

MINUTE OF MEETING OF SCOTTISH RATEPAYERS' FORUM
10 MAY 2005 AT JURY'S INN, GLASGOW

Sederunt: Elinor Jayne, Scottish Retail Consortium; Roger Littlewood, HBOS; Ken McCormack, James Barr representing CBI/RICS; Bill Anderson, Forum of Private Business; Carol Sibbald Scottish Executive; Sandy McConochie, President SAA; William Sommerville, Vice-President, SAA; Mike Lithgow, Executive member SAA; Douglas J Gillespie, Secretary, SAA, Jim McEwan, SAA

1. Welcome and Introductions

2 Apologies Apologies had been received from Alastair Don, Scottish Licensed Trade Association; David Lonsdale, Scottish Chambers, Allan Traynor, IRRV

2 Minutes of 15 February 2005 The minute was approved as a correct record.

4 Matters arising not on the agenda Carol Sibbald observed in connection with the revision of penalties for non-return of information, that the Executive continued to look into the matter with a view to the future. Before any change was proposed, it was intended to look into the issues arising and the problems, if any, created in the application of the new English system. If a change was ultimately decided upon, then there would be a consultation.

Roger Littlewood observed that in his experience, the system was not adequately flexible and there had been cases where companies with well established contact points and lines of communication had been pursued for penalties. It was recognised that there were certain tensions between applying the same treatment to all and taking account of special arrangements which had been put in place to deal with large organisations.

In connection with the new English appeal regulations, Roger Littlewood commented that the same sorts of issues could arise in relation to the revised English appeal arrangements where the requirement to provide the passing rent could well give rise to difficulties if a practical approach wasn't taken. He agreed to provide a paper setting out the benefits of the arrangements which he favoured.

Sandy McConochie made the point that it was recognised that the Scottish Forum had been established late to have full effect for 2005 and it was hoped that greater improvements could be effected looking to 2010. In this connection, after discussion, it was agreed that in the process of gearing up for the next revaluation it would be

useful if the forms in use were the subject of a consultation with the various ratepayers, particularly where changes were proposed. This would enable some of the misunderstandings that could arise as to their design to be explained and would also give the various organisations the opportunity to emphasise the benefits to all of the timeous provision of information.

One subset of this issue arose in connection with licensed property where there were proposals by some Assessors to seek to ingather information on an annual basis. This was in recognition, first, of the fact that some ratepayers complained that looking out historical information was burdensome. It also reflected the fact that the ratepayer at the time of a quinquennial ingathering of information might not, by virtue of tenure change, be in possession of all of the relevant information. It was recognised that it was unlikely that whatever procedure was adopted it would meet with universal approval. It was agreed that this issue could be discussed at a future meeting when Alastair Don of the SLTA was present.

Roger Littlewood mentioned that in connection with the English VORC system, which involved twenty two larger ratepayers, five had dropped out and the remaining seventeen were principally retailers and banks plus the Royal Mail. He had carried out a review of the way in which this arrangement was operating and he agreed to circulate a copy of the review.

In connection item 3.2, Billy Sommerville had agreed to raise the matter of the publication of the Forum's meetings with Assessors. Assessors were agreeable to the idea that the minutes be displayed on the SAA portal if that was the wish of the Forum. The meeting decided that this was a desirable feature and the Assessors agreed to make arrangements for this to be done. The dates of future meetings would also be included along with a brief explanation of the work of the Forum.

Under item 3.3, the issue of the representation of the Chemical Industries Association was raised. This led to a discussion of the membership of the Forum and the relatively low recent attendance being commented upon. While the CIA had been invited to attend at the inception of the Forum, it was felt that this invitation could usefully be refreshed. In addition, while it had been made clear to the Scottish Whisky Association that their attendance would be welcome, there was uncertainty as to the current status of that request. It was therefore agreed that a fresh invitation would be issued to them.

The question was raised as to whether the attendance at the English Forums had fallen away and Roger Littlewood was able to report that at a national level attendance had maintained its levels but there was some variability in the support given to the local Forums.

It was also noted that the IRRV/finance representative was not present at the meeting. The secretary explained that apologies had been received on the basis that there were no agenda items dealing with this matter. Ken McCormack reported that there were a number of issues arising out of the revaluation in connection with billing and he felt that it would be useful if finance representation was a routine feature of the Forum. It was therefore agreed that finance/billing matters would be a standing item on the agenda.

**5 Revaluation –
general comments
following issue of
notices**

It was generally reported that the response to the revaluation notices and issue of bills had been muted at this stage. This was not unusual as a large proportion of appeals were generated by agents who tended to wait towards the second half of the appeal period before lodging their appeals. There were a number of local difficulties concerned with some cases where bills had been issued on the basis of the 2004/05 valuations in instances where revaluation figures were yet to be finalised and it was understood that the re-calls had been issued in those cases. It was also felt that in some instances the clarity of the bills was poor and in a number of cases it was questioned whether the bills correctly reflected all adjustments that should be included. Ken McCormack had identified a number of such instances and had written to the finance authorities in question direct.

In one instance Ken McCormack had received a notice via a client where the notice appeared to relate to a post-revaluation change but did not contain an effective date. The Assessors present thought that this might arise from a system error and suggested that he contact the Assessor in question direct.

Bill Anderson indicated that at this stage he had not received any indication of substantial issues from members although this would be kept under review. Elinor Jayne was of the same opinion although it was “early days”.

It was confirmed by Assessors that in the case of telecom subjects such as phone masts, entries had not yet been finalised due to difficulties in obtaining information from the companies in question.

In connection with cross border matters, it was recognised that in the majority of instances local rental evidence was used and it was that evidence rather than comparison with properties across the border that was the test of the accuracy of valuations. It remained that in instances such as hotels, there were differences of opinion as to the interpretation of the flexibility of the respective schemes. Sandy McConochie observed that the approach in Scotland using three income streams appeared to be accepted by the industry and had been upheld in recent cases. No doubt these issues could be addressed at the discussion stage.

Again, in connection with billing, Roger Littlewood advised on English experience where some poor practice had been evidenced. It was recognised that the use by finance authorities of assorted software systems did give rise to difficulties and there was a degree of difficulty in identifying a way forward.

Ken McCormack raised the issue of water charges where in his view the method of billing was highly confusing and difficult to understand. It appeared that, depending on the history of a property, bills could be issued on the 1995 tone, the 2000 tone or the 2005 tone.

Sandy McConochie indicated that the SAA had had meetings both with the Water Commissioner and with Scottish Water to explain SAA concerns as to the position that appeared to be emerging but it appeared to have had no effect. Billy Sommerville indicated that Scottish Water was provided with updates but they did not appear to do anything with them. Bill Anderson shared the concerns in this area and pointed out that the change of the regulatory regime which was in progress introduced a degree of uncertainty to the current lines of responsibility. The Commissioner appeared to be being replaced by a Commission but this was still work in progress.

It was understood that Scottish Water was in the course of preparing a new charging system which would possibly come into effect in 2007.

Bill Anderson thought that it would be useful if he could keep in contact with Ken McCormack and that the matters were of such importance that some action should be taken. As a first step, Carol Sibbald agreed to provide a contact name in the relevant section of the Scottish Executive.

6. Levels of Appeal While levels of appeal appear to be low at this time, this would unquestionably rise as the deadline for lodging (30 September) approached. It was possible that discussions over the summer between the SAA and rating agents would reduce the number. It was agreed that it would be difficult to assess the impact of summary valuation pilots in Scotland and more generally in England and Wales due to the introduction of various relief schemes, transitional schemes and also due to the fact that in England and Wales it would be possible to lodge an appeal until 2010.

It was noted that in connection with the timetable for disposal of appeals, the Scottish system was much speedier than the English arrangements, complaints were still received from ratepayers from time to time to the effect that disposal was taking too long. As the timetable had not been altered, a prime determinant of the scope for improvement would be the volume of appeals and this would not be

known until September.

Assessors would likely be prepared in general to accept appeals by e-mail although there were doubts as to the strict legality of this approach in some instances. It was, however, difficult to justify rejection in the context of twenty first century processes.

The issue was raised of the attempts to devise a standard appeal form via the RICS. Ken McCormack confirmed that in his understanding this initiative had gone into abeyance as it had been recognised that most agents having their own systems would adopt their own style. It was agreed, however, that the generic form might prove useful to lay ratepayers and that this could be placed in a suitable location on the SAA Portal.

7 Progress on discussions with rating agents

The various local associations of Scottish Rating Agents had now been combined into a group called the Scottish Business Rates Surveyors' Association. Assessors would be meeting the Executive of that organisation in the afternoon. While progress was relatively slow at this stage given the requirement on agents to deal with initial client queries concerning valuation notices and billing, there had been assorted discussions in connection licensed property, whisky etc. In light of concerns as to pressure on agents arising out of the appeal disposal timetable, it had been agreed that one way of dealing with this would be to advance discussions as to general levels of value in the run up to the last date for lodging of appeals. This in the past had tended to be a quiet period and it was hoped that by increasing activity at this point in the calendar that some of the later pressures could be relieved. Ken McCormack asked whether it would be possible to monitor over time the number of appeals outstanding and Sandy McConochie indicated that this should not be a difficulty.

There followed a discussion as to the way in which appeals should be listed. It was recognised that it was probably inevitable that precedence be given to numbers which meant that because of the tendency to deal with shops, office and industrial/warehouse properties first, the number of appeals would drop rather faster than the rateable value under appeal. There was no easy alternative.

While Roger Littlewood felt that there would be merit in early discussion of issues such as allowances, it was recognised that in the current culture not all ratepayers were prepared to pay for such work and at this stage many agents had yet to receive instructions to act.

Nevertheless, there was willingness on the part of Assessors and agents to advance discussions so far as possible and progress would be reported at future meetings.

8 SAA Portal Billy Sommerville confirmed that the last of the MGF2 funded work would involve improvement of the searches which had been suggested by the Users Group. In light of the evident success of the Portal some MGF3 funding had been approved and would be kicking in shortly. Ken Scott, the Central Assessor, was retiring and the work of overseeing the Portal would now be taken over by Les Walker, the Borders Assessor. It was not unusual for the Portal to receive thousands of visits a day and there was a clear implication that this had reduced the level of inquiry at Assessors' offices.

Ken McCormack raised the issue of whether the updating of the Portal was uniform. It was explained that the intention was for the Portal to be updated fortnightly by each Assessor and the practicalities required that the up-loadings took place over time. It was possible that some fluctuations had arisen in consequence of the financial year end and the issue of bills etc. but that this was likely to settle down over the summer.

9. Freedom of Information This issue had been placed on the agenda at Bill Anderson's request. It was recognised that there were concerns from a variety of point of views as to the effect of the Act. For example, the SLTA was concerned that trading information should not be disclosed. There were also issues connected with ECHR rights particularly following the Naomi Campbell case. Equally, it was recognised that there was an underlying aim to make more information freely available and that this also had to be respected.

It was confirmed that the Assessors' approach at present was fairly conservative in character where it came to the issue of information which ratepayers would regard as confidential. This applied to all financial information. Assessors had however recognised that there was a need for openness where possible and it was for that reason that they had published their practice notes on the Portal.

10. A.O.C.B. Mention was made of the "Murphy Brothers Software" which was being used by a number of organisations to identify anomalies and errors in billing arrangements often going back a number of years. Roger Littlewood felt that the RICS might well have done something in this area but had chosen not to do so.

Concern was expressed that despite assorted warnings over the years, there were a number of "rating cowboys" operating again and that some ratepayers were being enticed into adopting unfavourable and unprofessional arrangements.

Ken McCormack observed that in his experience not all authorities were refunding payments where reductions in value had been achieved. The Forum did not understand how this could be correct.

Roger Littlewood also observed that in England and Wales some authorities were issuing bills that were incorrect in their legal form. While his own firm and a number of others were taking a pragmatic approach in relation to formal errors, he understood that some firms were taking a more precise approach and refusing to pay.

11 Date of next meeting The schedule of meetings for the period ahead were as followings:
9 August 2005, 29 November 2005, 7 March 2006.

D J Gillespie
13 May 2005