

THE VALUATION TRIBUNAL FOR ENGLAND: THE PRESIDENT'S EARLY THOUGHTS*

GRAHAM ZELICK

An address delivered to Presidents, Chairmen and Members of Valuation Tribunals in London and the Home Counties at Drapers' Hall, London on 20 February 2009

One of the first things I was told, long before my appointment was announced, was the date of the Presidents' and Chairmen's Conference, and its importance; I duly entered it in my diary. Only much later did I realise I was expected to speak. It felt like a repeat of the experience of being summoned, within days of being appointed Chairman of the Criminal Cases Review Commission five years ago, to give evidence about every aspect of the Commission's work and performance to the Home Affairs Select Committee.

At times, this speech seemed like a no-win situation. If I were to make substantive points and reveal firm views about things, I was vulnerable to the accusation that I had a closed mind and had rushed to conclusions without adequate experience or knowledge; but if I were to speak only in vague generalities and abstractions and to reveal a completely open mind, then it would be said that I was devoid of ideas, vacuous and full of platitudes.

I shall try to steer a path between these two unappealing extremes because, in truth, although I have been in post only a few weeks, there are some thoughts I'd like to share with you at this stage.

It was a severe disappointment not to be able to deliver the address at the recent Presidents' and Chairmen's Conference and I am so pleased, and relieved, that you have been able to come today at such short notice. My thanks also to our staff and to the Beadle and staff here at Drapers' Hall for organising today's event so quickly and efficiently.

Let me provide you with a sketch map of the terrain I plan to cover by listing the topics I propose to discuss:

- Fundamental principles
- The VTS
- The VTE
- Vision

I am, in fact, delighted to have this opportunity to speak to you today and meet so many of you. I am glad, too, that several Clerks and members of staff have been able to attend. Many of you have invited me to forthcoming AGMs and other meetings and I am much looking forward to meeting more of our colleagues on these visits and learning much in the process.

* This is an edited version of the talk as delivered. The full version is available on a DVD.

My first few weeks have been something of a whirlwind, but I am enormously grateful to everyone for extending a warm welcome and for doing so much to help me acclimatise to this new role. I am using this period, as the writer in the first issue of *Rebus* put it, “to understand fully the ethos and culture of the service, and to get to know the membership”.

Much of what I have seen and learnt over the past six weeks has greatly encouraged and impressed me: for example, the work on training, appraisal and mentoring, and the launch of *Rebus*, evince a degree of commitment, interest and seriousness that is highly commendable. We can certainly build on these foundations.

Fundamental Principles

There are three fundamental principles for the VTE on which I should like to comment. I am wholly committed to its *local* nature, to a membership that is essentially *lay and voluntary*, and to *continuity*. I want to say what I mean by each of these - and no less important, what I don't mean.

- Local

Hearings should continue to be held in locations as close as possible to the homes or places of work of the parties and the members. The VTE must provide local justice with members drawn from and who know the locality. But this has to be balanced against the frustration of having lists too short to justify a sitting, and the costs of arranging hearings for very few appellants. We must strike a sensible balance.

A commitment to local hearings by local members says nothing, however, about the number of offices or their location, a topic on which I am not today qualified to speak, other than to make two observations. First, I know of at least one national tribunal which sits all across the country - in England, Wales and Scotland - run from a single office. There may well be others. I am not proposing *that* as a model, but it is a fact. Secondly, money spent on rent and bricks and mortar is money not available for other things, including people, which might materially enhance the quality of the service we provide and therefore the quality of justice we dispense. Pressure on our finances is bound to intensify in the coming months and years.

It is vitally important that when we come to recruit new members and chairmen for the VTE, we are able to do so locally and effectively. It is envisaged that the process will in future be handled by the Judicial Appointments Commission and I shall shortly be opening discussions with the Ministry of Justice and the JAC to ensure that they have the capacity and the ability to run recruitment campaigns on this basis. If we cannot be satisfied of that, then different arrangements may have to be made.

- Lay and voluntary

The voluntary principle is under threat in public life and an endangered species in tribunals. The General Commissioners are about to be swept away. It is my hope that we can preserve it in the VTE.

The unpaid lay member of a tribunal has much to offer the administration of justice, provided there is a seriousness of purpose, good training and expert advice. He or she brings the sound judgment and robust common sense of the responsible citizen and I welcome it.

The unpaid lay member clearly is not expected to bring legal and technical expertise, but that is the only way in which our members should differ from the professionals who sit on other tribunals and in courts. A lay panel is not an excuse, still less a justification, for a lower standard of justice. Indeed, in some respects I would hope it might be higher.

It is not completely unknown – though happily now very rare - for some lawyers to bring to the bench qualities of pomposity, irascibility and incivility that are an affront to justice and an embarrassment to others on the bench. As lay men and women, you are able to bring standards of courtesy, respect and understanding that have not been eroded by years in professional practice or on the bench.

I hope you will take pride in holding judicial office in a national tribunal and will recognise its obligations. While it is undoubtedly a great honour and privilege, it is above all a signal obligation. You are the face of public justice. You are a part of this country's justice system and stand between the citizen and the State in a dispute. You may be the only occasion on which the appellant personally confronts the judicial system: by that experience he will judge the justice system and surely as you judge his case.

That is why we ask from you the very highest standards of judicial conduct, as high as if you were sitting in the High Court; that is why the rules governing your conduct are no less stringent; and that is why (even though you are lay and unpaid) you will be asked to accept and sign new Terms and Conditions (on which there will shortly be full consultation) before you can transfer on October 1 to the new Tribunal.

- Continuity

I want the transition from 56 local tribunals to a single national Tribunal on October 1 to be smooth and uneventful, and in many respects it will be business as usual, as the writer in the first issue of *Rebus* put it - same staff, same venues, same types of cases, same decision-making powers, same range of appellants.

But changes there must be, else one might ask why replace the 56 local tribunals. I am sure you will accommodate and adapt to such changes as there are, designed to secure consistency and enhance decision-making. There is much in the tradition and practice of

the valuation tribunals we shall want to preserve, while remaining open to new ways of doing things where that is appropriate.

The Valuation Tribunal Service

I don't know if the VTS is the optimal model for administering our tribunal system. I do know that as President I wouldn't want to have to shoulder the burdens of the Chief Executive in addition to my own; I do know that as President it would not as a matter of principle be desirable for me to have the responsibilities to Ministers of the Chairman; I am certain that the creation of the VTS was a genuine attempt by the Government, whatever you may think of it, to make better arrangements than existed hitherto and that the membership of the Board was designed to protect and preserve judicial independence; I am convinced that it is right that the President is a member of the Board; and I am fairly certain that to create the VTS without a single judicial head being in place was a sure recipe for conflict and tension.

And so it has been. But it must come to an end. It is history and we must all move on. If there are in the future incursions into the judicial sphere, then the person to blame will be me. It is my job to ensure that such things do not happen. I am confident they will not. I need no lessons in judicial independence or its importance: I have been a constitutional lawyer for 40 years. I know what it is - and what it isn't.

From October 1 the VTS exists for one purpose and one purpose only, to administer and support the new Tribunal. There is no conflict between us. The Board must of course be mindful of the dictates of prudence and propriety in connection with public funds, but I have not the slightest doubt that every member of the Board, and the staff, are fully committed to the Tribunal's aspirations to deliver independent justice. I was particularly interested to see the high level of satisfaction with the VTS that was revealed by the recent Members' Survey.

Our aim must be to work together closely and constructively for the good of the Tribunal and those we serve. To that end, we are working on a protocol to capture in words the relationship between the VTS and VTE and between the Chairman, the Chief Executive and the President.

Already, to take one small example, the Training Strategy Committee has been disestablished as a committee of the Board and re-launched as a Group responsible to me. Board agendas now contain a standard item 'President's report' instead of 'Judicial matters'. We have also decided that for most purposes we should discard the formal distinction between VTS and VTE, with all the confusion it creates on literature and letterhead and simply use 'Valuation Tribunal' instead together with a strapline reading 'Council tax and rating appeals'.

The distinction between the administrative and the judicial is not always entirely clear-cut, but with a President in place, I am sure that goodwill and common sense will mean a purposeful and harmonious relationship.

The Valuation Tribunal for England

Although there was widespread support for the creation of the VTE, the Members' Survey discloses some unease and uncertainty about the new Tribunal and little real enthusiasm. I understand that, and it would be surprising if it were otherwise. My job, of course, is to change it: to inspire confidence and arouse enthusiasm. I do not expect to accomplish that goal by the end of today, but I shall be working at it. This is a start.

The Survey also reveals that one of the main causes of dissatisfaction is lack of sittings. We must deal with that, and over time bring membership into line with the workload.

We must work hard on communications with the membership. It is a truth universally acknowledged, that a single President in possession of a good budget,¹ must be in want of a vice-president, or in my case of four. I hope the presidential team, once in place, will be able to forge strong links with the membership throughout the country.

I had a valuable session with Presidents at the recent QPM about the future organisation of the Tribunal's members and how best to capture the enormous experience and knowledge that is out there. I shall be consulting all members about this in the very near future.

Meanwhile, intensive work is under way to produce new modern rules of procedure that will give us all the powers we need. As the Minister said at the Conference, a consultation paper on some of these issues will be published imminently.

It is of course my intention to sit once I have a Tribunal on which to sit and once I have mastered the relevant law, but for the time being there is more than enough to keep me occupied in preparing for October 1.

All the literature needs revising, as do the Complaints Procedures; business arrangements and other procedural matters need drafting; a Registrar and Chief Clerk must be appointed; and much else.

Vision

Many years ago when I was in academic life I read an article in the American weekly newspaper *The Chronicle of Higher Education* which struck a chord at the time and made an enduring impression. It had a simple theme. Its author, a senior professor in an American university but not part of the administration, argued for the replacement of the fancy mission and vision statements that were then all the rage by a reinstatement of the traditional standards of good administration: of phone calls returned and letters and memos answered; of clear speaking and writing instead of jargon and management speak;

¹ In case this text should fall into the hands of the auditors, I should make it clear (as Miss Austen would doubtless discover very rapidly were she an applicant) that the budget is, in fact, the VTS's and not the President's.

of integrity and genuine concern for colleagues and staff; of well-chaired and necessary meetings; and ample time for the real business of the university - the teaching and research - to flourish.

How I agreed with that then and now. And ever since I have been wary of grandiose visions and mission statements, and suspicious of those who can talk the talk but whose talents stop there. I have preferred to be judged by performance and what has been achieved. But times and circumstances may be special, and as we stand on the threshold of a new Tribunal, I think I would be failing in my duty to you if I did not at least venture to capture in a few words my ambitions and aspirations for our new Tribunal.

I want the VTE by its success powerfully to affirm the case for an unpaid lay membership. I want our training and appraisal arrangements to equip every chairman and member to discharge the duties of the office with courtesy, efficiency, accuracy and consistency. I want our clerks to be well enough trained and qualified to provide advice of the highest quality. I want our hearings to be exemplary and to impress parties and their representatives, and the observer, whether casual or formal, such as the Administrative Justice and Tribunals Council. Evidence will have to be exchanged well before the hearing with no one ambushed or taken by surprise by new evidence or argument on the day of the hearing. I want complaints investigated promptly and rigorously and errors speedily corrected. I want unrepresented appellants given the appropriate degree of assistance at the hearing, and all parties to testify to a much higher degree of customer satisfaction than at present. I want the administrative services to be of the highest quality in support of our judicial work and I want us to list and case manage appeals firmly and fairly. I want our independence and integrity to shine through. I want the quality of our decisions to be acknowledged on appeal. I want to see the VTE as good as any other tribunal in the country and ultimately among the very best.

I am deeply honoured to have been entrusted with these responsibilities and I hope to be able to provide the “strong judicial leadership” of which Lord Newton wrote in *Rebus*.

I believe I can make a contribution to these aims; but it can *only* be a contribution. Their realisation will require a concerted effort by every one of us - the VTS Board, the staff at all levels, the Vice-Presidents and above all the chairmen and members. Together, we will make a formidable team. I invite you to transfer on October 1 to the Valuation Tribunal for England so that together we can fulfil the hopes and expectations of the Government and of Parliament in devising and enacting this legislation. It depends on us.

Please come on board: I predict a stimulating and fulfilling journey!