

CONSULTATION ON SUSTAINING THE JUDICIAL INDEPENDENCE OF VALUATION TRIBUNALS

SUMMARY OF RESPONSES

1. The Local Government Act 2003 provided for the establishment of a new Non Departmental Public Body, the Valuation Tribunals Service (VTS) which was established on 1 April 2004. The ODPM became aware of concerns expressed by some members of Valuation Tribunals about the judicial independence of the Valuation Tribunals. In response to this the Government issued a consultation paper seeking views on options to preserve the judicial independence of Valuation Tribunals. This paper summarises the responses to that consultation.

Responses to the consultation

2. The consultation paper on “Sustaining the Judicial Independence of Valuation Tribunals” (copy at Annex A) was issued for public consultation in June 2004. Responses to the consultation were invited to be submitted by 17 September.
3. Hard copies of the consultation paper were sent to the Valuation Tribunal Service, to Presidents of each of the 56 Valuation Tribunals in England, to all local authorities in England, and to other parties that have expressed an interest in issues related to Valuation Tribunals. The paper was also available on the ODPM web site and on the members’ part of the Valuation Tribunal Service website.
4. 72 responses were received as follows:
 - Valuation Tribunal Service - 2
 - VT Presidents in a representative capacity - 35*
 - VT Presidents, Chairs & members in a personal capacity - 25
 - Local Authorities - 6
 - Others - 4

* 4 presidents were also responding on behalf of other presidential colleagues who asked to associated with their response.

A list of those responding is enclosed at Annex B to this note. Copies of the individual responses are held in the ODPM Library along with this analysis. One respondent asked for his response to remain confidential. At Annex C is a statistical analysis.

The proposals

5. The consultation sought views on three proposals in relation to sustaining the judicial independence of Valuation Tribunals:

Option 1 - No change;

Option 2 – Establish a new body to ensure VT judicial independence;
and

Option 3 – Establish a committee of the VTS Board to advise the Board on judicial matters

Issues on which specific responses were requested

6. The consultation specifically requested views on a series of questions as set out at Annex B to the consultation paper. A synopsis of the main points made in response to each of the questions posed is set out below (see paragraphs 7 to 25). A brief report on other options proposed by respondents is also set out below (paragraphs 26 to 29).

Q.1. Is the provision that the majority of VTS Board members must be serving Valuation Tribunal Presidents or Chairs a sufficient safeguard to the judicial independence of the Tribunals?

7. A substantial majority of respondents, and indeed all of those responding as representatives of Valuation Tribunals, believed that the statutory requirement for the majority of the VTS Board to be drawn from serving presidents or chairs of Valuation Tribunals should be reinforced to sustain the judicial independence of the Tribunals.
8. A number of respondents recognised that by virtue of being a majority on the VTS Board, the Tribunal presidents or chairs on the Board would have considerable influence and that this would help to maintain judicial independence. But some were of the view that there was potential for a conflict of interest for the VT members of the VTS Board between their role as a Board member and their role as a representative of the Tribunals. One respondent suggested that the safeguard could be enhanced if the Tribunal members on the VTS Board were to comprise two thirds of the Board members rather than simply a majority. While acknowledging that their presence represented some safeguard for judicial independence, others suggested that such an arrangement did not promote joint working between the management and judicial arms of the Tribunal Service. It was also noted by one respondent that while in practice such an arrangement was an adequate safeguard, the disadvantage was that it did not specifically address judicial independence.
9. However a small number felt more strongly. Some suggested that once appointed as Board members, the loyalty of Valuation Tribunal Presidents and Chairs must be to the Board and that they could no longer claim to

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represent the Tribunals. It was also suggested that since the VTS Board members were selected and not elected, the appointment process was open to the risk of being engineered to ensure “like thinking”. Further to this there was also concern that the VTS Board members who were Valuation Tribunal Presidents and Chairs could not properly represent and defend the independence of the Tribunals since they were appointed by the ODPM and not by Valuation Tribunal members.

10. Four respondents, including the Council on Tribunals, considered that the statutory requirement was in itself sufficient. One respondent commented that there was no objective evidence of a problem with or threat to the judicial independence of Valuation Tribunals. Another commented that the voice of ordinary members was provided for through the Valuation Tribunal members on the VTS Board. The Council on Tribunals said in its response that “given suitable arrangements for consulting the VT membership, the statutory requirement for the VTS Board to have a majority of serving presidents or chairs should be enough to ensure that the Board fulfils its obligation to carry out its functions in a manner which it considers best calculated to secure their efficient and independent operation”.
11. The 4 members of the VTS Board that are also Presidents or Chairs of Valuation Tribunals sent a collective response to the consultation separate from that of the Board as a whole. In this response they emphasised that the Tribunal members on the VTS Board were in a majority and their duty was to safeguard judicial independence and to ensure that resources were allocated to deliver an efficient and independent Service. They were of the view that the constitutional arrangements for the VTS enhanced judicial independence and provided a greater safeguard than in jurisdictions where the judiciary was not involved in the management of the service.

Q.2. *If not, would it be more appropriate to establish instead either -*

(a) a Procedures and Membership Committee (PMC) of the VTS; or

(b) a separate body?

12. The proposal to establish a Procedures and Members Committee (PMC) was the most popular of the options put forward. It was supported by 32 of the 72 responses received, including over half of the representative responses from the Valuation Tribunals (19 out of 35). The VTS Board supported the establishment of a PMC, suggesting that it would enhance the work of the Board by assisting it to meet its duties both to secure the efficient and independent operation of the Valuation Tribunals and to consult the Tribunals on carrying out VTS functions.
13. Many of those supporting the establishment of the PMC were clear that it would provide sufficient security in relation to judicial independence and offer a transparent safeguard. A number offered strong or unanimous support from the Tribunal membership they represented. Two Tribunal Presidents writing on behalf of their membership said that the PMC would establish a proper structure for communication and enhance the role of

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Tribunal presidents. But there were also concerns among some respondents about the level of understanding of judicial matters among Tribunal Presidents and Chairs.

14. Among those supporting the establishment of the PMC, some commented that concerns that judicial independence might be compromised might be in danger of being overstated and that the majority of ordinary members did not see judicial independence as a primary concern. Some were of the view that as the objectives of the VTS related to the administrative function, it should not be in conflict with Tribunals on judicial matters. Others felt the need to caution that the VTS should not try to exercise influence over such matters as the appointment of members and advice on matters of law offered by Clerks to Tribunals. Some were of the view that the option to establish a PMC recognised there were fears among some Tribunal members regarding judicial independence. The PMC would provide a structure through which consultation and communication between the VTS and Tribunals could be established and in which the breadth of experience of the Tribunal membership could be utilised.
15. Some respondents were firmly against the establishment of a PMC. Of these some felt that while the PMC could not guarantee to the Tribunals their judicial independence, a body was required to enable the VTS to fulfil its duties under the Local Government Act 2003 to consult with the Tribunals about its functions. Others of them expressed concern that a PMC would be a creature of the VTS that could not be truly independent and which might be open to the political control of the VTS and the ODPM. There was also concern that it would not have sufficient authority to make decisions independent of the VTS Board, that the Board might exercise a veto and that establishing such a committee would be the first step to relinquishing judicial independence to the VTS Board.
16. The establishment of a separate body rather than a PMC was specifically supported by nine respondents, including two Valuation Tribunal Presidents in a representative capacity and five chairs or members offering personal views. Some of these respondents were of the view that such a separate body should advise the VTS on judicial matters and that it would be for the VTS to decide how that advice should be implemented. Others suggested that the establishment of a separate independent body would demonstrate that the Tribunals were judicially independent. One respondent suggested that two Boards be established under the VTS; one for judicial matters and another for administrative issues.
17. Equally firm views were expressed by a number of respondents against the establishment of a separate and independent body. The VTS suggested to do so would make the necessary close partnership working between the VTS and the Tribunals more difficult to achieve, duplicate costs and create unnecessary bureaucracy and communication problems. The Tribunal Presidents and Tribunal Chair on the VTS Board went further in their separate response saying, " We consider that the creation of a separate body consisting of Tribunal Presidents would be immensely damaging to the VTS. It would, in our view, set up a competing management body. The

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implication that this separate body could provide a single voice on judicial matters undermines the very concept of judicial independence. A Tribunal President cannot direct Tribunal Members on what judicial decisions to take.” One respondent was of the view that the creation of a separate body would be a regressive move in the modernisation of Tribunals. Other respondents felt strongly that it was important not to have a separate body operating outside the VTS structure. Some also questioned whether establishing an independent body would offer best value and were concerned it might create an unnecessary tension between the administrative and judicial roles.

18. The Council on Tribunals was of the view that there was not a strong case for creating new operational structures so soon after establishing the VTS. Others suggested that to establish a separate body was regressive and would re-introduce a timetable of costly meetings that by their very existence would be disadvantageous to the modernisation of the Tribunal service. Some stressed the importance of not having a separate body operating outside the umbrella of the VTS, suggesting it would create more confusion and less cohesion. They believed the judicial and administrative arms of the service must find ways of working together and that the creation of a separate body would create an unnecessary divide and tension between them. It was also suggested that creating a separate body would present significant inefficiencies and would not offer best value for the public purse or the most effective management of Tribunal resources.

Q.3. In relation to the PMC (see Q2(a)) -

- (a) will its proposed constitution, as shown in Annex A, give the Tribunals an effective say and influence in judicial matters;*
- (b) will its proposed terms of reference, as shown in Annex A, be sufficiently wide and robust to enable it to carry out its function;*
- (c) should regional representatives be obliged to hold regular meetings with both the Presidents and Chairs of Tribunals or only the Presidents of Tribunals?*

19. There were a variety of suggestions offered in relation to the name of the committee, to its constitution and composition and to its terms of reference; and one suggestion that it should formulate its own constitution. Of those commenting on the name of the committee there was a general view that this did not recognise the “judicial” aspects of its proposed role.
20. A range of views was offered about who should chair the committee and how he or she should be appointed. Some favoured election from among the committee membership, while others felt the chair should be appointed from among the Tribunals’ regional representatives.
21. In relation to membership, there was considerable support for the consultation paper proposal that all administrative units in the Service should be represented. It was also suggested that appointments to the

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committee should be time limited. Views were offered that the number of VTS Board members on the committee should be restricted to three, including the VTS Chair, and that the VTS Chair should be an ex-officio member. One respondent suggested that only those members of the VTS Board who were also Tribunal members should be eligible for appointment to the committee, while others suggested that the committee be comprised only of Tribunal regional representatives. It was also suggested that consideration be given to the need for administrative support, and judicial or technical advice.

22. A number of suggestions were put forward about the quorum for the committee. Among them were proposals to have a minimum number of Tribunal representatives present and that the non-attendance of VTS Board members should not affect the quorum. The majority of those that commented favoured the committee reaching a quorum with 50% of its members present.
23. There was a range of suggestions for amendment or adjustment to the terms of reference proposed in the consultation. Some felt that the committee should “assert and maintain” judicial independence. Others were clear that responsibility for the training for members should be delegated to the committee’s control while some were of the firm view that the Committee should direct the VTS Board on a range of issues including those within the statutory remit of the VTS. A number suggested that there should be a clear requirement for administrative and technical support and there was some support for the idea that budgets be made available to the committee for independent legal advice and research. Some respondents expressed the view that the committee should have a formal right of access or appeal to the VTS Chair and Chief Executive and on through to Ministers. Additionally one respondent suggested that the committee should act as an appeals committee for member grievances against discontinuation of service. It was also suggested that the terms of reference should be subject to review after a period of years.
24. There was a general consensus among respondents that regional meetings to disseminate information would be a very important tool for keeping the membership apprised of developments. Most agreed that it would be most appropriate for these to be held at quarterly intervals. A majority was of the view that both Presidents and Chairs be invited to attend the meetings but some felt that it was sufficient for Presidents only to attend. Other were of the view that the meetings should be open to all members and one proposed that the Tribunal Clerks should be invited to attend.

Q.4. In relation to a separate body (see Q2(b)) - if such a body was established to sustain judicial independence, would this be able to operate successfully and effectively within the current statutory framework?

25. Those who supported the establishment of a separate body took the view that it would be able to operate within the existing statutory framework, in close liaison with the VTS Board, and without fragmentation of the Tribunal service. The VTS Board was of the view that a separate body was

disadvantageous and would make the necessary close partnership working more difficult. The Board also commented that the legislation was clear that the intention in setting up the VTS was to create a single cohesive service. They took the view therefore that it was difficult to see how a new separate body would be able to operate successfully in a framework in which such a step was not envisaged.

Options proposed by respondents

Interim Tribunals Liaison Committee

26. There was a quantity of support (15 of the 72 responses, including ten Presidents writing on behalf of their Tribunals and five in a personal capacity) for proposals put forward by the existing interim Tribunals Liaison Committee. In putting forward these proposals the interim committee said it was representing Presidents and members of all Valuation Tribunals in England. However a number of subsequent responses from Tribunal presidents said they did not support the interim committee's proposals.
27. The interim committee took the view that the Tribunal judiciary must have a means of communicating their needs and views as a group to the VTS and the Secretary of State. They proposed the creation of a national Judicial Members Group which would be independent of VTS control, supported by and drawn from a network of local Judicial Members Committees. In addition they suggested that the VTS should in parallel create a Tribunals Liaison Group to act as a conduit between the VTS Board and the members group. As part of their proposal, the interim committee suggested the Judicial Members Group should appoint a judicial auditor to report on the effect of VTS processes on the judicial function. They also put forward proposals for draft terms of reference and constitution of the two committees and for the terms of any direction to the VTS by the Secretary of State.

Other proposals

28. There was a similar proposal to that of the interim committee from one Tribunal President who proposed the creation of 2 separate but co-ordinated committees: firstly, a Tribunals Liaison Committee of the VTS Board with a composition as proposed for the Procedures and Members Committee in the consultation paper; secondly a Valuation Tribunals Committee composed of regional representatives sitting on the first committee. Proposals for terms of reference for each of the two committees were also put forward.
29. One President put forward a separate proposal on behalf of his Valuation Tribunal that was supported by number of members of that Tribunal in separate responses. While supporting option 3 in the consultation paper for the creation of the Procedures and Members Committee, this Tribunal proposed moves away from the consultation proposal in some major respects. It was suggested that the Committee must be seen and accepted as independent of VTS control and that the VTS should be limited to supporting the judicial processes as determined by the Committee. In their

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view the Committee should direct (as opposed to advise) the VTS Board on a range of issues including secondary legislation, training and members interests.

ODPM
November 2004



Office of the
Deputy Prime Minister

Creating sustainable communities

Appendix A

Annex A To Appendix A

Sustaining the Judicial Independence of Valuation Tribunals

A Consultation Paper

OFFICE OF THE DEPUTY PRIME MINISTER

Sustaining the judicial independence of Valuation Tribunals.

1. The enclosed consultation paper seeks views on proposals to establish a committee of the Valuation Tribunal Service Board (VTS Board) to be known as the Procedures and Members Committee (PMC). This Committee would have responsibility for advising the VTS Board on judicial matters arising within the statutory remit of the Valuation Tribunal Service (VTS). Annex A to the consultation paper sets out the proposed composition and terms of reference of the PMC. Annex B details specific issues on which views are particularly sought. A copy of the consultation paper and this covering note are also available on the web site of the Office of the Deputy Prime Minister at the following address:

<http://www.local.odpm.gov.uk/vt/judicial.pdf>

A copy of the consultation paper and covering note can also be found on the Valuation Tribunal Members' section of the VTS's website at the following address:

<http://www.valuation-tribunals.gov.uk>

2. Copies of the covering note and consultation paper have been sent to all serving Presidents of Valuation Tribunals, to VTS Board Members, to local authorities in England and to other parties that have expressed an interest in issues related to Valuation Tribunals. Responses from other interested groups or individuals are also welcome.
3. The proposals in the enclosed paper concern internal procedural matters of the VTS. They will have no impact on business, the charitable or voluntary sector (other than Valuation Tribunals), local authorities or public services.

Responses and Enquiries

4. Responses to this consultation document should be sent (if possible by e-mail) by **17 September 2004** to:

Wendy McGregor
Local Government Finance Division 2
Office of the Deputy Prime Minister
Zone 5/J2
Eland House
Bressenden Place
London SW1E 5DU

Fax: 020 7944 4209

E-mail: valuation.tribunal@odpm.gsi.gov.uk

5. Any enquiries or requests for copies of the paper and covering note should be directed to Wendy McGregor at the above address.
6. The Office may wish to publish responses to this consultation exercise in due course or deposit them in its libraries. If so, all responses received will be published or deposited, unless a respondent specifically asks the Office to treat their response as confidential. Confidential responses will, nevertheless be included in any statistical summary of the numbers of comments received and views expressed.
7. A summary of responses will be published by 1 December and a copy will be available on the web site of the Office of the Deputy Prime Minister at the following address:

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<http://www.local.odpm.gov.uk>

A paper copy of the summary of responses can be obtained from

Wendy McGregor
Local Government Finance Division 2
Office of the Deputy Prime Minister
Zone 5/J2
Eland House
Bressenden Place
London SW1E 5DU

Fax: 020 7944 4209

E-mail: valuation.tribunal@odpm.gsi.gov.uk

Comments and Complaints

8. This consultation is being undertaken in accordance with the *Code of Practice on Written Consultation*; the main consultation criteria are set out in Annex C to this consultation paper.

Consultation on sustaining the judicial independence of Valuation Tribunals

INTRODUCTION

1. On 1 April 2004 the Valuation Tribunal Service (VTS) was established by the Office of the Deputy Prime Minister (ODPM) as a Non Departmental Public Body (NDPB). Under the provisions of the Local Government Act 2003 it is charged with providing administrative support, procedural advice and central direction to the 56 Valuation Tribunals in England. It is the employer of the 160 Valuation Tribunal staff (these were formally employed by the individual Valuation Tribunals) and is responsible for the training of Valuation Tribunal Members and VTS staff. The VTS will also advise the Secretary of State on all matters relating to the VTs, including suggesting legislative changes. The VTS will receive about £11.5 million per annum in grant in aid from the ODPM.

2. Although providing services and general advice on procedure to Valuation Tribunals, the VTS has no legal power to intervene in the determination of appeals. Valuation Tribunals will continue to hear appeals concerning local taxation matters.

REASONS FOR THE ESTABLISHMENT THE VALUATION TRIBUNAL SERVICE

3. Prior to the establishment of the VTS the 56 individual Valuation Tribunals were responsible for their own administration and procedures although certain central administrative functions were provided by the Office of the Deputy Prime Minister (ODPM). This led to what was inevitably, in some respects, a fragmented and uncoordinated service. In 1999 there was a move to bring national cohesion and internal policy to the service with the creation of the Valuation Tribunal Management Board (VTMB). However, this was not a statutory body and relied on the co-operation of the individual Tribunals to further its work.

4. The Government, in its 2000 Green Paper "Modernising Local Government Finance", sought views on proposals to establish a statutory body with clearly delegated powers and responsibilities to provide cohesive advice and policy direction to Valuation Tribunals as well as a strong corporate identity. There was also a need to distance the ODPM from the day to day management of some functions. As the Valuation Tribunals perform an important judicial role in hearing local taxation appeals it was felt the Valuation Tribunals should operate at arm's length from central Government who determine the overall local taxation policy and legislation framework. Proposals for such a statutory body were also contained in the 2001 Local Government White Paper "Strong Local Leadership – Quality Public Services". Responses to both the Green and White Papers were overwhelmingly supportive of the proposals.

5. In the light of the weight of opinion for the establishment of a statutory body the Government took legislative measures in the Local Government Act 2003 to establish the VTS as an NDPB to give cohesion to the Valuation Tribunals, promote good practice and improve customer service.

INDEPENDENCE OF VALUATION TRIBUNALS

6. The VTS was established to provide administrative and policy direction to the Tribunals, and to provide the necessary support framework for the tribunals to be able to operate effectively and with judicial independence. The Government firmly believes that it is crucial to the integrity of the appeals system for the Valuation Tribunals to be judicially independent. Under the Local Government Act 2003 the majority of the Members of the VTS

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Board must be serving Valuation Tribunal Presidents or Chairs. The Act also specifies that the VTS must carry out its functions with respect to Valuation Tribunals in a manner best calculated to secure their independent operation, and must consult Tribunals about the carrying out of its functions where these impact on Valuation Tribunals. These requirements were built into the constitution of the VTS to help maintain the judicial independence of the Valuation Tribunals by ensuring the VTS does nothing which may affect Tribunals without their knowledge, or without giving them an opportunity to comment on proposed changes. The stipulation that the majority of the VTS must be drawn from serving Valuation Tribunal Presidents and Chairs also ensures the VTS Board has a good understanding of how Tribunals function, and the likely impact of any proposals which are being considered by the Board of the VTS.

7. However, the ODPM is aware of the concerns that have been expressed by some Members of the Valuation Tribunals that this might not be enough, in itself, to guarantee judicial independence in the longer term. These Members are of the opinion that making the VTS responsible for budget allocation, providing general advice to Tribunals and supporting Members for example through training may over time impair the judicial independence of the Tribunals. Because of these concerns the ODPM has been examining further ways to help secure the judicial independence of the Tribunals.

OPTIONS TO PRESERVE THE JUDICIAL INDEPENDENCE OF VTs

8. The ODPM has identified three possible options:

Option 1 - Do nothing.

Option 2 - Establish a new body to ensure VT judicial independence.

Option 3 - Establish a committee of the VTS Board which will be charged with advising the Board on all judicial matters.

Option 1 - do nothing

9. The Local Government Act 2003 already provides that the majority of Members of the VTS Board must be serving Valuation Tribunals Presidents or Chairs. This requirement was built into the constitution of the VTS precisely to assist in maintaining the judicial independence of the Tribunals. A case could therefore be made that there is no need to do anything further. However, this provision does not provide a mechanism to ensure the Tribunals as a whole have a voice in the decision making process of the Board.

10. In order for the VTS to be able to provide a greater coherence of process and procedure across all Valuation Tribunals the Local Government Act 2003 provided that they would have overall responsibility for VT budgets and spending priorities, and, for providing general advice on procedures as well as strategic planning, training and membership issues. The VTS is also responsible for providing the Secretary of State with such information, advice and assistance as he may require, for example, on the structure and number of tribunals (including membership). This means the VTS will be able to exercise considerable influence on Tribunals. Therefore the ODPM recognises the concern expressed by some that the 'majority' safeguard provided by the 2003 Act might not be enough in itself to ensure the judicial independence of Tribunals.

11. ODPM concludes that by doing nothing, a statutory "majority" safeguard would be maintained. However, greater assurance could be achieved by other proposals, and therefore it is not appropriate to do nothing.

Option 2 - Establish a new body to ensuring VT judicial independence

12. One way of mitigating the influence on the judicial independence of Tribunals would be to establish a separate body to provide Valuation Tribunals with guidance relating to

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judicial matters. However, this would undermine the Government's key objective of providing a single cohesive service. Additionally, it may also make it difficult for the VTS in practice to plan strategically, maintain budgetary control and provide effective administrative/estate support to the Tribunals. This would hinder the effective and efficient delivery by fragmenting key aspects of the service and open up the possibility of duplication of effort and an increase in costs.

13. The ODPM believes that any advantage in creating a separate body to ensure judicial independence is greatly outweighed by the disadvantages of a fragmentation of the Service, overlapping responsibilities and the difficulties in undertaking strategic planning by the operation of two parallel structures.

14. ODPM does not believe that it would be advantageous either to the Tribunals, or to the public, to establish a new body specifically charged with the duty to ensure VT judicial independence.

Option 3 - Establish a committee of the VTS Board to advise the Board on all judicial matters.

15. The Government wishes to sustain the judicial independence of Tribunals within the framework created by the Local Government Act 2003. ODPM believes that this could be achieved by the establishment under the Act of a committee of the main VTS Board - a Procedures and Members Committee (PMC). The PMC would advise the Board on all matters within the statutory remit of the VTS that might have an impact on the judicial independence of the Tribunals. The committee would, for example, decide how the budget for Valuation Tribunal Members' training would be utilised as well as help formulate procedural guidance. The PMC would be under the chairmanship of an appointed VTS Board member. The other committee members would be made up of up to 3 appointed VTS Board Members and persons representing regional groupings of Tribunals. To ensure full representation the proposal is that the representative committee members would each be elected by and represent all tribunals in an existing administrative unit or area and themselves must be a member of one of the tribunals in that area. We envisage these regional representatives would convene at least 4 meetings a year within their respective regions to discuss issues with VT Presidents and possibly Chairs, in order to inform their work on the PMC. Suggested terms of reference of the PMC are attached at Annex A.

16. The PMC would be established by a Direction made by the Secretary of State in exercise of his powers under section 105(7) of the Local Government Act 2003.

17. ODPM believes that the establishment of a committee of the main VTS board, largely consisting of serving Members of Tribunals, is the best way of ensuring the judicial independence of Tribunals within the existing legislative structure. It will give the Members of Tribunals a voice at VTS Board level, with the ability to influence policy on matters like training and guidance to Valuation Tribunal Members without fragmenting the Service and reducing efficiency. Option 3 is therefore our preferred option.

Annex A

PROCEDURES AND MEMBERS COMMITTEE (PMC) DRAFT TERMS OF REFERENCE

The PMC will be a committee of the Valuation Tribunal Service (VTS) Board.

Composition

- The PMC will be chaired by a member of the VTS Board, appointed by the Chairman of the VTS Board.
- The Chairman of the VTS Board will be an ex-officio member of the PMC.
- A maximum of three other VTS Board Members may be appointed to the PMC.
- The PMC will not be quorate unless two Members of the VTS Board are present.
- Each administrative unit will be represented by one committee member, a 'regional representative', elected by the Valuation Tribunals administered by that unit. If a regional representative is unable to attend a meeting of the PMC, a deputy may attend in his/her place. Neither a regional representative, nor a deputy may be a member of the VTS Board.
- Elected regional members may convene 4 meetings a year within their representative areas to discuss issues with VT Presidents (and Chairs) or their representatives.

Terms of Reference

The PMC will:

- Assert the judicial independence of Valuation Tribunals
- Provide general advice to the VTS Board on procedural matters in relation to hearings before Valuation Tribunals.
- Provide advice to the VTS Board on the proposals of the VTS Board, the Chief Executive and his staff that relate to the interpretation of regulations, which cover procedural matters in relation to hearings before Valuation Tribunals.
- Assist the VTS Board with encouraging consistency of practice, efficiency, effectiveness and the economic running of Valuation Tribunals.
- Decide how the budget for the training of Members of Valuation Tribunals will be used. The VTS Board will set the budget. The administration and implementation of training will be the responsibility of the Chief Executive, delegated to the Training Manager.
- In conjunction with the VTS Board and Chief Executive's staff, advise on a programme of training for new Members of Valuation Tribunals, which should be undertaken satisfactorily before such Members sit on tribunals.
- Encourage existing Members of Valuation Tribunals to participate in training.
- Where appropriate, provide advice on any VTS policies and proposals affecting the training of Members of, or clerks to, Valuation Tribunals.

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- Provide advice to the VTS Board on matters raised by the Chief Executive or his staff, relating to policy and development issues affecting judicial independence or member interests.

The PMC may:

- Undertake specific pieces of work, within its terms of reference, in agreement with the VTS Board.
- Make recommendations to the VTS Board in relation to the amendment of secondary legislation concerning Valuation Tribunals.
- Expand its terms of reference in agreement with the VTS Board and the Office of the Deputy Prime Minister.

Issues On Which Views Are Particularly Sought

1. Is the provision that the majority of VTS Board members must be serving Valuation Tribunal Presidents or Chairs a sufficient safeguard to the judicial independence of the Tribunals?
2. If not, would it be more appropriate to establish instead either -
 - (a) a Procedures and Membership Committee (PMC) of the VTS; or
 - (b) a separate body?
3. In relation to the PMC (see Q2(a) -
 - (a) will its proposed constitution, as shown in Annex A, give the Tribunals an effective say and influence in judicial matters;
 - (b) will its proposed terms of reference, as shown in Annex A, sufficiently wide and robust to enable it to carry out its function;
 - (c) should regional representatives be obliged to hold regular meetings with both the Presidents and Chairs of Tribunals or only the Presidents of Tribunals?"
4. In relation to a separate body (see Q2(b) - if such a body was established to sustain judicial independence, would this be able to operate successfully and effectively within the current statutory framework?

THE CONSULTATION CRITERIA

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at
www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact

David Plant, ODPM Consultation Co-ordinator, Room 3.19, 26 Whitehall,
London, SW1A 2WH;
or by e-mail to:
david.plant@odpm.gsi.gov.uk

Appendix A

Annex B to Appendix A

RESPONDENTS TO THE CONSULTATION PAPER

Key:

LA = Local Authority

PB = Public Body

MOP = Member of the public

Prof = Professional Body

Respondent	Ref No	Organisation	Type of Organisation	Representing Organisation
Nigel Kearney	1	The Commission for Local Administration	PB	Yes
R A Carnell	2	Member of Northamptonshire VT	VT	
Malcolm Nicholson	3	N Somerset Council	LA	Yes
Martin Farr	4	Chair of Central London VT	VT	
Dr P Prichard Jones	5	Chair of West Midland (West) VT	VT	
Frank Mitchell	6	Member of Nottingham VT	VT	
Confidential Response	7		MOP	
Lionel Campuzano	8	Chair of Cheshire VT	VT	
Howard Singh	9	President of Suffolk VT	VT	Yes
Brian Chalkley	10	Vice President and Chair - Hereford & Worcestershire VT	VT	
D Holling	11	West Berkshire Council	LA	Yes
Michael Tildesley	12	President of Leicestershire VT	VT	Yes
Anne Galbraith	13	Chair of Valuation Tribunal Service	VTS	Yes
Mike Heslop-Mullens	14	Member East Yorkshire VT	VT	
John H C Jones	15	President Bedfordshire VT & on behalf of Hertfordshire	VT x 2	Yes
Steven Burke	16	Tribunal Officer on behalf of Cheshire VT	VT	Yes
Kevin N Woodthorpe	17	President - Cambridgeshire VT	VT	Yes
Steven Burke	18	Tribunal Officer on behalf of Merseyside VT	VT	Yes
Grahame Holloway	19	President Devon VT - covering Devon and Cornwall VTs	VT x 2	Yes
Peter A E Jewell	20	Interim Committee of Representatives of the Judicial Members of Valuation Tribunals	VT	Yes
Alan Hankinson	21	Deputy President Manchester North VT	VT	Yes

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Respondent	Ref No	Organisation	Type of Organisation	Representing Organisation
David Young	22	President of Coventry & Solihull in personal capacity	VT/ MOP	
John Dunning	23	President Norfolk VT	VT	Yes
I D Lonsdale	24	Member Norfolk VT	VT	
Mrs G M Measurs	25	Member Norfolk VT	VT	
David Melhuish	26	RICS		Prof. Body
Angela Comfort	27	President - Essex North VT	VT	Yes
H G Cator	28	Building Partnerships Ltd	VT//MOP	
Mavis Latham	29	On behalf of Presidents of VTs in Yorkshire	VT x 4	Yes
Paul Wood	30	South Yorkshire VT	VT	Yes
Mary Fagan	31	East Yorkshire VT	VT	Yes
Garry Bean	32	President - Birmingham Valuation Tribunal	VT	Yes
Colin McFarland	33	Bedfordshire CC	LA	
Mirza Ahmad - Chief Legal Officer	34	Birmingham City Council	LA	
Dr AT Cox	35	President - Hampshire South VT	VT	
Brian Talfourd-Cook	36	President Berkshire VT and also on behalf of James Walker President Buckinghamshire	VT x 2	Yes
Richard Tomlinson	37	President North West London VT	VT	
Roy Taylor	38	President Warwickshire VT	VT	
Jane Fitzgerald	39	President Wiltshire VT	VT	Yes
A Ritchie -	40	President London South East VT	VT	Yes
M Crosswell-	40a	President London South West VT	VT	Yes
L W Fairlie	41	President Hampshire North VT	VT	Yes
Judith Shelley	42	Member - Hampshire North VT	VT	
T R Otley	43	Member - Hampshire North VT	VT	
C J Corner	44	Member - Hampshire North VT	VT	
Murray Bell	45	Member - Hampshire North VT	VT	
John Legge	46	Member - Hampshire North VT	VT	
H J A McDougall	47	Chair - Norfolk VT	VT	
Dave Church	48	President - West Midlands (West) VT	VT	
H A John	49	President - Oxfordshire VT	VT	
P J Hurlestone	50	President - Shropshire VT	VT	Yes
John Bosson	51	Chair - North West Group of VT Presidents	VT	Yes

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Respondent	Ref No	Organisation	Type of Organisation	Representing Organisation
John Bosson	52	President - Lancashire VT	VT	Yes
D J Young – see also response 22	53	President - Coventry & Solihull VT		
Dave Waters	54	President - Northamptonshire VT	VT	
Dr A T Cox -	55	Chair - Southern Admin Unit Group of Presidents - Hampshire South, Hampshire North, Wiltshire & IOW	VT	Yes
Jim Dixon	56	President - Lincolnshire VT	VT	Yes
Peter Ashton	57	President - Essex South VT	VT	Yes
Derek Carline	58	President - Kent VT	VT	Yes
Paul Wood	59	VT members of VTS Board	VT	
Michael Tildesley				
Maurice Crosswell				
Peter Lawton				
J W Osborne JP	60	President - Derbyshire VT	VT	Yes
Ian Irvine	61	President - Teeside VT	VT	Yes
W H Clements	62	President - East Sussex VT	VT	Yes
Brian L Hill	63	President - West Sussex VT	VT	Yes
David Sheard	64	President - West Yorkshire VT	VT	Yes
Mrs A E Jacobs	65	President - Isle of Wight VT	VT	Yes
Michael K Atkins	66	President - Surrey VT	VT	Yes
John Woolley	67	President - Cumbria VT	VT	Yes
Alexander Hermon	68	Council on Tribunals	PB	
Peter Nicholls	69	Leicester City Council	LA	Yes
Antony Craig	70	President - Central London VT	VT	
Val Sharratt	71	Wychavon District Council	LA	Yes
Ian Andrews	72	Dorset VT	VT	Yes

Annex C to Appendix A

SUSTAINING THE JUDICIAL INDEPENDENCE OF VALUATION TRIBUNALS – CONSULTATION STATISTICAL ANALYSIS

OPTION/ PROPOSAL	Valuation Tribunal Presidents (or others) representing Tribunals	Presidents in personal capacity	Chairs and Members personal view	LA	PB	MOP	Prof	VTS Board	Respondents overall view
OPTION 1 - No change	0	0	2	1	1	0	0	0	4
OPTION 2 – Create a separate body	2	0	5	0	0	1	1	0	9
OPTION 3 Support PMC (including with minor changes)	19 ¹	2	5	4	0	0	0	2	32
Propose other options/ major departure from PMC option	4 ²	2	4	0	0	0	0	0	10
Proposals of the interim Tribunal Liaison Committee	10 ³	5	0	0	0	0	0	0	15
No comments on options	0	0	0	1	1	0	0	0	2
TOTAL RESPONSES	35	9	16	6	2	1	1	2	72

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¹ One President asked to be associated with the response from the President of a neighbouring tribunal but did not respond separately.

² One President asked to be associated with the response from the President of a neighbouring tribunal but did not respond separately.

³ Two Presidents each asked to be associated with the response from the President of a neighbouring tribunal but did not respond separately.