



Office of the  
Deputy Prime Minister

Creating sustainable communities

# **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](mailto: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:

<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

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### ***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 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 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.**

ODPM  
Local Government Finance Directorate  
June 2004

## 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.
- 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](http://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](mailto:david.plant@odpm.gsi.gov.uk)