VALUATION APPEALS

Do domestic ratepayers get a fair hearing?

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INTRODUCTION

After the 1985 property revaluation 111,566 domestic ratepayers appealed to their assessors against the new values (this excludes the large local authority and Scottish Special Housing Association appeals in Strathclyde). A large number of appeals will be referred to the Valuation Appeals Committees which are intended to arbitrate between the ratepayer and assessor.

So far as the domestic ratepayer is concerned this process is designed to enable the inexperienced and unrepresented appellant to bring his or her case before the Committee without the expense or any unnecessary formality of a court. The Scottish Consumer Council wished to find out how well this process works in practice.

We attended hearings of Committees in seven regions of Scotland which were hearing appeals between February and May 1986 and 66 domestic and three small-shopkeeper appellants completed a questionnaire on their experiences and views.

These included Lothian and Borders where nine and seven hearings respectively were attended, Central and Fife where two hearings each were attended, and Grampian and Dumfries and Galloway where one each was attended. To our knowledge, of 399 domestic appeals lodged in Orkney and Shetland three were referred to and heard by the Committee, Tayside, Highland had not yet started hearing appeals and Strathclyde had not started hearing domestic appeals.

We understand that the Western Isles Committee has not had an appeal before it in ten years.

As the largest number of domestic appeals still to be heard are in Strathclyde we visited six hearings of commercial appeals in different parts of that region.

We looked at the settings chosen, the layout of hearings and the provisions and facilities for appellants, at the practices of Committees and assessors and, most importantly, we asked appellants about their experience. The detailed findings for each region are set out in an appendix to the report. The main report gives the overall findings and conclusions. Most importantly it sets out the Scottish Consumer Council's recommendations. Every one of these is based on the best of the various practices and policies which we identified as being operated by different Committees and assessors. If generally adopted the SCC believes that they would provide a more consistently fair and equitable system of hearing appeals for domestic appellants within the existing rules. SCC did not consider any more fundamental changes given that the present round of hearings is under way.

Most of these recommendations appear to concern matters of "mere detail". It is hard to exaggerate the importance to appellants of many points of detailed procedure: for example, the appellant
being put on oath, but the assessor apparently not being put on oath (or the appellant not being informed that the assessor had been put on oath at the beginning of the hearing), can convey a damning if entirely unintended message to the appellant that he or she is not trusted. What distinguished the excellent hearings from the merely adequate was scrupulous attention to detail.

We recognise that it is not easy for people who are operating a system - chairmen, members and secretaries of Committees, and assessors and their staff - always to be aware of precisely which matters of detail are important to users of the system, in this case the appellants. It is particularly difficult to get it right when the system does not operate at a high level all the time.

We hope that those who are involved in organising hearings find our proposals practical and helpful, and are able to implement them in the coming months. Though we make a number of detailed criticisms and suggestions, based on what we observed and what appellants told us, we were greatly impressed by the considerable commitment by those involved to give appellants a fair hearing.

We are grateful for the co-operation and assistance given to us by the secretaries to the Valuation Appeal Committees and the regional assessors and their staff and particularly to all those appellants who completed our questionnaires and told us about their experiences and views.

Scottish Consumer Council August 1986
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<th>Region</th>
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<td>Ayr</td>
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<td><strong>Total</strong></td>
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5.
FINDINGS AND RECOMMENDATIONS

The findings presented here are drawn from the detailed descriptions of the different hearings which are given under regional headings in the appendix.

In our survey we considered first the settings of the hearings, then the physical layout of the hearings and finally the practices of the Committees and assessors.

From our findings we make recommendations, all of which are drawn from the practice or policy of Committees or assessors observed at one or more of the hearings. Some in fact are fairly standard. We believe that there is no reason why they should not be applied in all hearings.

Our visits to commercial hearings in Strathclyde are briefly described in the appendix. In this part of the report they are referred to only in relation to factors, policies and practices relevant to the hearing of domestic appeals.

Settings

Hearings were most commonly held in local authority committee rooms and these offered adequate accommodation for the Committee, assessor and appellant, for members of the assessor's staff and for appellants waiting to be heard.

At hearings in Galashiels, Glenrothes and at the second hearing attended in Stirling, the committee room used was either too small (Galashiels) or set out in such a way that a lot of the space was unusable (Glenrothes and Stirling). This left insufficient room for appellants waiting to be heard to sit in on earlier cases and the hearings in effect were private.

The committee rooms or small council chambers used in Haddington, Edinburgh, Duns, Peebles, Dumfries, Aberdeen, Paisley, Ayr and Cumbernauld were all ideally suited for the purpose.

The council chambers used in Linlithgow and at the first hearing in Stirling and the banqueting hall used in Hamilton were large and not suited for informal hearings. The Regional Council has a duty to provide a suitable venue for valuation appeal hearings, and the Scottish Consumer Council does not believe that the banqueting hall in Hamilton is suitable.

In Glasgow and Jedburgh, courtrooms were used and these precluded any informality. The atmosphere in the Burgh Court Hall in Glasgow was forbidding, with the Committee seated at a high bench and appellants and witnesses giving evidence from a raised central dock. The courtroom at Jedburgh had been modernised but the fixed layout and the placing of the appellant in the witness box created the impression of a trial.
Access for Disabled People to Committee Hearings

Notes:
Access means that a disabled person in a wheelchair or on crutches could enter the building or room unaided.
Provision means that there is a predetermined policy and practice to provide unaided access where access is not normally possible.

Venue

Edinburgh: Provision for access to building; access to room
Haddington: No access to building; no provision
Linlithgow: No access to building; no provision
Aberdeen: Access to building and to room
Stirling: Access to building and to room
Dumfries: Access to building from rear and to room
Duns: No access; no provision
Galashiels: No access; no provision
Jedburgh: No access; no provision
Peebles: Access to building; difficult access to room
Glenrothes: Access to building (by September 1986) and to room
Glasgow: No access; no provision
Paisley: Access to building and to room
Hamilton: Access to building via staff entrance and to room
Cumbernauld: Access to building; no access or provision for access to room
Ayr: No access to building; no provision
RECOMMENDATION 1: The setting should be chosen with the primary requirement that the hearings are public. Therefore, there should be adequate space and seating for waiting appellants to sit in on earlier cases (courtrooms should not be used and rooms with tables and seating which cannot be arranged to the requirements of the hearing should be avoided).

The setting should also be accessible to appellants and members of the public who are disabled.

Layout

A number of different room layouts and seating arrangements were found.

At some hearings the Committee, assessor and appellant were seated around a single large table or arrangement of tables where the parties were fairly close together with the assessor and appellant in similar positions relative to the Committee, for example, in Duns, Galashiels, Peebles, Dumfries and Paisley.

The seating arrangements in Edinburgh, Haddington, Linlithgow, Ayr and Hamilton and at the first hearing in Stirling showed no distinctions between the assessor and appellant but the distance between the parties gave the hearings a rather formal atmosphere.

In Cumbernauld, Glenrothes and at the second hearing in Stirling the seating arrangements placed the appellant further from the Committee than the assessor and this suggested a distinction between the parties. In Aberdeen the practice of directing the appellant or assessor's witness to a separate place when giving evidence, while the assessor remained in his own place throughout, also suggested a distinction between the parties.

Some of the layouts and seating arrangements which we found are illustrated on page 9.

RECOMMENDATION 2: All Committees should adopt the layout recommended for Supplementary Benefit Appeal Tribunals by the Department of Health and Social Security:

a) The Committee should occupy a central position apart from all other persons;

b) The place occupied by the appellant should reflect equal status with the assessor.

The best seating arrangement, depending on the numbers involved, might be a large circular or oval table or a square of tables. It should be placed in the room so that waiting appellants and members of the assessor's staff not immediately involved do not impose upon the appeal being heard.
EXAMPLES OF LAYOUTS AND SEATING ARRANGEMENTS

1. Unacceptable:
   Court settings

   [Diagram showing court settings]

2. Unsuitable:
   Too large, unequal treatment of parties
   \( ap(G) = \text{Glenrothes} \)
   \( ap(S) = \text{Stirling} \)

   [Diagram showing large unequal setting]

3. Fair but too formal

   [Diagram showing formal setting]

4. Fair and friendly

   [Diagram showing friendly setting]

Notes:
\( VAC = \text{Valuation Appeal Committee} \)
\( sec = \text{secretary} \)
\( ap = \text{appellant} \)
\( as = \text{assessor} \)
These diagrams are not to scale and are intended only to show the relative positions of the parties.
Practice: Committees

Unlike the Committees and assessors, very few appellants had any idea what to expect when they arrived at the hearing other than what they may have gathered from their Notes for Guidance on Procedure or have been told by a valuer in discussions before the hearing. It is our finding from the questionnaires that nearly a third of appellants who did receive and read the Notes for Guidance did not get a very clear idea of what would happen at the hearing. Committees should take note of this.

Where hearings were held in public the appellants had an opportunity to become familiar with the surroundings, the seating arrangements and the other people present before the hearing started. Where they were held effectively in private, for example, at the first hearings in Duns and Galashiels, in Glenrothes and at the second hearing in Stirling, appellants were gathered in a side room (or on a landing in Galashiels) to wait for their cases to be called.

While the number of appeals listed for each hearing was determined by the assessor and secretary, they could not accurately anticipate the number of appellants who would appear at the hearing or the time each case would take. Appellants had no idea of these problems and commonly expected to be heard at the time they were cited to appear. At some hearings the secretary explained these difficulties to appellants on arrival and told them where they were placed on the list. Also, at some hearings where the hearing extended into the afternoon, appellants unlikely to be called in the morning were offered the option of leaving then and returning after lunch. At others, appellants were given no information on the order of business or the likely waiting time unless they specifically asked. Except for appellants heard first, there was considerable dissatisfaction about the waiting arrangements and the lack of information at those hearings which were not held in public.

Whatever the precise arrangements about the number of appellants who are cited for a particular hearing and how assiduously assessors' staff visit those cited and seek to reach agreement with them before the hearing, it is important that appellants receive a full explanation of how hearings are scheduled. When they receive their citation, appellants should at the very least be told that all appellants are invited to come at the same time, if that is the practice, and the reasons why it is not possible to give a precise time. More positively, they should also be told that appellants often find it extremely useful to sit in on other appeals before their own, and that when they arrive on the day the Secretary will be able to give them a clearer indication of when they are likely to be heard.
The appellants' contacts with the assessors' departments before the hearing were most commonly with a valuer. At the hearing the assessor either presented his own case (Borders region) or was represented by his depute or counsel. At many hearings appellants were not given any information about who was conducting the assessor's case. In Lothian region the assessor was represented by counsel at about half the hearings and the appellants were usually made aware of this and often told who he was. In Stirling, where the assessor was represented by counsel, appellants were aware of this but none was given any information about him. One appellant here thought he was retained by the secretary to the Committee. In Aberdeen, Dumfries and Glenrothes where the assessor or his depute appeared some appellants were under the mistaken impression that he was a lawyer and this was not corrected.

Therefore, appellants reached the hearing with little knowledge of how the hearing was arranged and of who they were to face on the assessor's side. Frequently no attempt was made to redress this imbalance.

RECOMMENDATION 3: The secretary should contact appellants on arrival and introduce himself. He should inform them of the probable order of business and that the waiting time will be dependent on the numbers of appeals to be heard and the time taken by each case. He should enquire whether any appellant has a compelling reason to be heard early in the hearing. He should inform them who is representing the assessor (the assessor, his depute or counsel). The order of business should be confirmed immediately before the hearing begins. At this stage, appellants unlikely to be heard before the afternoon should be offered the option of leaving then and returning after lunch but only after they have been advised of the benefits of sitting in on earlier cases.

At the public hearings the usual practice was for the assessor and appellants to gather in the room before the hearing and for the Committee to enter from a separate room. The Committees at Dumfries, Ayr, Peebles and at the first hearing in Stirling assembled in the room with the assessor and appellants before the hearing, taking their places when the hearing began.

At some hearings the assessor's staff, and counsel if present, all stood whenever the Committee entered or left the room. This added an undue air of formality to the proceedings and some appellants appeared embarrassed or confused and unsure of what was expected of them.

RECOMMENDATION 4: The committee should only take their places at the beginning of the hearing. The practice of the assessor, appellants and others standing whenever the Committee enters and leaves the room is unnecessarily formal.
The chairman of the Committees at Paisley and Dumfries introduced the Committee as a group of independent lay people with no prior knowledge of the individual cases. At the second hearing in Glenrothes (which was private) the appellants were told this by the secretary. At the second (private) hearing in Stirling, the chairman gave the first appellant a full statement to this effect but the others were told nothing at all.

RECOMMENDATION 5: At the beginning of the hearing the chairman should inform each appellant that the Committee is a group of lay people, appointed by the Sheriff Principal and completely independent of the assessor and the local authority; that it is their role to hear the evidence and decide each case within the framework of the law; and that it has no prior knowledge of the facts of any case, which should all be presented at the hearing.

At most hearings in the Borders the Committee was introduced by name, which was courteous, but as appellants were otherwise given no information about the Committees this was of little benefit to them. At the Lothian and Aberdeen hearings the chairman introduced himself only.

RECOMMENDATION 6: At the beginning of the hearing the chairman should introduce himself as the chairman and the Committee as members. Names are unnecessary and only serve to confuse some appellants. He should introduce the secretary as a lawyer, whose role is that of a neutral adviser to the Committee on points of law.

The proceedings were recorded on tape in Lothian region and at Aberdeen, Stirling and Glenrothes. At the Lothian hearings, appellants were told this and that the microphones were not for amplification. At the other hearings appellants were not given this information and while they were sometimes informed during the hearing that the microphones were not for amplification they were not told that the proceedings were being tape-recorded.

RECOMMENDATION 7: Where the proceedings are tape recorded, the chairman should explain this to appellants and that the microphones are not for amplification. Appellants should be told of their legal rights with respect to a copy of the transcript if one is made.

The Committees and secretaries were all friendly and relaxed in their approach to appellants, even if a few Committee members and two chairmen were evidently new and unsure of themselves. Appellants, who were mostly ignorant of valuation practice and unfamiliar with the procedure, were very dependent on them for advice and guidance on procedure and for assistance in presenting their cases.
We found that appellants at some hearings were given very clear and
precise information and guidance on procedure and assistance in
following this during the hearing. At a minority of the hearings,
appellants were given no advice or information on procedure or
assistance if they got into difficulties.

At the hearings in Glenrothes, the secretary usually explained the
procedure to the appellants as a group before the hearing and this
was repeated for each appellant before each case. At the Lothian
hearings, some appellants were given full explanations, some were
given brief explanations, and others none at all, sometimes within
the same hearing. Appellants at hearings in the Borders were
usually given some advice and information before the hearing and at
Dumfries and Aberdeen before each case, or informed of each stage
as it arose.

At the hearings in Stirling appellants were given no advice or
information on procedure either before or during their cases.

RECOMMENDATION 8: The chairman should explain the procedure,
using the term "question" rather than "cross-examine", and the
necessity for this. He should advise appellants that he will
assist them with any difficulties they may have in following
the procedure and he should endeavour to do this. At the
beginning of each subsequent case he should briefly repeat the
explanation of procedure for the appellant.

At most hearing the assessor and appellants were put on oath when
giving evidence. Some appellants were not prepared for this and
found it a daunting experience which contradicted their
expectations of informality. At a few hearings the chairman
explained the reasons for this to appellants.

At one hearing in Jedburgh the assessor appeared not to be put on
oath during the hearing while the appellants were put on oath. A
number of appellants took this as a reflection on the veracity of
their evidence as opposed to the assessor's.

RECOMMENDATION 9: If evidence is heard on oath, the chairman
should ensure that the reasons for this are explained and that
it applies equally to the assessor. Where the assessor is put
on oath at the beginning of the hearing, appellants should be
told that he is still on oath during subsequent appeals.

In Lothian region, the procedure was closely adhered to.
Appellants were assisted in complying with this where they had
difficulties and the chairman or secretary would intervene on the
appellant's behalf if the assessor or counsel deviated from
procedure. At the hearings in Stirling procedure was also closely
adhered to, though more at the insistence of counsel than the
Committee, but appellants were given little or no assistance in
complying with this.
In Aberdeen, Glenrothes and Dumfries the Committees followed procedure but this was relaxed to varying degrees and they generally assisted appellants if they got into difficulties.

In the Borders, where the procedure was usually explained, it frequently did not materialise. While the appellant was told he would be cross-examined, or questioned, by the assessor, the assessor usually engaged in dialogue when invited to do so. On some occasions the chairman intervened but this had only a temporary effect and the chairman seldom insisted on enforcing procedure. It was difficult to follow the assessor's evidence and appellants had difficulty in carrying out their own cross-examination.

RECOMMENDATION 10: When the assessor is invited to question the appellant the chairman should ensure that the assessor asks questions and does not introduce evidence. When the appellant is invited to question the assessor the chairman should remind the appellant of the requirement to ask questions and not to make a statement. Where the appellant has difficulty here the chairman should assist with rephrasing.

The Committees in Duns, Peebles, Edinburgh, Glenrothes, Stirling and Aberdeen actively and closely questioned both appellants and assessors. These Committees demonstrated a considerable amount of interest in the details of appeals, and in some cases a fair amount of expertise, and adopted an inquisitorial role. The Edinburgh Committee in particular demanded of the assessor a detailed defence of his valuations with reference to the Lothian scheme of valuation and this was reflected in the very full evidence given by Lothian valuers in most of the appeals observed.

Most Committees decided appeals immediately after the summing up. On some occasions when summing up was completed just before lunch, the appellant was offered the option of returning later for the decision or leaving the secretary to send the decision in writing. These appellants always opted for the latter. The practice of delivering a decision after each case is no doubt to give the appellant a quick decision. However, this did mean that when a full days' list was heard an hour or more was taken up with waiting for the decision with the consequent delay for appellants still waiting to be heard. Where Committees chose to deliberate in the hearing room, appellants, the assessor's staff and others had to stand about in corridors, or in Galashiels on a landing and in Peebles in an open courtyard.

Where appeals were dismissed, many chairmen gave the appellant a brief explanation of the reasons. Some chairmen were very consistent both in giving explanations and in the amount of detail, for example, at the second hearing in Glenrothes, in Peebles, Dumfries and Aberdeen. The chairmen in Lothian, Duns, Galashiels, Jedburgh and the first hearing at Glenrothes gave good explanations
to some appellants but none to others. The chairman at Stirling
gave no explanations to any appellants, even when on one occasion
he was asked for one. At some hearings the secretary did inform
appellants that details of the decision would be available on
written request after the appellant had received the Committee's
decision in writing. Where explanations were given at the hearing,
this was appreciated by the appellants.

Committees which gave explanations, whether consistently or not,
also showed considerable sympathy for the variety of complaints for
which the appellants' remedy lay elsewhere. Appellants were often
given useful and helpful advice on how to pursue their complaints.

RECOMMENDATION 11: When the decision is given the chairman
should give a brief explanation of the reasons to those
appellants who are unsuccessful. The secretary should also
inform these appellants that further details may be obtained
on written application after they have received the decision in writing.

Practice: Assessors

A ratepayer's appeal against his or her revaluation starts with an
appeal to the assessor. In theory, the appeals which the assessor
and appellant are unable to resolve on their own are then referred
to the Committee. Since the last revaluation the very large number
of appeals lodged has posed an enormous demand on the time and
resources of assessors.

Although not directly a part of the Valuation Appeal Committee
hearings, the appellant's and assessor's failure to reach agreement
precedes the hearing and in our questionnaires we asked appellants
if they had been visited by the assessor's department and what
discussions had taken place.

Most appellants were visited by the valuer concerned with their
property and not infrequently appellants thought this was the
assessor himself. At the hearing, where the assessor or his depute
presented their own cases, some appellants were not told who this
was and believed him to be a lawyer.

Most appellants were visited by a valuer before a hearing. Many
discussed their appeals at the visit or, if they were not there,
by telephone or correspondence. In some regions valuers did not
visit or contact appellants whose appeals were concerned only with
external or amenity factors.

The secretary to the Edinburgh Committee remarked that although
there were substantially more appeals after the 1985 revaluation
than after the 1978 revaluation, fewer domestic appeals were coming
before the Committee. He felt that this was a reflection of the
efforts the assessor was making to contact appellants and discuss their appeals, with the result that fewer were referred to the Committee.

Most valuers who visited appellants checked the valuation and discussed the grounds of appeal. There were some complaints from appellants that valuers had simply stood by the valuation without being prepared to discuss it, or had tried to put them off their appeals by telling them they were wasting their time. One group of appellants alleged that the aggressive behaviour of a valuer had been instrumental in their resolve to pursue their appeals to the Committee. Moreover, these appellants succeeded.

However, adverse comments were very few. Indeed many appellants found their discussions with the valuer of more help in preparing them for the procedure of the hearing than the information contained in "Notes for Guidance on Procedure".

RECOMMENDATION 12: The assessor's staff should attempt to visit all appellants and discuss their appeals with them before the hearing. They should inform them that they have the right in every case to have their appeal referred to the Valuation Appeal Committee.

All valuers should adopt the practice of explaining to appellants before the hearing the procedure of the hearing and the nature of the Committee. In pre-hearing discussions, valuers should advise appellants, orally and in writing that it would be helpful to produce any photographs or maps which might illustrate their case and that a number of copies should be provided at the hearing for the Committee and the assessor.

Very few appellants were sufficiently knowledgeable in valuation matters or had experience of appeals procedures which enabled them to challenge the assessor on his own ground.

Only two appellants were represented. In one case the appeal concerned a house over a public house occupied by the publican and the agent was retained by the Licenced Victuallers Association because of the implications for similar appeals elsewhere. In the other, the appellant had engaged a solicitor only because of his ill health.

With the values involved in domestic appeals there is generally little point in appellants incurring the expense of a solicitor. Moreover the Valuation Appeal Committee system is designed to enable the domestic appellant to argue his or her own case before the Committee. However, the domestic appellant has first to cope with the inherent imbalance between him or her and the assessor.

Some appeals were clearly misplaced in that the remedy for the appellant's complaints lay elsewhere. For example, the remedy for
an appellant's complaint about disturbance from a neighbour lay in civil action against the neighbour, not with the assessor. However, many appeals were competent and the appeal turned on whether or not the assessor had made the correct calculations or made due allowance for general disamenity in an area, or specific disamenity for a particular property. In this respect, appellants were very much at a disadvantage in arguing their case against an organised professional team with all the facts, figures and experience.

The assessors for Fife and Central regions have produced a booklet (the "Blue Book") which is written for the layman/appellant and gives details of the background to valuation and rating and how domestic property is valued. It also gives information on the grounds of appeal and the appeal process including the Committee hearing. We think this booklet is extremely useful.

We understand that the booklet is available to appellants who are interested or it is sent to appellants where appropriate. At the hearings in Glenrothes, two appellants had been sent this booklet. None of the other appellants were aware of its existence. At the second Stirling hearing none of the appellants were aware of its existence.

RECOMMENDATION 13: The "Blue Book", a guide to house valuation, produced by the assessors for Fife and Central regions should be more widely available and all appellants should be told of its existence.

In addition to the difficulties faced by inexperienced and unrepresented domestic appellants in challenging the assessor's valuation before the Committee, some appellants appeared at what they expected to be an informal hearing to be faced by counsel for the assessor. They found this an intimidating experience. As might be expected, these hearings were the most formal. However, the Lothian Committees were helpful to appellants in that they exercised their power to relax procedure by sometimes over-ruling counsel's objections to the appellants' deviation from procedure. At Stirling, where counsel objected to deviations from procedure, the Committee invariably accepted this and in some cases appeared to intervene in anticipation of counsel's objections.

While appellants found counsel intimidating, both the Stirling and Lothian Committees were more active than most in helping the appellant make his case.
RECOMMENDATION 14: We are opposed to the use of counsel by the assessors in defending their valuations against unrepresented domestic appellants, and the consequent affects on the formality of the hearing. In every hearing assessors and their staff were observed to be fully capable of presenting their own case to the committee.

The Central region assessor was quite clear in his resolve to use counsel, particularly in early hearings when questions of levels of value should be resolved. In Lothian region, we understand that the decision to retain counsel is made on the basis of the commercial appeals expected to appear at the hearing. While both commercial and domestic appeals were cited for these hearings, at the hearings we attended few commercial appeals actually reached the Committee. On most occasions all the commercial cases had been settled and only domestic appeals were heard, but the assessors continued to use counsel who had been retained for the commercial cases. Therefore, whether or not domestic appellants faced counsel at the Lothian hearings appeared to be arbitrary and unconnected with the nature of the appeal.

In commenting on a draft of this report, most assessors defended the use of counsel to present their case, particularly where an important point of principle was being raised. However, one Secretary observed that there was "not of course always a general point of principle to be found where the Assessor maintains that there is one". More fundamentally, if there is an important point of principle which has to be tested by a skilled advocate representing the assessor, then logically the domestic appellant ought to be similarly represented, not only as a matter of fairness to that appellant but also to ensure that this point of principle is tested on both sides. The use of counsel against a domestic appellant, in the words of one Secretary, "does cause difficulties for the ratepayer". This is indeed confirmed by the ratepayers in our survey, most of whom were surprised to find themselves opposed by counsel.

RECOMMENDATION 15: Where possible, assessors and secretaries should avoid citing commercial and domestic appeals for the same hearing.

At the hearings in the Borders, Dumfries and Aberdeen the assessor was accompanied at the table only by the valuer concerned with the case being heard. At the Lothian and Strathclyde hearings the assessor was accompanied by either a valuer and counsel, or a valuer alone. Other members of the assessor's staff not immediately involved usually sat well away from the table.
At the first hearing attended in Glenrothes the depute assessor was accompanied at the table by six colleagues and at the second hearing the assessor was accompanied at the table by six colleagues with three more seated directly behind. The two tape recordists also sat at the table with the assessor. At both of these hearings the assessor or his depute alone gave evidence. Appellants found this large group intimidating. One appellant, when invited to cross-examine the assessor, retorted "I would not dare to question that panel of experts".

RECOMMENDATION 16: At the hearing the assessor should be accompanied at the table only by the valuer concerned in the case being heard and others of his staff should sit well back. While shorthand recorders need to sit close to the proceedings, the assessor's staff operating tape recorders should also be placed well away from the table.
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<td>7 Found advice from elsewhere helpful</td>
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<td></td>
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<tr>
<td>10 Understood who counsel was</td>
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<td>41</td>
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<tr>
<td>11 Understood who was hearing appeal</td>
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<td>16 Felt able to put case properly</td>
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<td>49 (71)</td>
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<tr>
<td>20 Satisfied with waiting arrangements</td>
<td>25 (45)</td>
<td>30 (55)</td>
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**Notes:**

Percentages are given as % of Yes or No responses
ANALYSIS OF RESPONSES TO THE QUESTIONNAIRE

The numbers refer to the numbers in the summary table.

1. Of our sample of 69 appellants, four said they did not receive the "Notes for Guidance on Procedure".

2. Of the 65 who received the Notes, two did not read them and one passed them to his solicitor who represented him. Sixty two appellants read the Notes but nine (15%) did not understand them.

3. A further 10 who felt they had understood them found them of no use in preparing them for the procedure at the hearing.

Therefore, nearly a third of appellants (31%) found the "Notes for Guidance on Procedure" either unintelligible or of no use to them.

4. Eighty one percent of appellants either received a visit from a valuer in response to their appeal, and most of them (77%) either spoke to him at the visit or discussed their appeals later by telephone or correspondence. In most cases the valuation was checked and the grounds of appeal discussed. Some appellants responded that the valuer refused to discuss the grounds and merely stood by his valuation and others that they had discussed things unconnected with the appeal or that the valuer had attempted to dissuade them from pursing the appeal in what they thought was an unreasonable manner. Some appellants found the pre-hearing discussions their most useful source of information about the hearing.

5. However, 23% of appellants had no contacts with the assessor's department in an appeal process where the ratepayer's appeal to the assessor should only be referred to the Committee where agreement cannot be reached. A few of these were accounted for by appellants who were away or refused contact. The remaining cases appear to have been left to go through to the Committee by default.

6. Seventeen appellants sought advice elsewhere - from friends, a solicitor, a surveyor, and some mentioned a recent Which? article.

7. Most of them found this helpful either in preparing their cases or in telling them what to expect.

8. One appellant was represented by a solicitor but felt that had it not been for his poor health he could have done as well himself.

9. In about 40% of appeals the assessor was represented, or the appellant thought he was represented, by a lawyer.

10. Of these appeals, nearly 80% of appellants did not know who this was, and some thought the assessor or his depute was a lawyer (unlike the assessor and his counsel who knew who they were).

11. About 60% of appellants understood who was hearing the appeal in that the Committee was introduced by name at the hearing, or less frequently the role of the Committee as an independent arbiter was explained.
12. In most cases introductions and explanations were given at the hearing. A few appellants who did not receive any explanation remembered this from the Notes for Guidance on Procedure or from what they had been told by a valuer before the hearing.

13. Of those who did not receive any information, 40% responded that this mattered to them.

14-16 Most appellants (93%) were able to follow the proceedings. However, 20% did not feel at ease or that they were able to put their cases properly.

17. Nearly 30% did not feel that they had had a fair hearing. In this respect, many appellants whose appeals were dismissed nevertheless felt that they had had a fair hearing. Conversely, a few appellants whose appeals succeeded were dissatisfied in that they felt they should have received greater reductions.

18. Fifty one appeals were dismissed and rather less than half (47%) received a brief explanation of the reasons for the dismissal.

19. Most of those who did not receive an explanation (85%) would have liked one.

20. Excluding appellants who were called first or who did not respond to this question, fewer than half the appellants (45%) were satisfied with the arrangements for waiting until their cases were called. Dissatisfaction was strongest among those appellants who were excluded from hearings and given no information on what was happening. At some hearings which extended into mid or late afternoon, appellants felt that they should have been given clearer warning that they should allow for a whole day's waiting.
CONCLUSIONS

Domestic appellants taking their appeals to the Valuation Appeals Committee should find an informal and independent system geared to their needs as lay people.

Most of the settings used for hearings either do, or with some modification could, provide an appropriate forum. Only a few were inappropriate.

At the hearings, the openness of the proceedings, the seating arrangements and the practices of Committees and assessors showed quite a marked variation. In effect, this means that the appellants' perceptions of the system and their experience of going through an appeal not only depended on the region or sub-region but, in some instances, on different hearings of the same Committee.

A number of secretaries and assessors expressed surprise that others could do things differently. One assessor asked one of our researchers if she was not bored going to all these hearings ... "Once you've seen one, haven't you seen them all?" We would suggest that all secretaries and assessors would indeed be surprised if they were to visit other Committees as we did, and that they would benefit from sitting in on other Committees' hearings. More effort should have been made, and still could be, to provide Committee chairmen and secretaries with an opportunity to discuss the mechanics of hearings and not just the law.

On the whole we believe that Committees do provide a fair and impartial arbitration between the appellant and the assessor. Furthermore, our survey found that nearly a third (31%) of appellants who took their appeal to the Committees were successful. Whilst we would not suggest that the system should be judged on the success or failure rate of appeals, this belies suggestions that appeals are a waste of time.

However, justice is not only there to be done but should be seen to be done. At one end of the spectrum, a number of hearings were unnecessarily formal and some of these did not appear to appellants to be clearly independent and impartial.

At the other end of the spectrum, a number of hearings were too informal, without a recognisable structure, and appellants got lost. This also appears to encourage rather lax attitudes in the assessor towards justifying his valuation. As with some of the overly formal hearings, this appears to the appellant to be lacking in fairness or impartiality.

Between these extremes was a mix which works reasonably well for the appellant and for the assessor. However, most Committees and assessors could modify their practices and policies for the better, in certain instances simply by doing consistently what they already do sometimes. As we said in the introduction, all of our recommendations are based on policies and practices observed at one or more hearings. These are all positive for the appellant and none is prejudicial to the assessor. With more attention to detail we believe that these recommendations could be adopted for the benefit of all concerned.
APPENDIX

1. Details of findings and comments

Observations on individual Valuation Appeal Committees are included under regional headings and the following sub-headings:

Setting: A description of the type of premises used for hearing appeals.

Layout: A description of the layout of the rooms, seating arrangements and facilities.

Practice: Observations on the way in which hearings were conducted.

Questionnaires: A summary of the questionnaires. Where there were more than four questionnaires, these are tabulated with notes.

Additional comments from the questionnaires: Other comments added by appellants.

Comments: Our comments on the setting, layout and practice of the Committee and assessor.

2. Summary of the ground of appeal and results

3. The questionnaire
APPENDIX 1

DETAILS OF FINDINGS AND COMMENTS

LOTHIAN REGION

Hearings were attended in Edinburgh (covering Edinburgh and Midlothian), Haddington (East Lothian) and Linlithgow (West Lothian).

Each Committee was chaired by a different chairman and served by different secretaries.

Six hearings were attended in Edinburgh on the 20 and 25 February, 11, 13 and 14 March and 15 April. Altogether 11 appellants (including two small shopkeepers) completed questionnaires.

Two hearings were attended in Haddington on 7 March and 18 April. One appeal was heard at the first hearing but as the appellant was represented by an agent, and was not present, no interview was carried out. Two appellants completed questionnaires at the second hearing.

One hearing was attended in Linlithgow on 25 April where the single appellant completed a questionnaire.

Settings

Hearings were held in a local authority committee room (Edinburgh) or council chamber (Haddington and Linlithgow) with comfortable seating and adequate space.

Layout

The Committee sat at a long table, faced about 15ft away by the assessor/counsel and appellant at separate, angled tables. In Edinburgh and Haddington the Committee and the parties to the hearing sat on the same level, while in Linlithgow the Committee sat at a raised bench. Microphones were installed for tape-recording the proceedings. Public seating was arranged in rows behind the assessor and appellant.

Practice

The assessor's staff, counsel and junior if present, and appellants gathered in the committee room before the hearing. The depute assessor responsible was accompanied by the valuers involved in each appeal. At the Edinburgh hearings there were usually up to three additional staff seated directly behind the group at the assessor's table with no clear role in the proceedings. Before the hearing commenced, the depute assessor and the secretary to the Committee spoke to appellants and explained the seating arrangements. When counsel was present the depute assessor sometimes explained who he was.
Whenever the Committee entered and left the room the assembly stood up. The secretary asked the assessor or counsel to go through the case list noting appeals which had been withdrawn, settled, continued or present. The hearings in Haddington and Linlithgow were completed in the morning. In Edinburgh, if it appeared that certain appellants present would not be heard before the afternoon they were invited to leave and return after lunch if they wished.

Although the chairmen were friendly in their approach, no information was given to appellants about the composition or status of the Committee (eg, see Paisley). The chairman usually explained the procedure to each appellant, sometimes more thoroughly than others, and the purpose of the microphones, and invited them to remain seated while giving evidence. It was noted that the Linlithgow chairman used the term "question" rather than "cross-examine". The assessor, or his counsel, and the valuer always stood whilst addressing the Committee. On some occasions at Edinburgh hearings, appellants who left to return for their appeals after lunch received only a brief explanation of procedure or none at all. During the proceedings the chairmen or secretaries kept fairly strictly to procedure. It was noted that the chairman or secretary often intervened to explain or to prompt appellants or draw them out when they seemed unsure or perhaps to be under-emphasising something of significance.

In submitting his evidence the depute assessor or counsel usually led the valuer concerned with the property under appeal through a detailed explanation of the valuation with reference to the Lothian scheme of valuation for domestic property.

The members of the Edinburgh Committee appeared well versed on valuation, frequently asking pertinent and searching questions of both the valuer and appellant. As with the chairman and secretary, they were generally coaxing to the appellant, asking questions which enabled the appellant to elaborate on points of evidence which may have been under-stated.

Members of the Haddington and Linlithgow Committees asked very few questions, these usually coming from the chairman.

The Committee left the room to deliberate and returned to deliver its decision after each case. In four of eleven appeals which were dismissed the chairman gave a brief, though as far as the appellant was concerned adequate, explanation of the reasons. In the other seven cases no explanation or reasons for dismissal were given. On some occasions the Edinburgh secretary followed up by explaining that details of the Committee's decision would be available on written request after the appellant had received the decision in writing.
### QUESTIONNAIRES

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Notes (with reference to the numbers above)

2  One appellant who received the Notes for Guidance did not read them.
5  One appellant's property was visited but he did not speak to her.

Additional comments from the questionnaires

I wasn't given enough information on how the assessor values property/I could have made a better case if I knew his methods and likely arguments/more preliminary discussion with the assessor would have been helpful.
I had previous experience of courts and felt I could manage OK. It would have been better to have been legally advised/a worthwhile experience.
They should spell out the reasons at the hearing why it was rejected/I felt it was very formal but fair.
I was denied access to details of the other houses cited/sitting in on earlier hearings would have helped me to prepare a better case.
Informal proceedings/not awe-inspiring/a fair hearing.
I was objecting to the initial figure which was put on my property
and that figure is still a mystery to me.
I would hire a lawyer next time/I was told by the assessor not to
bother to turn up.
I would have liked to have had more knowledge of valuation.
Everyone said it would be a waste of time — and that is what it
proved to be.
No one likes to turn up at a specified time and be told to return
four hours later.
The assessor snooped about taking photos without introducing
himself or saying why — I called the police/I came to the hearing
feeling hostile.
More formal physically than I expected but not in how it worked/the
receptionist didn't know there was a hearing on.

Comments

The setting at these hearings was fairly formal with the appellant
and assessor/counsel seated at separate tables some distance from
the Committee, particularly at Linlithgow where the Committee sat
at a higher bench. The practice of the assessor and counsel
standing up whenever the Committee entered and left the room added
to this air of formality and confused some appellants who were not
sure what to do and looked embarrassed.

From the Committee going through the case list at the beginning of
the hearing, appellants were aware of the order of business and
their place in it. However, appellants frequently remarked that
they could not see why they could not be given a more specific time
for the hearing of their appeal. Appellants did not appear to
appreciate the difficulty of predicting just how many appellants
would appear on the day or the time each case would take, but then
neither did they appear to have been sufficiently informed about
this before the hearing. For the best of motives the Edinburgh
secretary advised some appellants that they could leave and return
after lunch when it was unlikely that they would be heard in the
morning (this did not arise at the other hearings). However, in
doing so appellants missed the benefit of witnessing the proceeding
cases, which it was generally agreed was the best form of
preparation.

The chairmen and secretaries in Lothian were generally relaxed,
confident and informal in their treatment of the parties. In
one instance the recently appointed chairman frequently referred to
the more experienced secretary for advice. In their conduct, all
three Committees showed their independence of the assessor.

While the advice and guidance which was given on procedure at the
start was usually clear and concise, it was inconsistent: on some
occasions it was fuller than on others and some appellants received
none at all. However, in keeping closely to procedure and guiding
appellants where necessary, often intervening on the appellant's
behalf if the assessor/counsel deviated from procedure, most appellants had no difficulty in following the proceedings.

It is the practice of the Lothian Committee to cite both commercial and domestic appellants for the same hearing. It was understood that a decision on whether to retain counsel for the assessor was made some ten days before the hearing on the expectations of the commercial appeals outstanding. However, if these were then settled, counsel still appeared as the assessor felt he had to justify the expense. In the event, only three commercial appeals were not settled by the day of the hearing and two of these were contested by the depute assessor. At three of the Edinburgh hearings and one at Haddington, domestic appellants and one small-shopkeeper were faced by counsel. While it was not clear why domestic and commercial appeals were cited for the same hearing, the effect was that, for reasons quite unconnected with the nature of their appeals, some domestic appellants faced counsel. While counsel modified their conduct for domestic appellants, these appellants found the experience more stressful than those who faced the depute assessor and it is difficult to reconcile this with the Committee's desire to create an informal setting for domestic appeals. At all of the hearings attended, the depute assessor appeared perfectly capable of defending his valuation.
GRAMPIAN REGION

ABERDEEN

One hearing was attended on 25 March where two appeals were heard. Both appellants completed questionnaires.

Setting

The hearing was held in a large committee room with modern, comfortable seating and adequate space.

Layout

The parties to the hearing sat around a large rectangular arrangement of tables — rather far apart from each other. The Committee sat at one end with the assessor and appellant adjacent on either side and facing each other. When giving evidence, the appellant or valuer was directed to the far end of the rectangle, facing the Committee, while the depute assessor handling the case remained in his own position. Microphones were installed for tape-recording the proceedings. Public seating was arranged in rows behind the witness’s position.

Practice

Our researcher was not present at the start of the hearing. A depute assessor conducted his own case and was accompanied at the table by the valuer concerned with the case. Others of his staff sat some distance away in the public seating.

The assembly remained seated whenever the Committee entered or left the room. Although the chairman was friendly in his approach and introduced himself, no introduction was made to the Committee and only a brief reference was made to procedure. The appellants did not recall being told who was who or being given advice on procedure at the start — they were told what to do next as the hearing went along. The assessor’s staff had given one appellant some advice on procedure before the hearing.

Both the appellants and the two valuers concerned were closely questioned by the Committee during the hearings.

The Committee left the room to deliberate and then returned to deliver its decision after each case. The decision was delivered with what the appellants felt was a reasonable explanation.

Questionnaires

Both appellants had been sent the notes for guidance on procedure. One found them easy to understand and helpful in preparing him for the hearing. The other found the notes vague and felt that they could have been more specific about exchanges of information with the assessor.
Both appellants had discussed their appeals with the assessor before the hearing.

One appellant had sought advice from a friend which he found very helpful.

Neither appellant was represented. Whilst the depute assessor had spoken to the appellants before the hearing began, both believed him to be a lawyer.

One appellant had been told that the Committee was composed of laymen while the other recalled only the chairman introducing himself. Otherwise they were not concerned with who the Committee was.

Both appellants felt that they had understood the proceedings and that they had been able to put their cases properly. Whilst one appellant felt that he had had a fair hearing, the other was of the opinion that it could only have been fair if he had won. Nevertheless both were satisfied with the explanations given for dismissal of their appeals.

The appellants had been warned that they may have to wait some time for their cases to be heard. In the event, the hearing was completed before lunch.

Comments

While this Committee was informal and friendly, appellants were given no information about it and little guidance or advice on presenting their appeals.

Similarly, while the assessor was reasonably informal and friendly in the conduct of his case, the appellants were unaware that he was a depute assessor (having had prior discussions with a valuer) and were left under the impression that they were facing a lawyer.

At this hearing the appellants appeared to be at a further disadvantage in that whilst the appellant and assessor carried out their cross-examination from their original positions, the appellant and the assessor’s witness were directed to the end of the table arrangement, while the depute assessor remained in the same position throughout. This created the unfortunate impression of the appellant being on trial and could have been avoided by both parties remaining in their initial positions throughout.
CENTRAL REGION

STIRLING

Two hearings were attended, on 28 February and 30 May. Five
domestic appeals were heard at the first hearing and four
appellants completed questionnaires. Six appeals were heard at the
second hearing where all the appellants completed a questionnaire.

Setting

The first hearing was held in a large council chamber with
comfortable seating but poor acoustics. The second hearing was
held in a committee room in the same building.

Layout

At the first hearing the Committee sat at a long table, separated
by some distance from the depute assessor, a valuer and counsel,
and the appellant who were seated at separate angled tables. The
layout of seating and tables did not appear to have been
re-arranged from that for a full council meeting to a form more
appropriate to the occasion. Public seating was available at the
members' tables behind the assessor/counsel and appellant.

At the second hearing in the committee room much of the space was
taken up by a rectangular arrangement of tables which was bolted to
the floor and therefore could not be re-arranged. The Committee
sat along one side, with the assessor, valuer and counsel opposite.
The appellant was placed further down the table and further away
from the Committee. There was very limited provision for public
seating around the periphery.

At both hearings, microphones were installed for tape-recording the
proceedings but this was not explained to the appellants.

Practice

At the first hearing the depute assessor, his staff, counsel and
appellants gathered in the chamber before the hearing began. The
chamber was freely accessible to the public. The assessor was very
friendly and made a point of contacting and discussing arrangements
with the appellants when they arrived. The secretary to the
Committee also spoke to appellants before the Committee assembled.
Some appellants were advised that they could leave and return after
lunch as their appeals were unlikely to be hear before the
afternoon.

The Committee assembled very informally, only coming together at
their table. No order was called or business announced and when
the chairman began speaking to the assessor and counsel some people
present were unaware that the hearing had begun and continued
talking.

32.
At the second hearing, the Committee, assessor's staff and counsel gathered in the committee room before the hearing started. On arrival, appellants were directed from the main reception desk in the Council building to a nearly waiting room. At the reception desk our researcher was unable to obtain directions to the committee room or information about the hearing as he was neither an appellant nor a Committee member.

While the secretary spoke to appellants in the waiting room before the hearing began we understand that they were given no information about the hearing or the order of business. We were informed that they were not told about the order of business until about 12.30pm, after one of the appellants asked. At this point two appellants who had been waiting since 10.30am asked for a postponement of their appeals as they had afternoon engagements.

The first hearing began with a commercial appeal continued from an earlier hearing and some domestic appellants did benefit from witnessing this appeal and the procedure that went with it. When the hearing of domestic appeals began, no announcement was made as to who was who and the appellants present were given no information about the order of business.

After the lunch recess at the first hearing, the chairman announced that he had been asked to introduce the Committee and informed the appellants that the committee members and himself were laymen and the secretary a lawyer.

At the beginning of the first appeal at the second hearing the chairman introduced the Committee by name and area of residence and mentioned that the secretary was a solicitor to keep them right on the law. He explained how the Committee was appointed; that the members had no specific qualifications; that they were entirely independent of the assessor and the local authority; and that they had not seen the details of any appeal so that these should be brought out at the hearing.

This announcement was made in the presence of the first appellant. None of it was repeated for any of the five appellants who followed.

At neither hearing was any appellant given any information or advice on procedure.

At both hearings the assessor was represented by counsel, who led a valuer through his evidence and cross-examined the appellants.

At the first hearing the Committee left the chamber to deliberate after each case was heard. All the appeals here were unsuccessful and they were dismissed without comment or qualification. The first domestic appellant did not hear the brief announcement and looked baffled when the next case was called.
At the second hearing the Committee remained in the committee room to deliberate between each case while the rest of the assembly waited in the corridor outside. At this hearing the first appeal was successful. The other five appeals were dismissed without comment or qualification except where one appellant asked the reasons for the dismissal of her appeal. She was not given an explanation but was told that she should write to the secretary and ask for an explanation.

During most of the appeals, particularly at the second hearing, the Committee members actively and closely questioned both parties and were generally very sympathetic to the appellants.

While Committee members were informal and relaxed in their approach, the proceedings were formal, with the assessor's counsel objecting to the least deviation from procedure on the part of the appellant.

In most cases the assessor produced plans and/or maps and photographs for the Committee. While these were shown to the appellant, he or she was not given a set for reference, except on one occasion where an appellant was given a set of photographs and on another, when an appellant asked, he was given a copy of the assessor's map.
QUESTIONNAIRES

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Notes (with reference to the numbers above):

2/3 Three appellants said they did not receive the Notes for Guidance on Procedure.

Additional comments from the questionnaires

They (the "Notes for Guidance") ought to specify the number of copies required for documentary evidence and also that photographic evidence is permitted/ Not helped by the chair not introducing himself and the Committee until several hours after the hearing commenced. Perhaps guidance for the Committee is needed.
Sitting in on the other cases much more useful than the Notes - they were useful for answering letters etc/ It would have been useful to know that they did not have a copy of the grounds of the appeal. "What will happen on the day" could be very useful. Bad organisation - "commercial" case taken first which used up half the morning/ The proceedings, and the presence of a QC, must have been frightening to the average ratepayer not used to 'court' situations. I got the impression that the Committee were more inclined to accept the QC's statements than those of the appellant, even though the latter's may have been valid. Clearly 'amateur' v 'professional'. Thus, the hearing was perhaps fair but the judgement, perhaps inevitably, favoured the assessor. I would comment that it would appear to loaded in his (the assessor's) favour.

Never knew we were supposed to have them sent ("Notes for Guidance") - ignorant of their being/ I expected as I found, an independent impartial body of men/ We were satisfied! Over the many years we have always found the assessors to be most helpful. There has never been any unpleasantness. Even at this time when we were in direct confrontation with them.

There were perhaps 15 people in the room where the hearing was but nobody explained who they were, and I had no idea who I was addressing or listening to. If I had been told that no allowance was given for damage to property as a result of heavy traffic I would never needed to have gone to the Committee.

Notes only gave the minimum of information. They made it seem that the appeal was an informal inquiry/ Everybody had an appointment for 10.30. I was expecting to be back at work in the afternoon. There was never the slightest suggestion that it might take all day/ I did not like the feeling of being guilty until proved innocent. I equate the occasion with sitting in a dentist's waiting room all day. We were not even told what order we would be taken in. We didn't really exist it was all a bad dream.

They spoke as if you didn't belong there and they took the property down as well as myself.

Arrived at court at 10.30am but was not heard until 4.40pm.

Comments

The first hearing was held in public and the appellants were able to watch preceding cases. However, aside from what they may have picked up from watching a commercial appeal which was heard first, they were given no information or advice on procedure. Except for two appellants who were advised that they could leave and return in the afternoon, they were given no information about the order of business. However, the chairman did later introduce the Committee.

At the second hearing where the council chamber was not available, while the assessor did express reservations about the use of the committee room he did not appear to have had any choice in the matter. It was quite unsuitable for a public hearing and appellants were left to their own devices in a waiting room with no information about the hearing until one appellant asked about the order of business.
At this hearing, appellants were brought one by one into a committee room full of strangers and were placed further from the Committee than the assessor, valuer and counsel. While the first appellant was given an excellent introduction to the Committee and an explanation of its role, this was not repeated for any of the succeeding appellants and no appellant was given any advice or information on procedure or any information about the other party already seated there.

The Committee members were informal and relaxed in their approach to appellants but the Committee did not exercise its powers to relax procedure to assist appellants who got into difficulties. The assessor and his counsel presented a highly organised and professional team. Whenever appellants deviated from procedure (which had not been explained to them), the assessor's counsel invariably objected and the appellant was instructed to keep to procedure with no advice or assistance. On some occasions, the appellant simply clammed up.

In its attempt to conduct an informal hearing this Committee appeared to leave the appellants to their own devices without any clear idea of the order of business or guidance on procedure.

We understand that the assessor intends to use counsel particularly in the early hearings when questions of the levels of value should be resolved. None of the appeals observed here were any more complex or contentious than those handled by assessors or depute assessors in Lothian, Strathclyde, Borders, Dumfries and Galloway or Grampian regions. There would appear to be no need for the Central assessor to be represented by counsel with the intimidating effect this has on domestic appellants.

The appellants at the first Stirling hearing claimed (in the questionnaires) that they felt at ease and followed the proceedings. However, it was observed that, compared with appellants at other hearings where clear advice was given on procedure and they were assisted by the Committee, these appellants appeared at times to be confused and later commented that the proceedings were loaded in favour of the assessor.

At the second hearing, three of the six appellants said that they did not receive the "Notes for Guidance on Procedure" and those who did receive them did not find them of any use in preparing them for the hearing. Only two of the appellants at the second hearing felt at ease and only three felt able to follow the proceedings, or to put their cases properly or that they had a fair hearing.

The assessor has produced a guide to house valuation (the "Blue Book") similar to that produced by the assessor to Fife region. While we were told that it is available to appellants who ask for it, none of the appellants at the second hearing had heard of it.
DUMFRIES AND GALLOWAY REGION

DUMFRIES

One hearing was attended on 16 April where four appeals were heard. All the appellants completed a questionnaire.

Setting

The hearing was held in a local authority committee room with comfortable seating and adequate space.

Layout

The Committee and parties to the hearing sat around a fairly small rectangular arrangement of tables with the Committee grouped at one end and the depute assessor and appellant at the other.

The assessor was accompanied at the table by a valuer and another member of his staff sat behind in the public seating. Public seating was available around the periphery and appellants waiting to be heard were seated down the one side of the room. No tape or shorthand recording was made.

Practice

The assessor and the secretary spoke to the appellants before the hearing began. The chairman and committee members also gathered in the room before the start. The hearing began by the Committee taking its seats and the secretary introducing himself, the chairman, assistant secretary who was sitting in, and the members by name and position. He stressed the independence of the Committee from the regional council and the assessor. He did not go through the procedure of the hearing but announced each step as it arose.

The depute assessor conducted his own case without calling on the valuer. Three of the appellants were neighbours, or near neighbours, and were appealing on the same grounds. At the assessor's suggestion they were heard together so that he could reply to them all at the one time. The fourth appellant was heard separately.

After each case, the assessor, appellants and public were asked to leave the room and wait in the corridor outside while the Committee deliberated. They were then brought back in to hear the decision.

The first appeal (three together) was dismissed with what the appellants considered was a reasonable explanation. The second appeal was successful.

Throughout the hearing no questions were asked by Committee members.
Questionnaires

All the appellants had received the notes for guidance on procedure. Three found them easy to understand and of some help in preparing them for the proceedings. A fourth appellant found them difficult to understand and of no help in preparing him for the proceedings.

Of the three appellants whose appeals were heard together, none had been visited by the assessor. The other appellant understood that the assessor had visited his house while he was out and he had later had discussions and correspondence with him.

One appellant had sought advice from friends who had appealed and had researched some literature on the subject. He found this very helpful. Another appellant had sought advice from a friend but found this unhelpful.

Three appellants knew of the depute assessor and that he represented the assessor. The fourth did not know who he was and this was not explained to him.

The first three appellants who were sitting at the table when the Committee was introduced heard this announcement. The fourth who was sitting to the side was aware that this introduction was made but did not hear what was said and was concerned about this.

Three of the appellants felt at ease during the proceedings and all four felt they were able to follow them and to put their cases properly.

Of the three appellants whose appeals were dismissed, two felt that they had had a fair hearing and had received a reasonable explanation of the result. The third did not feel he had had a fair hearing because "none of the tribunal said a word apart from the chairman" and would have liked a more detailed explanation of the decision.

As the hearing was completed before lunch the last appellant did not wait long for his case to be heard. All of the appellants commented on the distance they had had to travel to come to the hearing (31 miles) and two were particularly concerned that it was not possible to get to Dumfries by public transport for the time they were cited to appear.
Comments

This setting and the seating arrangements were ideally suited to an informal hearing. The positioning around the table was fairly intimate but not crowded and created no particular distinctions between the parties. The size and position of the table arrangement also left adequate room for appellants waiting to be heard and for public seating. (A similar sized room in Glenrothes was so arranged that it would have been difficult to seat waiting appellants unobtrusively and this was one reason given for placing them in side room.)

While the gathering was informal, the committee clearly stated its credentials and established its independence.

We understand that the first three appellants were the residue of a block appeal on the grounds of nuisance and that while the individual appellants had not been visited, the assessor had discussed the appeal with their spokesman.

In defence of his valuations the depute assessor described in some detail the principles of valuation and introduced comparisons of fair rents and capital values for a number of general areas without specific reference to the valuation of the subjects under appeal. In both appeals he compared his valuations with annual repayments to capital value. These approaches drew no comment or question from the Committee.

In the second appeal the Committee asked the appellant to give his proposed valuation. He asked for a 50% reduction in the rateable value. Domestic appellants are not required to submit alternative values and in any event cannot be expected to know enough of valuation practice to make realistic proposals. Those appellants who have read and understood the notes for guidance on procedure are aware of this and at this hearing, as at some of those in the Borders, this appellant was taken aback at this "requirement". While the Committee might make such a request for the best of motives, the effect could be to make the appellant appear to be making an outrageous demand and is unfair.

All the appeals cited for this hearing came from the area of Langholm some 31 miles away. After he hearing our researcher mentioned to the Committee the appellants' comments on the absence of suitable public transport to reach the hearing by the time cited. The Committee appeared unimpressed, commenting that the public did not use public transport anyway. The chairman was of the opinion that it was a "red herring".

40.
BORDERS REGION

Hearings were attended at Duns, Galashiels, Jedburgh and Peebles. All four Committees are served by one secretary and in this survey, one of the chairmen chaired both the Duns Committee and (for procedural reasons) one of the hearings of the Jedburgh Committee.

Two hearings were attended at Duns on 27 March and 1 April where seven appellants completed questionnaires; two at Galashiels on 3 and 15 April where five appellants completed questionnaires; two at Jedburgh on 16 and 23 April where seven appellants completed questionnaires; and one at Peebles on 6 May where two appellants completed questionnaires.

Setting

Hearings were held in local authority committee rooms at Duns and Galashiels, in a modernised court room in the old Sheriff Court in Jedburgh and in the old council chambers in Peebles. The space and seating were adequate in Duns, Peebles and Jedburgh but insufficient in Galashiels.

Layout

At the first hearings attended at Duns and Galashiels the layout was such that it would have been difficult to have held these in public without undue crowding. At the first hearings in Duns and Jedburgh, appellants waiting to be heard were put in a separate room and not admitted to the hearing until their cases were called and at Galashiels, appellants were left waiting on a landing outside the committee room until their cases were called. However, possibly in response to comments made by our researcher about the exclusion of waiting appellants from what were public hearings, the layout was altered to provide more space at the second hearing at Duns and all the appellants were invited in. At the second hearing at Jedburgh, where there was adequate public seating, and at Galashiels where there were only two appellants at the second hearing, all the appellants were invited in.

At Duns, the Committee sat at a long table with the assessor and appellant at separate tables at right angles to the Committee and facing each other about ten feet apart. When the layout at Duns was altered to provide more seating, the assessor and appellant were placed in similar positions but the Committee then sat at a high bench.

At Galashiels, the committee, appellant and assessor all sat around one large rectangular table with the Committee around one end and the appellant and assessor around the other. A few public seats were available around the periphery.

In the court room at Jedburgh, the Committee sat at a long table, the assessor and secretary at a separate centre table, and the appellant sat in a witness box to one side. The seating here was modern but fairly uncomfortable.
At Peebles, the Committee, appellant and assessor all sat around a large oval table.

At all of these hearings the assessor or depute assessor was accompanied only by the valuer responsible for the area. No recordings were made.

Practice

The Committee gathered first in the room while the appellants and assessor gathered outside; in Duns and Jedburgh the appellants in a side room and the assessor in the corridor; in Galashiels on the landing; and in Peebles in a very small ante room shared by people visiting the Registrar.

Before the hearing began the secretary spoke to the assembled appellants and explained the procedure. The assessor and appellants, or first appellant, were taken into the waiting Committee.

At Duns the appellants were introduced to the Committee and the procedure repeated at the start of each appeal.

At the first hearing at Galashiels, although not the second, appellants were introduced to the Committee but at neither was the procedure repeated.

At the first hearing at Jedburgh the Committee was introduced although the procedure was not repeated, while at the second (chaired by the chairman from Duns) the Committee was introduced and the procedure repeated before each appeal.

At Peebles the chairman introduced himself and went through the procedure.

All the hearings were conducted very informally with the parties remaining seated and the assessor or depute assessor presenting his own case. However, with the layout in the Jedburgh hearing, with the assessor and secretary sitting at the same table and the appellant in a witness box, it was difficult to avoid the atmosphere of a trial, albeit an informal one.

While the procedure was usually explained, this was only loosely adhered to. The assessor seldom asked questions in his cross-examination, usually entering a dialogue with the appellant and frequently introducing parts of his own evidence before he had been put on oath. While it is not suggested that the assessor deliberately used this opportunity to present evidence while not on oath, it appeared to some appellants that they were required to take the oath before giving evidence but the assessor was not. At the first hearing at Jedburgh the assessor did not appear to be placed on oath. On occasion the assessor was asked to confine his cross-examination to questions but he usually reverted to dialogue without further comment from the Committee. In his evidence the assessor often gave very non-specific details, describing valuation
in general terms rather than with reference to the subjects of appeal. Although he consulted documentary evidence, little of this was placed before the appellant or the Committee.

The assessor was accompanied by the valuer concerned with the property in question. However, the valuer was not called to give evidence and under cross-examination by the appellant it was evident that the assessor was not personally familiar with the property.

At the Duns and Peebles hearings the chairman and committee members frequently asked questions of the appellant and the assessor both during and after their evidence. At Jedburgh and Galashiels, few questions were asked other than by the chairman.

In most appeals the appellant was asked to propose an alternative valuation to that of the assessor. In only one appeal was the procedure fairly closely adhered to and this was in Duns where the appellant was represented by a solicitor.

At the conclusion of each case the parties to the appeal were asked to leave the room while the Committee deliberated (at the first hearing in Duns, in Galashiels, at the first hearing in Jedburgh, and at Peebles) or the committee retired (at the second hearings at Duns and Jedburgh).

In those appeals which were dismissed, the amount of explanation given varied. Quite full explanations of the decision and of possible further steps available to the appellant were given by the chairman at Peebles. In most cases which were dismissed the chairman expressed sympathy for the appellant and offered suggestions as to how they might seek a remedy elsewhere for their complaint.
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Notes (with reference to the numbers above)

2/3 One appellant who was represented referred his notes to his solicitor.
4 One appellant (one of two neighbours appealing) was visited by but did not see the valuer.
5 One appellant was not visited but discussed his appeal by telephone.
9 Two appellants who had not met the assessor before thought he was a lawyer.
10 They did not learn who the assessor was at the hearing.
11 Some appellants interpreted this question as personal knowledge of Committee members.
15 The one appellant unable to follow the proceeding had previously sat on the same Committee.
20 Five appellants who were heard first did not respond.
Additional comments from questionnaires

The assessor should have done his homework. I felt intimidated by being put in a side room and having to wait/no toilets or refreshments/objected to misleading questions from the panel. I felt I should have been allowed to sit in on earlier cases. Waiting facilities could have been better/previous minute should have been prepared earlier/otherwise a well set-up system. Still left with the problem/no one suggested a solution/no allowances made. I felt that the assessor using the fact that other ratepayers hadn't appealed was unfair. Disappointed. We should have had introductions to the panel/what is the cost of a quango? More formal than expected - the oath etc/thought we would sit around a table. Everything is stacked against the appellant since the assessor has all the facts and figures/I should have asked more detailed questions/I would advise friends that the procedure was a farce and it's not worth appealing/the assessor was not put on oath - "Joe Public" is not trusted but the assessor is a good guy. The whole thing was a Kangaroo Court completely in favour of the assessor. The grounds advanced varied and it was not clear how the various factors were quantified. With the exception of the time factor I was satisfied with all the circumstances of the hearing. Hearing began at 10.45 - I was not called until 4.45/a rough timetable would have prevented this. I found it impossible to get the assessor to differentiate between a property valuation based on floor area and number of rooms and the potential rent one could expect to obtain. A younger ratepayer may have been an asset to the panel/only one lady asked relevant questions/I thought the chairman's remarks on how I presented my case were patronising. Gratified that it was so open and fairly conducted - more so than I expected. The presentation of the hearing - in a "courtroom", - gave the hearing an appearance of justice. It was not just. I believe the decision of the panel was against me before I opened my mouth. As an exercise in local democracy it worked for us.../The aspect of being held in a public court was off-putting and I am sure the process could be made to appear less daunting and formal.

Comments

The four venue in the Borders each produced its own distinctive setting.
The committee room at Duns, whilst rather spartan, did provide a
good informal setting once it was re-organised to make the hearing
public. It would have been more informal at the second hearing if
the Committee has sat at the same level as the appellant and the
assessor.

The committee room used at Galashiels was apparently chosen to
avoid the more formal setting of the adjoining council chamber and
its poor acoustics. However, the space in the committee room was
inadequate and this resulted in appellants being left out on the
landing while the hearing in effect became private. Although the
appellants were admitted to the second hearing, there were only two
here and the same problem would recur at subsequent hearings where
more appellants appeared. The layout in the committee room with
the parties seated around a single table provided an informal
arrangement with no distinction between the assessor and appellant.
This same arrangement could be transferred to the council chamber
thereby creating an appropriately informal setting within the more
formal chamber but with adequate public seating. The advantages to
appellants of sitting in on earlier appeals would more than
compensate for the poor acoustics.

The practice of excluding waiting appellants from the committee
room during the first hearings at Duns and Galashiels had the added
disadvantage for those appellants who were aware of their rights to
sit in on a public hearing in that they were reluctant to press for
this for fear of prejudicing the Committee, thus adding to the
pressures on them. The court room at Jedburgh did not permit an
informal setting. The practice of placing the appellant in the
witness box while the assessor remained in his own territory at the
centre table appeared to place the appellant on trial. By sharing
the centre table with the assessor, the secretary might be thought
to compromise the Committee's independence.

The old council chamber at Peebles provided an ideal informal
setting with the parties seated around a single table and with no
distinctions between the assessor and appellant. However, the
practice of assembling the appellants and the assessor in a totally
inadequate space outside before the hearing and while the Committee
deliberated seems undesirable, particularly where there may be more
than the two appellants at this hearing or in inclement weather.
At this hearing it was a dry day and some people found it more
convenient to wait out in the courtyard. This could be avoided by
assembling the assessor and appellants in the council chamber
before the hearing while the Committee, which was fewer in number,
entered from and deliberated in a separate room.

The Committees had no dealings with the assessor or appellants
before the hearings started and usually maintained an appropriate
distance from the assessor and appellants during the hearing.
However where hearings were not open to all appellants from the
start, or where the secretary sat with the assessor as at Jedburgh,
this may not have been apparent to the appellants.
In their practice the Borders Committees were friendly and sympathetic and used their powers of discretion to relax procedure. However, whilst this was no doubt done for the best of intentions, it was sometimes done to such an extent that appellants were led to expect a certain procedure which did not materialise. The appellants' experience of cross-examination by the assessor, where he entered a dialogue rather than asking questions, ill-equipped the appellant by example to challenge the assessor's evidence, much of which came out during the assessor's cross-examination of the appellant.

The assessor seldom defended his valuation with detailed explanation of the valuation of the subjects under appeal and little reference was made to any scheme of valuation or house classification. This left the appellant with little of a specific nature to challenge.

In domestic appeals the appellant is not required to propose an alternative valuation. The practice of these Committees in asking for one appeared to take the appellants by surprise and they frequently suggested a figure which was based on the new rates they had to pay. This only served to create an impression that the appellant was expecting a wild and unrealistic reduction.

Our findings were that appellants in the Borders were no less successful in their appeals than appellants elsewhere. This suggests that the Committees here made due allowance for the appellants' ignorance of valuation and inexperience in relation to the assessor in deciding the appeals. However, this was not seen to be done and of no consolation to those appellants who were unsuccessful.
FIFE REGION

GLENROTHES

Two hearings were attended on 3 April and 22 May. Fifteen appellants completed questionnaires.

Setting

The hearings were held in a modern local authority committee room with adequate space.

Layout

The Committee sat along one side of a large rectangular arrangement of tables which took up much of the available space. The assessor and his staff sat opposite and the appellant to one side. Microphones were installed for tape-recording. There were a few public seats in the narrow space between the tables and the walls.

At the first hearing the Committee comprised the chairman, four members and the assistant secretary. The depute assessor was accompanied at the table by eight of his colleagues including the two recorders. At the second hearing the Committee comprised the depute chairman, five members and the secretary. The assessor was accompanied at the table by six of his staff including the two recorders and a further three members of his staff sat directly behind. One or two visitors (including our researchers) were also present at each hearing. Therefore, before the first appeal was called there were already some 17 to 19 people present in the room. On arrival, appellants were directed to a small waiting room next door to the committee room.

Practice

The Committee and the assessor's staff gathered in the committee room before the hearing. The secretary spoke to the appellants in the waiting room. We did not hear what was said to the appellants before the first hearing. At the second hearing, the secretary gave the appellants a clear explanation of the procedure and why there was a need for a certain amount of adherence to this. He also explained that the Committee was independent, that his role was that of a neutral adviser and that the Committee knew nothing of the details of the appeals so that all the facts should be presented. He advised them that they may have some time to wait and this depended upon the length of each case. However, appellants were not told the order of the case list or that any of them might leave and return after lunch. We were later informed that the appellants were also told that they could sit in on earlier cases if they wished. The appellants were brought into the committee room one by one for each appeal. While no introductions were offered, the committee had name cards before them.
At the first hearing the secretary sometimes told the appellant that the committee was on the right and the assessor on the left. Apart from the first appeal, the explanation of procedure was not repeated before each subsequent appeal began. At the second hearing, the procedure was clearly repeated for each appellant.

At the first hearing, some appellants assumed that the Committee was acquainted with the details of their appeal and this led to some confusion as the appeal progressed.

While procedure was adhered to, with the chairman intervening if an appellant started to make a statement when invited to cross-examine the assessor, the chairman and assessor adopted an informal, conversational approach.

The assessor or his depute conducted their own cases without calling on any of the accompanying valuers to give evidence. At the second hearing, the assessor produced relevant Ordnance Survey maps for the appellant and the Committee in each appeal. In appeals concerning size or measurement the assessor gave details of his valuations whilst in those concerning amenity he gave only general information on valuation with reference to capital values in the area.

At the first hearing, Committee members frequently asked questions of the appellant and assessor while at the second only the chairman and one member (who took the chair after lunch) asked questions.

At the conclusion of each appeal the parties were asked to leave the room and wait in the corridor outside while the Committee deliberated. The decision was given with brief explanations for those appellants who were unsuccessful. These were clearer and more consistent at the second hearing. Where the appellant's complaint concerned matters with a remedy elsewhere the Committee usually offered advice on possible actions which might be taken.

At the first hearing a group of appellants with the same grounds of appeal alleged that after lodging their appeals a valuer attempted to dissuade them from pursuing the appeal by claiming that the grounds were not relevant and they were wasting their time. The appeal was successful.

In contrast, at the second hearing it appeared that in some of the appeals listed, the assessor in visiting the appellant to discuss the appeal had come to the decision that some adjustment was required and the cases were continued. One appellant who had been offered a reduction earlier was not satisfied, continued with his appeal and was granted a further reduction by the Committee - he still was not satisfied.

Some concern was expressed by the Committee that appellants who failed to appear should be given adequate explanation and a chance to appeal against a dismissal for non-appearance.
<table>
<thead>
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<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
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<tr>
<td>Received 'Notes for Guidance'</td>
<td>15</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Understood the Notes</td>
<td>14</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Notes helped to prepare for the hearing</td>
<td>13</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Visited/visited by assessor</td>
<td>11</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Spoke to the assessor</td>
<td>10</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Sought advice elsewhere</td>
<td>3</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>Found advice from elsewhere helpful</td>
<td>3</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Professionally represented</td>
<td>0</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Assessor represented</td>
<td>4</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Understood who counsel was</td>
<td>4</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>Understood who was hearing appeal</td>
<td>13</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Explained at the hearing</td>
<td>13</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Mattered if not</td>
<td>1</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Felt at ease</td>
<td>12</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Able to follow proceedings</td>
<td>15</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Felt able to put case properly</td>
<td>13</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Felt hearing was fair</td>
<td>14</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Explanation for dismissal</td>
<td>8</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Wanted explanation</td>
<td>1</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>Satisfied with waiting arrangements</td>
<td>4</td>
<td>10</td>
<td>1</td>
</tr>
</tbody>
</table>

Notes (with reference to the numbers above)

2 One appellant did not read the notes
5 Assessor visited one property but did not speak to the appellant
6 One appellant who presented his evidence in imperial measurements was unable to follow the assessor's evidence which was in metric.

Additional comments from questionnaires

Frightening procedure (swearing the oath etc)/Valuer put people off with dissuasive phone calls.
Assessor's department very discouraging/heartened to hear the committee question the assessor so much.
Assessor was aggressive and tried to put people off on the telephone before the panel meeting.
Outcome predictable – facing bureaucracy at its worst.
Cumbersome procedure, lengthy, lack of information - difficult to ask for the right information when you don't know the questions. Private - not public. Too formal.

Geared to the Committee, not the appellant.

Whilst I was treated with respect.. the hearing was just a formality. The weakness may be in the procedure, not the committee members. All too formal.

It would have been helpful if they left a card to say who called. I still think they had the sizes wrong. I worked it out in feet and inches but they were all metric.

Terrible - stuck in small room not knowing when or what order my hearing would take place.

It would have been useful to watch the proceedings of the other claimants to help understand the procedure better.

Appeal court a waste of public time and money.

Comment

The space here was similar to that in Dumfries, Cumbernauld, Ayr and Duns where local authority committee rooms or council chambers of this size were used. While this type of room is ideal for an informal hearing, the layout of the committee room in Glenrothes precluded this. The table arrangement left little room for more than the Committee, assessor and appellant and it is difficult to envisage how appellants waiting to be heard could exercise their right to be present at what was a public hearing. Moreover, they were excluded from what was generally acknowledged to be the best preparation for the appeal, ie, witnessing preceding appeals.

We were told that appellants were allowed in if they wished. However, the fact that they chose not to do so suggests that they were not particularly encouraged. The secretary commented that having all the appellants in at the one time could create problems if some wished to leave or to smoke. This was not a problem encountered elsewhere where all the appellants were automatically included throughout the hearing. Some appellants mentioned in their questionnaires that they would have liked to have sat in on earlier appeals and most were unhappy with the waiting arrangements and with not knowing where their cases were on the list. The level of dissatisfaction with the waiting arrangements here was similar to that at the first hearing attended at Duns and the second hearing at Stirling, where appellants were also kept waiting "in the dark" in a side room.

The formality of the setting was added to by bringing individual appellants into a room where they were confronted by a sea of strange faces. Whilst the secretary did stress the independence of the Committee, nevertheless the appellant entered a room with the Committee and assessor ready and waiting. This appearance of isolation was enhanced by the distance between the parties and the number of the assessor's staff at the table. At no other hearing did we observe more than four people at the assessor's place, and usually only one or two. While the assessor may require the
presence of a number of valuers to answer questions concerning the
different appeals listed, no more than one valuer need be at the
table at any one time. Although most of his staff took no part in
the proceedings, save to pass files along the table, appellants
found the line of assessor's staff with files stacked before them
quite intimidating. One appellant, when invited to cross-examine
the assessor retorted that he "wouldn't date to question that panel
of experts".

Our main concerns here were the apparent lack of forethought in
setting up the room; that what should have been a public hearing
was in effect a private one; that waiting appellants should be
excluded from a public hearing because it was felt that they might
be disruptive; and that the assessor should be accompanied by so
many of his staff to defend his valuation against an unrepresented
and unqualified domestic appellant. That said, there was nothing
in the conduct of individual appeals which suggested anything other
than that the Committee, the secretary and the assessor wished to
provide an informal hearing for the benefit of the appellant.
Their behaviour in this respect largely overcame the intimidating
effects of the setting on appellants. These criticisms could be
addressed very simply by regarding the hearing as public from the
outset and arranging the room accordingly. Furthermore, if the
assessor were to confine his staff to those directly concerned with
the case, a near ideal hearing could be achieved.
STRATHCLYDE REGION

Hearings of commercial appeals in Strathclyde were attended primarily to view the settings and the layout adopted, and these are described below.

We make no comment on the practice of most Committees as we assume that they may well follow different procedures for domestic appeals.

Glasgow

Two hearings were attended on 18 and 27 February. They were held in the Burgh Court Hall which is an old magistrates' court. This is a large imposing room with a high domed ceiling and wooden bench seating.

The Committee sat at the high bench separated from a raised central witness box by a well which accommodated a shorthand recorder and two of the assessor's administrative staff, one of whom called the cases.

The assembly stood whenever the Committee entered and left the court. When giving evidence, the appellant or assessor's witness (a valuer in these hearings) was called to the witness box while the depute assessor, who was conducting his own case, remained at a lower-level table to one side. This created the impression that the appellant was "on trial".

There was a single microphone on the Committee bench and one in the witness box. The assessor, or appellant (when cross-examined) had no microphone and as the acoustics here were very poor, the dialogue was frequently misheard or misunderstood by the Committee.

At both hearings the depute assessor conducted his own cases.

Paisley

One hearing was attended on 24 April. It was held in a modern, comfortable regional council committee room, similar to those used in Dumfries, Glenrothes, Aberdeen and Cumbernauld.

The Committee sat at the head of a U-shaped table arrangement with the assessor (with counsel) and appellant each to one side and facing one another.

There was adequate seating for waiting appellants and members of the assessor's staff not directly involved. The Committee entered the room at the beginning of the hearing and retired to deliberate after each appeal.

When the hearing started the chairman announced that the Committee was independent of the assessor, appointed by the Sheriff Principal and unpaid. She added that it was their duty to hear and decide
each case within the framework of the law. For the benefit of unrepresented appellants she gave a clear and detailed explanation of the procedure, using the term "question" rather than "cross-examine".

The secretary later remarked to our researcher that the Committee saw its function as being to adjudicate when informal negotiations between the ratepayer and assessor have been unsuccessful. In revaluation years, as opposed to the years between revaluations, the onus is generally as much on the assessor to justify his valuation as on the appellant to dispute it. With regard to unrepresented domestic appellants the Committee wished firstly to ensure that the lay appellant was not at a disadvantage in conducting his own appeal against an experienced assessor, who may well have the benefit of the advice of counsel, and secondly to attempt to explain clearly any technical points on which the assessor is relying, so that the unrepresented appellant goes away with a clear understanding of the rules which the Committee have applied in reaching their decision.

Hamilton

One hearing was attended on 24 April. It was held in a banqueting hall in the local regional council offices. This was a large room with poor acoustics.

The Committee sat at a raised table with the appellant and assessor (with counsel) at separate angled tables to each side. A recorder sat between these and there was public seating behind.

Whilst our researcher was not present at the beginning of the hearing, we understand that the secretary explained the procedure to each appellant before the hearing and advised them to ask the chairman or himself for guidance on any points on which they were unsure during the hearing.

Procedure was closely adhered to in the commercial appeals heard here. However, we were informed that neither the Committee or assessor intended to impose procedure in this way at future hearings of domestic appeals.

The assessor commented that counsel may well be used for domestic appeals because of the numbers involved.

Cumbernauld

One hearing was attended on 14 May where two appeals by unrepresented small-shopkeepers were heard. The hearing was held in a modern, comfortable local authority committee room similar to those used in Paisley, Dumfries, Glenrothes and Aberdeen.

The Committee sat at the head of a square arrangement of tables with the assessor (with counsel) on one side and the shorthand recorder to the other. The appellant sat at one corner, partly
obscured from the Committee by the recorder and very much on the edge of the gathering. There was adequate provision for public seating.

After the Committee entered and before the first appellant was called to the table the committee and assessor had a hushed discussion for some minutes. This created the impression that the appellant was being called to join the waiting Committee and assessor to dispute their position. Following a comment by one of the Committee members, the second appellant was seated at the centre of the end table, facing the Committee.

Throughout the hearing two members of the Committee smoked constantly and the room became very close and stuffy.

The first appellant coped adequately with the procedure but the second was apprehensive and unsure. The chairman had given the appellants a clear explanation of the procedure and for this appellant he sometimes intervened to clarify some of the appellant's evidence and to rephrase some of her statements to enable the valuer to respond.

We understood from the assessor that the use of counsel in forthcoming domestic appeals would depend on his assessment of the nature of the cases.

The second appellant completed one of our questionnaires. She received the Notes for Guidance but found them difficult to understand and of no help in preparing her for the procedure at the hearing. She had consulted the assessor's office, in her opinion without success, for some explanation and guidance on the notes. She met the valuer before the hearing and discussed her appeal with him. She had telephoned a solicitor for advice and this was that she would do better to represent herself, which she found encouraging and honest. She knew that the assessor was represented by an advocate from Edinburgh. She was not introduced to the Committee and thought that the secretary was the chairman. She had felt at ease until asked to take the oath which she found "shattering". While she was able to follow the proceedings, she found them confusing and felt inadequate and futile in putting her case. She felt that the hearing was fair in that she was listened to but that what she had to say was not regarded as relevant.

Ayr

One hearing was attended on 21 May. It was held in a local regional council committee room. Although this Victorian setting gave the hearing a formal air, the tables were informally set out in an open square. The Committee sat at one table flanked on either side by the assessor and appellant at separate tables facing one another. A shorthand recorder sat at the fourth table facing the Committee and public seating was available behind.
The committee and parties to the hearing gathered together in the room before the hearing started. In this appeal the appellant was represented by an agent and the assessor conducted his own case.

We understand that the assessor retains counsel only where serious legal issues are raised or where the valuation scheme is challenged.
APPENDIX 2

SUMMARY OF THE GROUNDS OF APPEAL AND DECISIONS

Notes:

E = explanation given, in the appellants' view.
NE = no explanation given, in the appellants' view.
* = explanation given but appellant did not accept this as an explanation.
Reductions are shown as given, ie, as either % or £ with our conversion in brackets.

<table>
<thead>
<tr>
<th>Hearing Date</th>
<th>Grounds</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Edinburgh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25/2</td>
<td>4½ x increase in RV (small shop)</td>
<td>£130 reduction (6.8%)</td>
</tr>
<tr>
<td>11/3</td>
<td>Neighbours had end-allowance for new station</td>
<td>3% reduction (£30)</td>
</tr>
<tr>
<td></td>
<td>Rates too high</td>
<td>Dismissed E (by post)</td>
</tr>
<tr>
<td></td>
<td>Neighbours got 4% end-allowance for noise from loading bay</td>
<td>Dismissed NE</td>
</tr>
<tr>
<td>13/3</td>
<td>RV too high for location</td>
<td>Dismissed E</td>
</tr>
<tr>
<td>14/3</td>
<td>Noise from stock-car racing</td>
<td>Dismissed E</td>
</tr>
<tr>
<td>15/4</td>
<td>Insufficient allowance for space/conversion/traffic</td>
<td>Dismissed NE</td>
</tr>
<tr>
<td></td>
<td>Traffic noise/pollution (double appeal)</td>
<td>Dismissed E/NE</td>
</tr>
<tr>
<td></td>
<td>Increase in valuation (small shop)</td>
<td>Dismissed NE</td>
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<tr>
<td></td>
<td>Size of house/prox. to tenement (offered reduction but wanted more)</td>
<td>Extra 2% reduct. (£22)</td>
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<td>Haddington</td>
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<td>7/3</td>
<td>Assessor had given no end-allowance for being over a pub</td>
<td>6% reduction (£65)</td>
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<td>18/4</td>
<td>Injustice of system/penalised for improvements</td>
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<tr>
<td></td>
<td>House over barn/unfair increase in RV</td>
<td>Dismissed NE</td>
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<tr>
<td>Linlithgow</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25/4</td>
<td>Poorer amenities than neighbour with same RV</td>
<td>Dismissed NE*</td>
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<tr>
<td>Stirling</td>
<td></td>
<td></td>
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<tr>
<td>28/2</td>
<td>Excessive noise due to poor construction</td>
<td>Dismissed NE</td>
</tr>
<tr>
<td></td>
<td>Disagreement on attachment/private houses increased more than council</td>
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</tr>
<tr>
<td></td>
<td>houses</td>
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<tr>
<td></td>
<td>Valuation too high of similar nearby properties</td>
<td>Dismissed NE</td>
</tr>
<tr>
<td></td>
<td>Change of land use/higher RV than neighbours</td>
<td>Dismissed NE</td>
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<tr>
<td></td>
<td>commercial nuisance</td>
<td>Dismissed NE</td>
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<tr>
<td>30/5</td>
<td>Restricted access/rise in water table (4.4% reduction already offered)</td>
<td>Extra £15 reduct. (2%)</td>
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<td></td>
<td>Increased volume of heavy traffic</td>
<td>Dismissed NE</td>
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<td></td>
<td>Unstable structure/proximity of petrol station and storage sheds (GAV</td>
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<tr>
<td></td>
<td>increased on appeal)</td>
<td>Dismissed NE</td>
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<td>Poor amenity/shop opposite taken over by &quot;Indians&quot;</td>
<td>Dismissed NE</td>
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<tr>
<td></td>
<td>Air pollution/traffic nuisance/flooding by canal</td>
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</tr>
<tr>
<td></td>
<td>Noise nuisance from refrigeration plant</td>
<td>Dismissed NE</td>
</tr>
</tbody>
</table>
Aberdeen

25/3 Revaluation too high/loss of amenity
Revaluation took no account of increased industry

Glenrothes

3/4 Situation of property/poor amenity
Dampness due to underlying faults
Loss of amenity from new development (2 together)
Overvalued/increased industrial activity
Pollution/noise from Br Alu lorries (2 together)

22/5 Nuisance from OTC/lack of parking space
(but technical error exposed)
Loss of amenity due to builder's yard
Nuisance from gymnasia
Garage unfairly valued cf neighbour
Ex-fisherman's cottage/changed use/unfair value
Nuisance from neighbour's garage/conversion
to holiday flats
Poor private water supply/difficult room space
Poor access road to flats

Dumfries

16/4 RV too high/poor amenities
Smell from sewage works (3 heard together)

Duns

27/3 Nuisance from rugby ground
Failure of DC to meet planning conditions
(2 heard together over this and 10/4)
Material change/subsiding neighbours demolished
and on infill
Material change/subsiding neighbours demolished
not on infill (2 heard together)
Valuation too high/previous error

10/4 RV too high/new development nearby

Galashiels

3/4 Increase in rates/unfair valuation
Excessive increase in valuation
Excessive increase of Borders average

15/4 Too few rentals/criminal neighbour/poor amenity
Insufficient account taken of situation

Jedburgh

16/4 Fear loss of value from impending development
Overrated/change of use of surrounding property
Wanted reduction until estate was completed
(6 heard together)

Decision

Dismissed NE
Dismissed E

£50 reduction (2.7%)
Dismissed NE
Dismissed E
Dismissed NE
5% reduction (£74/25)
Dismissed E
£40 reduction (3.1%)
Dismissed E
£10 reduction (0.9%)
Dismissed E
£20 reduction (2.7%)
Dismissed E
£50 reduction (3.4%)
Dismissed E

£55 reduction (5%)
Dismissed E

Dismissed NE*
Dismissed E
10% reduction (£133)
Dismissed E
Dismissed E
5% reduction (£55)

Dismissed E (v. good)
Dismissed E
Dismissed E
Dismissed NE
£100 reduction (8%)

Dismissed E
Dismissed NE

7½% temp.reduct.
(£53-68)
<table>
<thead>
<tr>
<th>Grounds</th>
<th>Decision</th>
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</thead>
<tbody>
<tr>
<td>23/4 Increase in RV inconsistent with increases in 2 neighbouring</td>
<td>Dismissed E</td>
</tr>
<tr>
<td>estates (50 heard together)</td>
<td>7% temp. reduct. (£101)</td>
</tr>
<tr>
<td>Loss of amenity due to taxi business</td>
<td>7% temp. reduct. (£91)</td>
</tr>
<tr>
<td>Loss of amenity due to taxi business</td>
<td>Dismissed E</td>
</tr>
<tr>
<td>Poor amenity levels in the Borders</td>
<td></td>
</tr>
<tr>
<td>Peebles</td>
<td></td>
</tr>
<tr>
<td>6/5 Road not adopted/valued more than larger houses</td>
<td>Dismissed E</td>
</tr>
<tr>
<td>Fewer services than cf area with better services and same GAV</td>
<td>Dismissed E</td>
</tr>
</tbody>
</table>

RESULTS (including where more than one appeal was heard together)

Successful: 19  Range of reductions: 0.9-10% = £10-130
Dismissed: 43

Explanations in unsuccessful appeals

Explanations given: 23
Not given: 22
(includes a double appeal where one appellant was satisfied and the other not)
APPENDIX 3

SCOTTISH CONSUMER COUNCIL

VALUATION APPEALS QUESTIONNAIRE

Hearing at: Date:

Name: Day time telephone number:

1. What were your reasons for appealing? ..........................................................
   ...................................................................................................................
   ...................................................................................................................

2. Were you sent the leaflets "First Steps" and "Notes for Guidance on Procedure"? ....................

3. Did you find them easy to understand? ......................

4. If No - why Not? ..................................................................................
   ...................................................................................................................
   ...................................................................................................................

5. Were you visited by/did you visit the Assessor before the hearing? .......

6. What did you discuss with him? ..........................................................
   ...................................................................................................................
   ...................................................................................................................

7. Did you get any advice before the hearing? (eg solicitor, CABx, surveyor, friend, other) ..........

8. If Yes - did you find this helpful? .................................

9. Did the Notes on procedure prepare you for what you found when you came to the hearing?  
   ...................................................................................................................
10. Were you represented by someone at the hearing?..............

11. If yes – by whom?...........................................

12. Was the Assessor represented?................................

13. If yes – do you know who by?.................................

14. Did you know who was hearing your appeal?................

15. Was this explained to you at the hearing?...................

16. If Not – did this matter to you?............................... 

17. Were you made to feel at ease?............................... 

18. Did you understand and follow the proceedings?...........

19. Were you able to put your case properly?...................

20. If No – why Not?............................................

21. Do you feel you had a fair hearing?.........................

22. Was the result of your appeal explained to you?.........

23. If No – would it have helped to have an explanation?.....

24. What did you feel about arrangements for waiting until your case came up?..............................
25. How did you get here?

26. Was the "Court" easy to find?

27. What instructions were you given?

28. Any other comments? (Continue on the backs of these sheets if you wish)

Thank you for your cooperation.

Please return to:

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F3/FOI2
ADDENDUM TO VALUATION APPEALS:
Do domestic ratepayers get a fair hearing?

VALUATION APPEALS REVISITED

INTRODUCTION

In October 1986 SCC published a report on the hearing of domestic valuation appeals. The report was based on visits to 28 appeal hearings between February and May 1986 in seven Scottish regions. Sixty nine appeals were observed and the appellants interviewed.

We concluded that on the whole Valuation Appeal Committees provide a fair and impartial arbitration between the assessor and appellant ratepayer. However, we were concerned with the marked variation in the setting of hearings, the layout of tables, the practices of Committees and assessors between one region and another, and in some instances between different hearings of the same Committee.

Therefore, we presented the findings of the report as a series of recommendations, all of which were based on practices observed at one or more hearings, which we believed could be easily adopted and which would provide domestic appellants throughout Scotland with a consistently fair resolution to their appeals.
We have been encouraged by the positive response to this report from Committee secretaries, assessors, the Scottish Committee of the Council on Tribunals and the Scottish Valuation Advisory Council. Moreover, we understand that most of our recommendations have been or are being adopted, where these are not already in practice.

As a follow-up to the report we visited hearings at Edinburgh, Stirling and Glenrothes – Edinburgh we thought of as the median, and we had strong views about Stirling and Glenrothes. We also visited hearings at Perth in Tayside region and Glasgow, Dumbarton and Hamilton in Strathclyde region as these Committees had not started hearing domestic appeals when the original work was carried out. The visits were made between 9th October and 7th November.

Our views in the report on the hearings at Edinburgh, Stirling and Glenrothes are summarised below:

EDINBURGH

Commended: Appropriate setting; appellants contacted by assessor and secretary and given information about seating and order of business; explanation, advice and guidance on procedure clear and concise, if inconsistent; helpful, if inconsistent explanation of decisions.

Criticised: Layout too formal; unnecessary ceremony; appellants given no information about Committee; assessor's use of counsel arbitrary and unnecessary.
STIRLING

Commended: Informality; at one hearing appellants contacted by assessor and secretary and given information about seating and order of business; chairman gave helpful information about Committee.

Criticised: Setting either over large in council chamber or impractical for public hearing in committee room; appellants given no explanation, advice and guidance on procedure, or at one hearing information on order of business; unnecessary use of counsel who tended to dictate procedure; no explanations of decisions.

GLENROTHES

Commended: Informality; helpful information, advice and guidance on procedure, and on independence of Committee; helpful explanations of decisions.

Criticised: Unsuitable layout which effectively excluded waiting appellants; unequal placing of parties; excessive number of assessor's staff at table; appellants not informed of order of business.
In our report we described hearings of commercial appeals in Glasgow and Hamilton. The Burgh Court Hall in Glasgow, a Victorian magistrate's court, is severe and forbidding and the banqueting hall in Hamilton is too large and the layout was too formal. Both venues suffer from very poor acoustics and in our view are quite inappropriate for hearing domestic valuation appeals.

FINDINGS

In these findings, where the chairman or secretary is described as giving a full explanation of the Committee this was generally in accordance with SCC's recommendations, except where otherwise indicated.

EDINBURGH

The layout was noticeably less formal. The assessor had arranged for the tables to be placed closer together and for the high-backed chairs to be replaced with low-backed chairs.

On their arrival appellants were ignored by the assessor and the secretary. Two appellants asked about the order of business and one was told she would be heard first.
On this occasion the Committee was chaired by a deputy chairman and advised by an assistant secretary who normally sits with the Linlithgow Committee. Whenever the Committee entered and left the room the assembly stood up - on the first occasion the appellants remained seated and appeared embarrassed.

A preliminary commercial appeal (or legal argument), which was not listed, was taken first but with no explanation being given to the waiting domestic appellants. This took one and a quarter hours. The first domestic appellant was called forward, asked to take the oath and to give her evidence. She was given no information about the Committee or the assessor and his counsel, or on procedure.

After this appeal the Chairman announced the recess for lunch. One elderly appellant complained that he had been instructed to appear at 10.15 and had expected to be heard then. He had sat there all morning but as he was hard of hearing had no idea what was going on. He was asked to return after lunch but was unable to do this and had to contend with a continuation of his appeal to a later date.

At this hearing most of the practices which we commended at earlier hearings were absent, including those which had been consistent. In a telephone conversation a few days later the Secretary to the Lothian Panel informed us that the panel had not yet discussed the report but that he was concerned about our comments on the conduct of the hearing.
STIRLING

This hearing was held in the council chamber, which in our report we said was too large and formal. However, the tables and seating had been moved closer together and interspersed with troughs of plants. This created an informal and agreeable setting and layout.

Before the hearing started the appellants were contacted by the assessor’s staff and the secretary.

Whenever the Committee entered and left the chamber the assembly remained seated. At the beginning of the hearing the chairman introduced and gave a full explanation of the Committee, and the secretary outlined the procedure. Appellants were not informed that the assessor was represented by counsel. None of the parties was put on oath. Appellants whose appeals were dismissed were given a good explanation of the reasons for the decision.

This hearing worked well and appellants had no difficulty in following the procedure. The only criticism made in our report which remains is of the assessor’s use of counsel. None of the appeals heard here appeared to require the presence or justify the expense of counsel.

GLENROTHES

This hearing was held in a larger committee room than that used previously and we understand that this arrangement will continue.
There was adequate space and seating for waiting appellants and the parties to the appeal were placed equidistant from the Committee (although the fixed tables left them rather far apart). The tape-recordist was placed well away from the proceedings and the assessor was accompanied at the table only by the valuer concerned with the appeal.

The Committee gathered informally while the five appellants were directed to an adjoining press room where the secretary gave them a very full and clear explanation of the Committee and the procedure. The appellants were asked whether any had a pressing reason to be heard early. Two did ask for this and the others readily agreed to the list being re-ordered. They were then invited to sit in on the hearing or wait in the press room until called. One appellant chose to remain but came in later.

At the beginning of each appeal the procedure was clearly repeated and the assessor identified. Appellants were given the option of taking the oath, affirming or doing neither. Where appeals were dismissed the decision was followed by a brief, though adequate, explanation of the reasons. The chairman used the term "found for the assessor" which caused some misunderstanding among appellants.

This hearing worked well. Appellants had no difficulties with procedure which was followed more closely by both parties than at previous hearings we attended, and without intervention by the chairman. None of the criticisms levelled at the Committee or the assessor in our report could be repeated here.

7.
There was a complaint by one appellant that had he known before the hearing that the Committee had no prior knowledge of his appeal he would have come better prepared. Another appellant who expressed dissatisfaction with the dismissal of his appeal was given clear advice on how to apply for a stated case and of his right of appeal to the Lands Tribunal.

After the hearing we were invited to comment on the conduct of the hearing and had a useful and positive discussion with the Committee.

**PERTH**

This hearing was held in a regional council committee room. It was a suitable size and the layout was fair and informal. On arrival appellants were contacted by the assessor and informed of the order of business.

The Committee entered without ceremony. The chairman gave a full explanation of the Committee. He did not go through the procedure or tell appellants that the Committee had no prior knowledge of their appeals. However, appellants were given clear instructions at each step in the procedure and had no difficulty in following this. This chairman took particular trouble to relax appellants. The appeals, which ranged from a protest at the discrepancy between rates increases and public sector pay rises (conducted from the public seating) to disputes of measurement, were all treated with equal seriousness.
Appellants whose appeals were dismissed were given a brief explanation of the reasons and, in most cases, sympathetic advice on alternative remedies.

After the hearing we were able to comment on the conduct of the hearing. The chairman, secretary and assessor expressed the view that in almost all domestic appeals the use of counsel by the assessor was unnecessary and an unjustifiable expense. Their views on the SCC report were very positive and they agreed that appellants should be given advice on procedure at the beginning of the hearing.

GLASGOW

This hearing was held in the Burgh Court Hall which was described in our report.

The assembly stood when the Committee entered. The chairman apologised for the acoustics and asked witnesses to stand and speak close to the amplifying microphone in the dock. He gave a full explanation of the Committee and of procedure but referred to the hearing as a "court". The assessor was pointed out and introduced.

The acoustics were so bad here that they affected the progress of the hearing. When speaking to the microphone the witness's voice appeared to come from the ceiling but if he or she turned to answer a question from the assessor the sound was lost. The assessor had no microphone and when speaking to the bench his voice was often
inaudible in the public benches. The chairman frequently had to ask
witnesses to speak to the microphone and to speak up.

When giving evidence or being cross-examined the appellant or
assessor's witness had to enter the raised dock. One elderly
appellant with markedly arthritic ankles had difficulty getting into
the dock and had to support herself on the front of the dock while
in there. There was no seating in the dock and she was not offered
any. Another appellant became increasingly apprehensive as the
hearing progressed. She told us that she had come expecting to find
a "group of people around a table in a wee room" and did not feel
that she could face the "court". Despite our efforts to reassure
her, she left before being called and her appeal was dismissed for
non-appearance.

It was noted that the depute assessor, who conducted his own case
with a valuer as witness, was as skillful, if less formal and
dramatic, as counsel observed elsewhere. In terms of giving helpful
information and advice and guidance on procedure the conduct of the
chairman and assessor at this hearing was exemplary. However, the
effects of the setting and the appalling acoustics put the domestic
appellants at a distinct disadvantage.

The use of this court for domestic appeal hearings was raised with
the depute assessor after the hearing. We were informed that it had
worked satisfactorily for 25 years and was convenient for the
assessor as his offices were in the same building.
DUMBARTON

This hearing was held in what was formerly the council chamber of the Dunbartonshire County Council. Although it is large, it has good lighting and acoustics and very comfortable seating. The hearing was held at a group of tables at the centre of the chamber with the parties suitably close together and to the Committee. This Committee also sits at Cumbernauld and was described under that heading in the report.

On arrival, appellants were contacted by the assessor's staff and told who was who. When the Committee entered one of the assessor's staff called "Court" and the assembly stood up.

The secretary gave a very full explanation of the tape-recording and the appellants' rights, the timing of appeals and the taking of the oath. He asked if any appellant had a pressing reason to be heard first - none had. The chairman introduced the Committee and secretary, identified and named the assessor and his counsel and gave a full and clear explanation of procedure. He did not mention that the Committee had no prior knowledge of appeals.

After the first appeal the chairman announced that decisions would be made at the end of the hearing and appellants notified in writing but that they were welcome to stay and listen to other appeals.
This hearing worked well. Despite the formality at the beginning and the presence of counsel, the atmosphere was relaxed and appellants had no difficulty with procedure. None of these appeals appeared to warrant the presence or justify the expense of counsel.

HAMILTON

This hearing was held in the banqueting hall mentioned in the report. It is a large and inadequately heated hall and was empty except for the hard plastic chairs and folding tables with unfinished paint and coffee-stained tops which were provided for the hearing. The assessor's and appellant's tables were placed too far apart and the Committee table was placed on a dias. Throughout the hearing there was a loud hum from the lighting and constant traffic noise from outside, including for a time, the sound of pneumatic drills. No amplification was provided.

On arrival appellants were contacted by the assessor and the secretary. Before the Committee entered the secretary called for the assembly to stand. The chairman gave a full explanation of the Committee and secretary, identified the assessor and explained the purpose of the tape-recording. He gave the appellants no information or advice on procedure and at the beginning of each appeal asked the appellant to state his or her proposed Gross Annual Value. Procedure was announced step by step.

The acoustics here were worse than those in the Burgh Court Hall in Glasgow. During the hearing all parties had difficulty in following
the dialogue and there were a number of requests from appellants and
the Committee for others to speak up. We were sitting closer to the
assessor than either the appellant or the Committee and had
difficulty in hearing his evidence. While waiting appellants could
see the proceedings it is doubtful whether they could hear them. At
the beginning of the second appeal the chairman remarked that as the
appellant had seen the previous appeal he should know the procedure
by now.

Two appellants, when asked if they had given all their evidence
replied that "that would do for now". When invited to cross-examine
the assessor's witness they attempted to introduce more evidence and
were prevented from doing so by the chairman. The second appellant,
who had earlier informed the Committee that he was hard of hearing,
became so confused and frustrated that he asked for an adjournment to
a later time so that he could seek legal representation. This was
granted.

After the hearing we raised our concerns about the setting and
layout and the lack of advice with the chairman and secretary. The
chairman was under the impression that the secretary had explained
the procedure to each appellant before the hearing. However, on
this occasion the secretary had only managed to speak to the first
appellant. The secretary has since agreed with our suggestion that
placing the Committee table at floor level and all the tables closer
together would go some way towards easing the problems of
communication.
With regard to the accommodation they were most unhappy with the situation and we understand that this has been a long standing complaint to Strathclyde Regional Council. There is a suitable committee room above the banqueting hall but the security arrangements in the building require that either appellants must be escorted by a complicated route through the building from and to the main entrance, or an attendant must be provided for the street entrance door to the committee room suite. The Committee feels that the former is an unreasonable imposition on appellants and we understand that the Regional Council is not prepared to provide an attendant for the latter for the half day each week that the Committee sits.

CONCLUSIONS

The findings from these follow up visits were mixed and somewhat unexpected.

The marked changes observed at the hearings in Stirling and Glenrothes were most welcome and confirmation of both the practicality of SCC's recommendations and the good intentions of the Committees and the assessors.

This was our first visit to Perth and to Dumbarton (although the Dumbarton Committee was described in the report from our visit to Cumbernauld). These hearings worked satisfactorily and the Committees and assessors were clearly adopting most of SCC's
recommendations. The Perth Committee could be more helpful to applicants with advice on procedure. We were informed by the chairman that he had first seen the report on return from abroad the evening before and that he had sat up until 2am reading it!

The Edinburgh hearing was most disappointing. The hearings described in the report might be considered as the median but on this occasion only one of SCC's recommendations had been adopted - the assessor had created a more informal layout. Furthermore, most of the consistent practices we commended in the report were absent. It cannot be fair to domestic appellants that the substitution of the usual secretary and chairman should have such a marked effect on the appellants' perception of the hearing of their appeals. The assessor's use of counsel here would appear to be in connection with commercial appeals cited for the same hearing with fairness to the domestic appellant being a secondary consideration. The deputy chairman normally sits on this Committee and the assistant secretary normally sits with the Linlithgow Committee so that this cannot be put down to any lack of experience on their part. We hope that this panel will find an opportunity in the near future to discuss the implementation of our recommendations.

The valuation appeal hearings which we attended in Glasgow and Hamilton are a matter of utmost concern. We have witnessed over 90 domestic appeals and only on these two occasions have appellants who attended a hearing failed to present or conclude their appeals. Despite the efforts of the Committees and the assessors, these
settings, when viewed against the provision in Paisley, Dumbarton and Ayr, do not provide ratepayers of Glasgow or Lanarkshire with a fair and impartial means of appeal. As we concluded in our report, justice is not only there to be done but should be seen to be done.

In Hamilton the solution to the problem appears to amount on average to half a man-day per week. We understand that cost of this provision should amount to no more than £18. This must be viewed against the fee of £150-200 to retain counsel for the assessor which is sanctioned by the Regional Council. In Glasgow hearings transferred to District Council committee room in the next building when the court was being redecorated. All of these premises and services are paid for by Strathclyde ratepayers and therefore the appellant in Glasgow or Hamilton has every right to expect equal facilities to air his or her grievance to those provided for the appellant in Paisley.

Derek Manson-Smith
Scottish Consumer Council
18 November 1986.