geoff Fisher (IRRV), Roger Messenger (IRRV), Jerry Schurder (RICS), Roger Culcheth (Small Businesses Federation), John Elcox (RSA) and Donald Scannell (Lands Chamber, Upper Tribunal).

1.2 The President welcomed everyone to the seventh meeting of the Group, in particular Lee Anderson (VTS) who was deputising for Tony Masella and Richard Guy and Peter Scrafton who were substituting for Roger Messenger and Geoff Fisher (IRRV).

2. Minutes of the meeting held on 20 October 2010

2.1 Subject to a minor amendment to para. 4.6, the minutes were confirmed.

3. Matters arising

Minute 4.6:

3.1 It was understood that forms of notices now showed the name/contact details of the clerk and this issue was now concluded.

4. Transfer to the First-tier Tribunal

4.1 The President provided an update on the proposed transfer to the F-T.

4.2 Three groups had been established to deal with the transfer:

1. A high-level **Project Board** set up by the MoJ tasked with creating the Property, Lands and Housing Chamber of the F-T. The judicial representative on the Board was Mr George Bartlett QC.
2. The **Working Group on transfer to MoJ/Tribunals Service** consisted of representatives from CLG, MoJ, VTS, VTE, HMC&TS. This body was dealing specifically with the abolition and transfer of the VTE and the VTS.
3. The **Judicial Transfer Group** chaired by Mr Bartlett which comprised of the heads of all the tribunals earmarked for transfer. This group was dealing with the judicial aspects i.e. rules, regulations, composition of panels etc and was meeting frequently.

4.3 The President highlighted some difficulties surrounding the transfer. One of the bigger issues was VTS staff pensions: VTS staff were currently in 28 local government pension schemes but on transfer would become civil servants and have to transfer to a civil service pension scheme. The other issue was IT: the VTS were currently integrated into the VOA's IT contract. Mr Scrafton queried whether it would be practical to transfer the VTE ahead of the VTS? It was explained that it would not be possible to transfer the VTE without the VTS as the VTS's functions under statute were expressly stated to be in respect of the VTE. **[Post-meeting note: this is now being reconsidered.]**

4.4 It had been envisaged that transfer would take place on 1 April 2012 but the timescales remained unclear. Work on the new rules was under way. The President spoke about the Public Bodies Bill, which should receive Royal Assent in the autumn, with commencement in the New Year. The abolition and transfer of the VTS/VTE would be effected by Orders – to be drafted by CLG/MoJ - under the Public Bodies Bill and the Courts, Tribunals and Enforcement Act respectively. This would be preceded by a public consultation.

4.5 There was discussion about the types of appeals which would be heard by the Upper Tribunal (second tier) following a hearing in the F-T, and whether hearings would necessarily take the form of a rehearing. There were also a number of options being considered regarding the composition of panels. The President explained that each jurisdiction (i.e. in our case, rating and council tax) would function separately within the new Chamber.

5. Drafts and documents for discussion/noting:

Practice Statement - Lead Appeals: Staying of Related Appeals

5.1 It was agreed that appellants in stayed related appeals should be entitled to a hearing if they wished and provision should be made for bespoke disposal of stayed related appeals following decision in the lead appeal.

5.2 The President would amend the draft.

Practice Statement – Initiating a Council Tax Liability Appeal

5.3 The Group noted this draft without comment.

Advice on written submissions for 2010 NDR Rating List appeals where appellant will not attend

5.4 This was noted.

Advice: The adding of new ratepayers to an appeal where they were not the ratepayer until after the list ceased to exist

5.5 For information only.

6. Consent orders

6.1 As the VOA's power to alter the 2005 rating list had expired, which meant that it was no longer possible for them to reinstate temporary reductions in 2005 rating list assessments where it was agreed that a reduced assessment should apply for a limited period only, Mr Penfold wondered whether it would be possible to give effect to a reinstatement of value using Consent Orders. The alternative would be to have a hearing. The President thought that if a matter could be dealt with without a hearing, and it had the agreement of both parties, then he was in favour and agreed that consent orders should be utilised. Mr Penfold agreed to draft an opening paragraph of a new Practice Statement for the President to expand upon.

7. Notice of Hearing – format

7.1 Mr Penfold raised a concern regarding the need to notify recipients in advance of any changes to the format of notices of hearing (or any other documents transmitted electronically) in order to prevent difficulties in parsing electronically the information contained in these notices. This was noted.

7.2 Mr Guy queried how he could obtain contact details of relevant VTS staff. Mr Anderson explained that the person to contact would be the individual assigned to case management. Mr Guy also wondered whether the format of delivering the electronic notices could be reviewed as at present, within the

subject header of the email communication, there was no reference to appeal number or address.

8. Practice Statement A7: Disclosure and Exchange

Number of hearings and VTS processes Statements of Case - content

8.1 Mr Anderson explained that the VTS were coping with the new disclosure and exchange process.

8.2 There was some discussion around the number of appeals outstanding post target date. Mr Anderson explained that as more panels were running (compared to last year), and owing to some outstanding appeals from the 2005 list, this was having a knock-on effect on dealing with 2010 listed appeals. Any contested cases from the 2005 list should be resolved within six months. Mr Sanderson queried the number of written representations being dealt with during a hearing day; it was thought that approximately 15 were dealt with. Members felt it was important that chairmen were consistent in their approach and ensured a fair hearing.

Strike out where parties have agreed

8.3 There was some discussion about the process followed by the VOA and the VTS when parties had reached agreement. It was necessary to obtain signatures from *both* parties (appellant and respondent) in order to alter the list.

8.4 Strike out should not happen where there had been agreement. If necessary, a postponement/adjournment should be ordered to allow the necessary paperwork etc to be completed.

Reg 17 notices

- **Draft Advice: Reg 17 (3) rental evidence**

8.5 Mr Sanderson aired his concerns about serving Reg.17 notices (rental evidence) on appellants where there had been no contact with the VO to discuss the case during the discussion period. He asked that an amendment be made to Practice Statement A7: *Disclosure and Exchange* whereby the VO would be able to serve a late reg. 17 notice in these cases. The President reminded the VOA that when the Practice Statement was being drafted, the VOA had agreed that the Reg.17 notice would be served within the timescales set out in the PS (6 weeks before the hearing). Mr Sanderson explained that unfortunately the problem of non-cooperative parties had not been factored into the thought process. The President reported that the VTS Chief Executive had indicated that significant change to the current process was, for IT and financial reasons, simply not feasible.

8.6 The President spoke of his understanding of the overall issue: it was for the

appellant to make a reasoned argument and then for the VOA to provide the material to found their response. He explained that in civil litigation, both parties were able to extract information from each other. This also applied in the VTE.

8.7 The professional bodies were of the view that it was not unreasonable, where the VOA was aware of rental evidence that supported its assessment in the rating list, that it should serve notice of its intention to rely upon that rental evidence. The VOA explained that there was not always a need to serve the Reg.17 notice as rental evidence might not be relevant.

8.8 The President had sympathy with the VOA's predicament in this respect and felt it was important to find a solution: either the case should be clearer in the original proposal or become clearer during the discussion period in order to ascertain whether a Reg 17. notice was appropriate.

8.9 The President said he would make changes to the documentation in a way that he hoped would produce an acceptable solution, but there was a concern that any changes would involve further IT change and therefore costs.

VOA Statements of Case – format

8.10 Mr Penfold wanted to know the format in which the VOA was sending its statements of case, whether in an editable format or in .pdf format. The VOA asked that statements of case should be sent to the generic mailbox specified and not to a personal email inbox.

Statement of Case - content

8.11 Mr Penfold had submitted a draft statement of case to the Registrar and asked for his views. The Registrar thought the draft was good but not substantial enough. It was too long and could be slimmed down by a number of pages but some additional information was required.

8.12 Mr Pearce queried the timings of the disclosure and exchange process if the hearing was moved to a new date. It was explained that if the statement of case had already been served, this would be carried forward to the new date; however, if the hearing were postponed before the statement of case had been served, then the timetable would re-start.

9. Any other business

9.1 There was no other business.

10. Date of next meeting

10.1 Members would be consulted about the date of the next meeting which would be in the autumn.

7 September 2011

A handwritten signature in black ink, appearing to be 'Q. Z. 1' or similar, written in a cursive style.

President