

**MINUTE OF MEETING WITH SCOTTISH RATEPAYERS' FORUM**  
**7 JULY 2004 AT VICTORIA QUAY LEITH EDINBURGH AT 10.30 am**

**Sederunt:** Sandy McConochie, President SAA (Chair), Carol Sibbald, Scottish Executive, Warwick Malcolm, Scottish Chambers of Commerce, Bill Anderson, Forum of Private Business, Ian Duff, Scottish Counsel Development and Industry, Tom Davidson, CBI, Neil Stewart, Federation of Small Business, Simon Coats, Tesco, Roger Littlewood, Interbank Rating Forum, Elinor Jayne, Scottish Retail Consortium, Charlie Crichton, RICS, Mike Petersen, IRRV, Jim Hughes Scottish Licensed Trade Association, David Watt, Institute of Directors, Douglas Gillespie, Secretary SAA

- 1 Welcome and Introductions** The Chairman welcomed the members to the Forum and effected the necessary introductions.
- 2 Apologies** Apologies were noted from Billy Sommerville and John Cardwell, SAA
- 3. Minute of meeting of 5 May 2004** The Minute was approved as an accurate record of the proceedings.
- 4. Matters arising** The Secretary indicated that he received no further intimations concerning the Milestones document although this would no doubt be dealt with later in connection with the issue of circulars.

Bill Anderson asked whether the £100 civil penalty for not returning forms would apply to Scotland. Sandy McConochie indicated that this was not presently the arrangement in Scotland. He understood that the VOA were now imposing penalties and that there had been some adverse reaction. Apparently there had been some problems with the MERI system which received bulk input of forms and some people using this system had been penalised, possibly wrongly. The matter was being sorted out. In Scotland the penalty for failure to return remained prosecution by the Procurator Fiscal. While there were cases taken from time to time, as a generality the procedure required to effect the prosecution was a heavy overhead.

Douglas Gillespie indicated that a source of friction in the process was the terms of the statutory requirement which were always repeated on the form and from time to time there was complaint about its terms. It was not believed that a statutory call for information could be issued without mention of the basis on which the details were sought.

Charlie Crichton indicated that he felt that the introduction of short forms for ingathering rent review information was a positive step. The SAA representatives indicated that while this was a form which

Assessors were happy to use in appropriate circumstances, they would tend to use the full rent form where there was doubt as to whether or not details as to incentives had been correctly provided. In relation to other forms, some of which were fairly complicated, this was often the result of feedback from sectors as to what they felt Assessors should be looking at. In other cases, for example licensed property, ratepayers often felt it was burdensome to delve back to provide details over recent years. In some areas the alternative of calling for annual returns had been adopted. Some occupiers took exception to that approach.

Sandy McConochie indicated that once the Portal was up and running it would provide forms and in due course would be able to receive forms electronically.

**5. Presentation by Sandy McConochie**

Sandy McConochie made a presentation with a view to outlining the work and activities of the Scottish Assessors' Association. Copies of the presentation would be circulated with the minute. He commenced by introducing the office bearers, two of whom were absent due to illness and holiday commitments.

So far as the Ratepayers' Forum was concerned, it has been suggested to the Finance Minister by Business and the Minister in turn had asked the Assessors whether they would see it as a useful development, which was confirmed. The primary was to aide understanding the rating system and provide a forum in which some explanation could be provided with a view to improving co-operation. It was clear that Business favoured certainty and this would be assisted by knowing what Assessors do and why they do it. This could serve to build confidence that Assessors had done the valuation job properly and that ratepayers were not paying too much or too little.

The Scottish Assessors' Association was a non-statutory body with roots going back to 1856. It had tended to adapt in response to legislative change over the years. The current incarnation of the Association had started in 1975 following the reorganisation of local government at that time. There were no significant changes in the SAA structure at the 1996 reorganisation. The current arrangement provided for 14 Assessors covering Scotland, 4 of whom were employed by local authorities and 10 through the vehicle of Joint Boards. Besides non-domestic rating valuation, Assessors also dealt with council tax banding and with electoral registration. The purpose of the Association was to exchange ideas to promote consistency in the application of the valuation regime; to provide a consultative and advisory body and to represent the interests of its members. The membership took in all Assessors and statutory Deputes and senior staff. The numbers varied but in total amounted to between 70 and 80 persons.

The work of the Association was carried out through Committees dealing with the main categories of property – commercial, public buildings, industrial, miscellaneous and utilities.

Assessors were all Chartered Surveyors as a matter of law in the post 1956 Act era. They were independent of both local authorities and government as to their valuations. Their supply and general administrative oversight was provided by the Joint Boards and the local authorities.

In their rating work, which was governed by the Lands Valuation Acts and in their Council Tax work which was governed by the Local Government Acts, the Assessor was answerable to the Valuation Appeal Committee which is an independent body of lay persons appointed independently by the Sheriff Principal and advised by a Legal Secretary. In rating cases only, some cases could be referred to the Lands Tribunal for Scotland. This could be done on the application of either party or via a joint application with refusal of referral being subject to an appeal procedure. Decisions from either the Valuation Appeal Committee or the Lands Tribunal could proceed to the Lands Valuation Appeal Court on a matter of law. In the case of Council Tax decisions there was again an appeal on a point of law from the decision of the VAC to the Court of Session. There was therefore one resort of first instance and a single appeal to the highest judicial level. This contrasted with four levels of appeal in England where cases could proceed to the Local Tribunal, the Lands Tribunal, the Court of Appeal and the House of Lords.

The SAA worked closely with the VOA in England. This started in the run-up to the 1990 revaluation which was the first carried out in England since 1973. By way of contrast Scotland had carried out revaluations in 1961, 1966, 1971, 1978 and 1985. There had been concurrent revaluations in 1990, 1995 and 2000 with the next due to take effect from 1 April 2005.

That early liaison had taken place against the background of some criticism to the effect that Scottish industry paid more. The main focus related to heavy industry and petrochemical subjects. Some of the seeming difference was the result of a different approach to the rating of plant and machinery. Scotland proceeded on a principled approach where, essentially all machinery fixed or attached was rateable, whereas England proceeded on the basis of a list approach where only items named in a list were rateable. Following a formal review this was resolved by the adoption of a Plant and Machinery Order which was the same on either side of the Border. In the case of petrochemical plants, Scotland had tended to proceed on the basis of current actual costs which were available at the time. As the costs had become less relevant, there

had been a move towards a standard unit cost basis which had aided harmonisation.

In relation to the bulk classes of property – shops, offices, warehouses and factories, the subjects were valued on the basis of local evidence and harmonisation was not an issue. At each revaluation what was produced in the Valuation Roll - a statutory document - including every non-domestic property unless otherwise exempt. The roll also contained details of the proprietor, tenant and occupier of the property. Each revaluation was a fresh determination of value which would remain in force until the next revaluation unless a change authorised by statute was merited. For the 2005 revaluation, valuation would be referenced to the fixed date of 1 April 2003. Essentially what was sought was an open market rental value on full repairing and insuring terms at that date. It was not a question of the actual rent passing but the rent that might reasonably be expected to be paid. Assessors looked at all rents available to them and struck a level in the light of that evidence.

There were three main approaches to valuation. The first was the Comparative Principle which saw rent analysed to establish a level of value usually by the application of rates per square metre of floor area. Alternatives included the use of turnover or throughput or output as in the case of mineral undertaking.

The Contractors Principle was appropriate where there was no rental market for the specialist subjects. This proceeded on the basis of establishing a replacement cost for the property, adjusting to reflect age and obsolescence and converting this capital value into an annual sum using the statutory decapitalisation rate. In 2000 this was 5.5% and it was proposed that it be reduced to 5% for 2005. A limited number of health care and education etc. subjects attracted a lower rate of 3.67% in 2000 with a proposal that this would be reduced to 3.33% for 2005.

A third method of valuation was the Revenue Principle of valuation (Receipts and Expenditure) which was used normally in situations where there was some monopoly element and where the best means of establishing value was by looking to the income and expenditure of the enterprise with a view to establishing the net balance which would be divided between the tenant as a return for his efforts and the landlord by way of rent. There were relatively few subjects valued by this method although with the possible reversion of utilities to conventional valuation, it was likely to be more widely used in 2005 than previously.

(In this connection Carol Sibbald indicated that it was still the intention to proceed with conventional valuation for utilities and the designated Assessor regime had been put in place to this end. There

would be a consultation on the Orders which would require to be laid and industry was fully aware of the intention.)

On the subject of appeal, Sandy McConochie discussed in greater detail than noted earlier the various ways in which appeals could proceed between the various appellate bodies.

On the subject of the Assessors' Portal of which there would be more mention in a later agenda item, it was hoped that this would provide a one stop shop for valuation information and particularly access to the Valuation Roll with links to the Finance Authorities and the Scottish Executive for further information under their particular remits. It was intended that a draft Valuation Roll for 2005 would be available for public inspection in November. This was against the timetable where the Assessors would provide final estimated figures for each subject to the Executive by 30 September. A one in ten sample had already been provided to the Executive at the end of June. Thereafter there would be some changes to the draft figures published as Assessors caught up with alterations to properties which had an effect on value but in the main, these would be the final figures.

In response to a question from Charlie Critchton as to whether Assessors could provide the Forum with the estimated figures, it was emphasised that at this stage there were based on a sample only and conformed to a particular stratified and weighted all - Scotland sample designed by the Executive. Focus on the average outcome in any particular area in the sample was as likely to mislead as inform. The aim was to use these figures to carry out early work which would be refined when the full figures were available, all with a view to making the announcements of the revaluation factor, rate poundage etc. in November.

Future developments of the Portal would include accepting appeals on line (which would need legislative change), submission of rental information, individually or in bulk etc..

The broad programme was therefore as follows

#### **2004**

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| 30 June        | – stratified sample provided to Scottish Office based on their statistical model.  |
| 30 September   | – values for all subjects to be provided to Executive.   |
| Early November | – draft Roll to become available on the Portal to align with the announcements by the Minister of rate poundage, transitional relief, small business relief etc. Links to the Executive's calculator site would be provided. |

## 2005

- February – the Valuation Notices would be forwarded to ratepayers. This could be done between January and March but it was likely that February would be the most usual time.
- 30 September – Last date for lodging appeals. For any subjects where notices were issued after 1 April, there would be six months from the date of issue to appeal.

In response to the presentation, Bill Anderson asked for a copy to be provided to members which was agreed. He also asked whether values were harmonised?

Sandy McConochie indicated that values were indeed harmonised and that the main complaint went back many years to the point where local authorities determined their own rate poundages and there were discernable differences in for example the rating of plant and machinery. The current difference in the rate poundage was not something which Assessors could resolve. More generally, it was never intended that valuations of shops in Glasgow should be the same as those in Durham or London. These were matters for local evidence.

There were individual classes of subject where difficulties had been suggested. For example in relation to hotels, there had been some disquiet. While it was true that details of method differed for traditional reasons, it did not have any real impact as the Scottish scheme was based on Scottish evidence. The job was correctly done if values reflected the rents in the market and this was believed to have been achieved.

In this connection, Bill Anderson raised the question of whether for example properties close to the border had harmonised values. Douglas Gillespie indicated that in point of fact that final stage in appeals on hotels had been reached the previous week where the only outstanding appeals to the Lands Valuation Appeal Court had not been proceeded with although the Lord Justice Clerk had made it clear that he wished to issue written decisions to deal with certain aspects of the cases. The levels of value were therefore established having been the subject of a full challenge. One of these cases involved a hotel very close to the Border and the evidence provided to the Appeal Committee indicated that an English subject of comparable character would have attracted the same value. It was also the case that while it was possible that rents from England and Wales could always have been referred to in Scottish cases, the law had been changed to allow the reliance on English NAV

comparisons provided their background and relevance was adequately explained. Possibly the fact that there had been no significant cases which proceeded on this basis was a strong indicator of the fact that harmonisation had been achieved.

Sandy McConochie emphasised that the work of harmonisation was ongoing and was a significant part of the SAA's activities.

A further question arose as to whether if there was a 20% uplift in Scotland it was intended to alter the thresholds of the small business relief scheme etc. Carol Sibbald indicated that it too early to say what the outcome would be. All of these matters would be looked into and the Executive was also aware of developments in England as to the introduction of their small business relief scheme. These matters would be dealt with Ministerial announcement in early November.

Elinor Jayne asked if valuations could be intimated to members as soon as possible. Could they access them during the September to November period.

Sandy McConochie indicated that the period after September would involve the Assessors catching up on work which had been sidelined to allow the revaluation process to proceed. Some values would therefore change. In addition it was felt that the valuation on its own, without the rate poundage, would convey little to ratepayers and it might indeed give rise to unnecessary concerns if for example their increase in value was of an order that concerned the ratepayer but was nevertheless smaller than the generality of increase – the overall revaluation factor.

Bill Anderson felt that as he had advised, for example in 1985, he would tell his members to sit tight until they see what the rate poundage is. Charlie Crichton indicated that it would have been useful to have a feel for the estimates as discussed earlier. His members were aware that some properties, for example, retail warehouses, were likely to be hit hard.

Carol Sibbald indicated that was a danger of moving into policy matters and away from valuation. The Minister would have a meeting with Business possibly in October at which point the issue of the small business relief TR, rate poundage etc. could be discussed. On TR a paper would likely be put out for consultation.

Simon Coats of Tesco raised the issue of the possibility of prior agreement. Sandy McConochie indicated that Assessors were happy to discuss valuations before or after November publication. There was an understanding on the part of Assessors that there was no universal view among the supermarket operators as to whether agreement could be reached on the valuation of individual subjects. There were practical as well as conceptual issues outstanding. However the fact remained that discussions had been taking place which had not been the position in 2000 and it was felt that irrespective of quite where matters ended up prior to the roll coming into effect, the discussions were of assistance and would likely speed up the process.

**6. Hotel Statistics** A paper summarising the rateable value levels of hotels and guest houses had been circulated. In response to a question, Mike Patersen indicated that it was his understanding that across Scotland the 5% automatic relief would be given to all cases under £10,000. Applications were required to access the reliefs which kicked in at lower levels of rateable value.

While accepting the statistics as given, Bill Anderson indicated that his own research had indicated that some properties classified as hotels were glorified guest houses and that it was clear that while guest houses were qualifying, hotels tended, at best, simply to qualify for the 5% adjustment. In his view therefore the relief misses the target with licensed hotels of one star and above obtain no real relief.

It was generally observed that in some cases both hotels and guest houses had part-residential apportionments. The Assessor's figures were based on the rateable part of the property.

It was recognised that there were various aspirations as to what the small business relief scheme should achieve.

**7. The Association of Timeshare Owners' Committees** The Secretary introduced this item by explaining that he had been approached by TATOC with a view to establishing whether they could join the Forum. He had sent a reply indicating that while the broad approach had been to proceed by way of umbrella organisations, he would raise the matter at the next Forum. He had also indicated that even if the Forum was not felt to be appropriate, Assessors would nevertheless be happy to meet with the Association to discuss matters of detail.



Following discussion it was agreed that it was appropriate to have a tourist umbrella organisation on the Forum and that the Scottish Tourism Forum should be asked to put forward a representative in preference to Visit Scotland which it was felt was more of a promotional body. The industry could therefore be represented via the umbrella organisation and the Assessors could, as they did with other grouping such as the Self-Caterers' Association, engage directly on matters particular to the class of subject.

**8. Revaluation  
Circular**

Carol Sibbald confirmed nothing has yet gone to the Minister but she would shortly be putting up a revaluation publicity strategy for approval. She had noted that there was some doubt as to whether a Scottish Executive sponsored series of meetings across the country would necessarily be an appropriate vehicle for providing publicity. The history of success of such meetings appeared to be variable.

The Business representatives acknowledged some difficulty in members getting along to such meetings.

It was also suggested that there might be articles placed in the press and as previously discussed there were issues as to what the Business organisations could do by way of a circular, either separately or as part of the established format of their newsletters.

It was accepted that there were no great difficulties in adding links to organisations' sites or in sending e-mails.

There remained some doubt as to whether a November circular would have benefits to match the substantial cost or whether, as with many circulations, it would simply be binned.

Sandy McConochie indicated that if it was felt appropriate it might be possible for the Assessors to incorporate a circulation with the Valuation Notices in February provided the unbudgeted additional cost was met by the Scottish Executive. There would remain questions as to who was to receive the circulation – principally the issue of whether proprietors and mid tenants were to be contacted as well as the occupiers.

Another opportunity arose at the billing stage but this was already somewhat a crowded circulation and it might not be technically possible.

There were also other initiatives which required publicity and would also serve as vehicles for publicity including the RICS help line, the Assessors' Portal and the rating information site being established by the Scottish Executive.

The balance of discussion recognised that there was some uncertainty as to the benefit of a November circulation in addition to the other publicity which might be undertaken. There were also concerns as to how the correct balance would be struck in making ratepayers aware of the issues, not all of which would interest them, in a succinct form which should carry the details as to how to follow-up and obtain further information where relevant to a particular business.

Carol Sibbald agreed to take account of these matters in drawing up her proposed strategy for consideration by the Minister.

**9. Website presentation** Sandy McConochie then introduced a short presentation dealing with the Assessors' Portal.

The progress on the Portal had advanced to a stage where it would be available for testing by Assessors in June/July. A soft launch was intended for August with agreement on version 1.1 being reached by September. During October the revaluation figures would be posted and from 1 April 2005 the SAA Practice Notes would be placed on the site.

He then proceeded to demonstrate aspects of the site by reference to a range of searches using assorted parameters and lines of access into the Portal.

A query was raised as to whether the site would be searchable by description code. Sandy McConochie indicated that it would not at this point but Bill Anderson queried whether this would be as helpful as it might be in relation to some of the work he had done searching for hotel values and Charlie Crichton queried why it should not be available in Scotland when this type of search could be carried out on the VOA site and other commercial operators had added some improvements.

There then followed a discussion as to the balance that was to be struck between Freedom of Information and confidentiality, the implication of decisions such as the "Robertson decision", name searches and related matters including the contents of Assessors' publication schemes.

Sandy McConochie indicated that the initial aim of the Portal had been to replicate that which could be obtained at present by visiting the Assessor's office or a library. It was recognised that over time the Portal could be developed but that this was dependent on resources being made available – the Assessors had applied for money from the MGF3 pot – and also in relation to the advice received as regards what could be disclosed which was also part of the Portal project. It was agreed to give further consideration to the issue of searches by description code. The Assessors would also give close consideration to the input from the user testing which would be set up for later in the summer.

It was acknowledged that as presented the site would provide a significant improvement over existing paper based documents.

**10. A.O.C.B.** Bill Anderson raised the issue of the RICS Practice Note on the taking of rating instructions. It was confirmed that this was mandatory on all RICS members and would add a certain clarity as to how agents were to proceed in obtaining instructions. There followed some discussion of the difficulties which had arisen and at the previous revaluation where certain unscrupulous agents had obtained money by dubious means and in some cases by outright misrepresentation. It was agreed that this matter would be placed on the next agenda as revaluations were the point at which this matter was of the greatest importance.

**11. Date of Next Meeting** It was agreed that the Forum would meet again in September in advance of the proposed meeting of Business organisations with the Minister and the announcements concerning the revaluation.