



Tax Appeals Stakeholder Group

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Foreword

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Author: Leueen Fox

Document Approver Tax Appeals Stakeholder Group

Signature _____

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Document Purpose This document provides background information and sets out the current tax tribunal position.

Amendment History

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1.0	25/02/05	Vicky Molloy	Final Version for Stakeholders
2.0	15/03/05	Leueen Fox	To take into account stakeholder comments

INTRODUCTION AND OVERVIEW

1. Members of the tax appeal stakeholder group have been drawn from a wide range of interests. The purpose of this paper is to set out basic background information to tax reform to ensure that all those involved in the group have a common understanding of the area. The paper attempts to be neutral and simply to set out the stall.
2. The paper covers
 - the basic background to each of the four direct and indirect taxation tribunals;
 - Annex A provides a summary of the evidence and proposals for reform together with their common themes and features; and
 - the administrative justice context for reform as set out in the White Paper 'Transforming Public Services: Complaints; Redress and Tribunals'.

THE CHANGING CONTEXT

3. The O'Donnell Review (to recommend the best organisational arrangements for HMCE and IR to achieve the Government's tax objectives) reported in 2004. That recommended the creation of a merged department HMRC (Her Majesty's Revenue and Customs). Over time definitions, processes and structures within the two departments will move together but there are no current plans to change the underlying tax legislation.
4. The creation of HMRC, the aspirations for the future of administrative justice set out in the White Paper, the formation of the Tribunals Service and the opportunity for change presented by the proposed Courts and Tribunals Bill together create the climate for a radical overhaul of the tax tribunals.

THE TAX TRIBUNALS

5. There are three taxation tribunals administered by DCA: Special Commissioners, VAT & Duties Tribunal and General Commissioners. All of these are first instance tribunals with onward appeals going to the High Court. A further specialised tribunal, Section 703, remains within the ambit of Inland Revenue but is intended to move into DCA and is therefore included within this paper. The structure of the existing tax tribunals is set out in primary legislation¹.

¹ Taxes Management Act 1970 Section 2-6 (Special and General Commissioners); Income and Corporation Taxes Act 1988 Part 17 Chapter 1 (Section 703 tribunal) and Value Added Tax Act 1994 Schedule 12.

6. Most of the judiciary involved in the tax tribunals is part-time; there are only 6 salaried full time members. All the General Commissioners are lay volunteers although the lay members of the VAT and duties panels are remunerated. There is considerable overlap between the Special Commissioners and VAT and duties chairs; all but one of the latter are appointed as Special Commissioners.
7. Appeals to the VAT and duties tribunal are lodged with the tribunal however appeals to the Special and General Commissioners are lodged with the Inland Revenue. In practice this results in a process where the Inland Revenue largely control when appeals are heard. Within HMCE there is a review stage for disputed decisions (but this is a non-statutory process for VAT). Appeals made to the Inland Revenue are initially considered for settlement under Section 54 of the Taxes Management Act 1970.
8. A further difference worth noting is that in direct taxation appeals the tax is usually postponed pending appeal, conversely in VAT appeals legislation, the presumption (subject to hardship considerations) is for the tax to be paid or deposited prior to appeal being 'entertained'².

Jurisdictional overlaps

9. The Special Commissioners and General Commissioners cover much of the same direct taxation jurisdiction although some specific issues are reserved to each eg Special Commissioners deal with Inheritance Tax issues whilst General Commissioners hear appeals on tax coding notice. In other cases either taxpayers or the Inland Revenue elect which tribunal is to hear the case. In practice an effective system of self-selection operates - taxpayers with long, legally complex and contentious cases involving large companies usually elect for hearing at the Special Commissioners whilst the General Commissioners generally hear cases at the other end of the spectrum.
10. In addition the jurisdiction of Section 703 tribunal intermingles with that of the Special Commissioners, the Section 703 tribunal re-hearing appeals from the Special Commissioners (see paragraph 27 below).
11. The VAT and duties tribunal has no area of overlap with direct taxation tribunals. However the law in relation to the seizure and restoration of goods and vehicles seized by Customs Officers is split between the Magistrates Courts (which hear appeals against the seizure) and the Tribunals which hears appeals against the terms of restoration or non-restoration. HMCE and DCA have examined the feasibility of creating a unified jurisdiction for these issues within the tribunal and concluded that such an approach would be more transparent for customers and establish a more coherent jurisdiction. HMCE are taking this opportunity to re-look at

² Value Added Tax Act 1994 Section 84

the legislative provisions in this area to ensure that the appealable decisions themselves are clear and workable within a tribunal setting. Implementation of a jurisdictional change will be made only when the reformed tax tribunal is working efficiently and additional capacity has been built or identified.

Onward appeals

12. All of the existing tax tribunals are first instance tribunals. Onward appeal is generally to the High Court (the Inner House of the Court of Session in Scotland, and the Court of Appeal in Northern Ireland). However, in England and Wales, the Special Commissioners and the VAT & Duties Tribunal, may in certain cases (and with the agreement of the parties and the Court) direct a case to the Court of Appeal. Onward appeals are on a point of law and those stemming from the General Commissioners are made by way of a statement of case prepared by the Clerk.

GENERAL COMMISSIONERS

Organisation

13. There are 403 divisions of General Commissioners across UK with 2,500 General Commissioners and 277 Clerks. General Commissioners are appointed by the Lord Chancellor on the recommendation of local Advisory Committees make decisions on appeals and applications stemming from the Inland Revenue³ (in Scotland appointments are made by Scottish Ministers). These Advisory Committees are non-departmental public bodies whose members are also appointed by the Lord Chancellor, their guidance notes outline a number of functions namely – to make recommendations for appointments, monitor workload against resources and to advise the Lord Chancellor as required on policy issues. Advisory Committees have also helped from time to time on the investigation of conduct complaints, which cannot be resolved at divisional level. Advisory Committees are usually chaired by Lords Lieutenant or their appointees. DCA has recently issued guidance to help standardise the process for General Commissioner appointments and complaints investigation.

14. General Commissioners are lay volunteers appointed for their local and business knowledge, a number are legally or accountancy qualified. They are appointed to individual Divisions but can also be cross-appointed to other Divisions (generally within their county). Permission to serve in other Divisions must be given by the Lord Chancellor personally. On appointment, General Commissioners are required by IR to sign a declaration of secrecy in common with all those to whom IR necessarily pass details of a company's or individual's taxation matters. They

³ other than decisions relating to tax credit and child trust fund recipients and account providers which, under interim arrangements, are dealt with by the Appeals Service and the Office of the Social Security and Child Support Commissioners

additionally sign a declaration on taking office, which requires them to 'maintain the dignity, standing and good reputation of the General Commissioners at all times and refrain from conduct or activities inconsistent with those standards'. There are no other 'terms and conditions' of office eg commitment to sitting, appraisal or training.

15. Each Division is autonomous; there is no hierarchy or accountability except that within the Division of the Clerk to the General Commissioners (or to a higher court on appeal or judicial review). Many Divisions hold AGM's and appoint chairs but there is no statutory requirement for this and appointments may simply be on seniority rather than ability or aptitude.
16. General Commissioners appoint their Clerk, and statute sets out a number of duties that a Clerk is required to undertake. These are primarily concerned with sending out notices and preparation of cases for answer or appeal. A number of other duties have become attached to the office by custom including giving legal advice to the General Commissioners but there is no requirement for the Clerk to be legally qualified and a number are not (but include chartered accountants and retired tax inspectors).
17. Clerks are responsible for all the administration pre and post hearing. IR systems produce meeting summoning notices for appellants, which are sent to the Clerk for dispatch⁴. The clerks arrange the panel for the hearing, accommodation, deal with correspondence from IR and the taxpayer. This results in a huge range of accommodation (from hotels to courts and Clerks' own offices) and variation in customer service. There is no IT support provided by DCA. DCA do provide standard letter heads, forms for claiming expenses etc and meeting returns.
18. Clerks are required by DCA to submit invoices for expenses etc and a meeting return, which provide basic statistical analysis of the appeals and applications heard at each meeting which shows that there is a large volume of postponements and adjournments. Clerks' fees are calculated largely by the length of the meeting. This basic information does not allow cases to be tracked through from beginning to end and so it is impossible to say how many times an individual appeal comes before the General Commissioners, whether or not a decision is made and how long the case takes.

Caseload

19. As noted earlier there is a great deal of overlap between the General Commissioner and Special Commissioner caseload. The workload of General Commissioners has greatly diminished since the introduction of self-assessment. Robust statistics are not available for the entire period

⁴ Although the taxpayer can ask for their appeal to be listed at any point once it has been made, in practice this means that tax appeals are listed at IR's instigation rather than the taxpayer's. DCA is currently working with IR towards introducing published guidance which would require cases to go to the tribunal after a fixed period unless both parties agreed otherwise

but an analysis of the current workload is included in paper SG01/04A. Two particular points to note are that:

- the statistics cannot track the progress of a single case through the system, they simply record each item on the list at each meeting and anecdotal evidence is that cases may be listed and adjourned or postponed a number of times before disposal and
 - a recent IR initiative to impose daily penalties on taxpayers who fail to file returns (penalties must be ratified by either the General or Special Commissioners before imposed) now accounts for around 65% of the General Commissioner workload (20% of actual hearing time).
20. This falling off in workload has resulted in a mismatch between it and the numbers of General Commissioners. In an attempt to redress this there has been an appointments moratorium in operation since 2001. Although this has reduced the overall numbers of General Commissioners it has not addressed the fundamental issue of too many judicial officer holders with not enough work to keep their knowledge and skills current.
21. Over the past three years DCA has made a number of improvements to the General Commissioner system (for example a more comprehensive customer information leaflet; publishing guidance on appointing Clerks and General Commissioners; a series of Divisional amalgamations; appointing a training director to run an annual programme)
22. Structurally, there is little further than can be done to improve the system's flexibility and individual's workloads within the strictures of current primary legislation without putting existing clerks out of office against their will or asking General Commissioners to step down. Neither of these actions would be in line with current policy or legislation and the fall out produced is likely to be of the same order as that engendered by a wholesale reform.
23. Few onward appeals are made from the General Commissioners. It is not possible to be accurate because of the way in which statistics are collated, however in 2004 fewer than 60 statements of case were requested from Clerks. This cannot be taken as an indication of the quality of decision making as many of the General Commissioner appeals deal with matters of fact and onward appeals can be made only on points of law.

Jurisdiction

24. Appellants range from the unrepresented to those represented by tax professionals and, in a few cases, Counsel. It is unusual for the General Commissioners to receive papers in advance of the hearing (although the higher the level of representation the more likely that is) however there are some Divisions whose work load differs greatly from the majority in terms of the complexity of cases. General Commissioners cannot award costs or give Directions and there is no statutory provision for preliminary hearings.

SPECIAL COMMISSIONERS

Organisation

25. Special Commissioners and the Presiding Special Commissioner are appointed by the Lord Chancellor (in consultation with Scottish Ministers) with a UK wide jurisdiction. The tribunal is administered by civil servants employed within DCA and both staff and hearings are accommodated within the DCA estate. Special Commissioners must be legally qualified and are paid (either salaried or fee paid) by DCA.
26. There are currently 26 Special Commissioners of whom 6 (including the Presiding Special Commissioner) are salaried. All of the Special Commissioners are also appointed as chairs to the VAT and Duties tribunal. All Special Commissioner administration is handled in London at the Bedford Square site which also houses most hearings (the tribunal also hears cases in Edinburgh and Belfast and at other locations where appropriate).

Caseload

27. The Special Commissioners caseload is comprised of a mix of cases where the jurisdiction is reserved to them (eg Inheritance Tax and appeals in connection with Section 703 ICTA 1988) or where the taxpayer or Inland Revenue has made an election to do so. In 2003 178 were received with 187 disposals, this caseload has been relatively constant. In the main Special Commissioner cases are either high value or deal with contentious legal issues. It is not unusual for these cases go on appeal to the higher courts or be referred to the ECJ.

Jurisdiction

28. The majority of those appearing at hearing are represented by Counsel and papers provided in advance. Special Commissioners can make Directions⁵ and hold preliminary hearings⁶. Special Commissioners can award costs⁷ but only where the party 'has acted wholly unreasonably in connection with the hearing in question'.

VAT AND DUTIES TRIBUNAL

Organisation

29. The VAT and duties tribunal is comprised of a President; panels of legal chairs for England and Wales (appointed by the Lord Chancellor), Northern Ireland (appointed the Lord Chief Justice NI) and Scotland (by the Lord President of the Court of Session) and a panel of other members appointed by Treasury. There are 37 legal chairs (most of whom sit part-time) and 107 non-legal members. A VAT tribunal is comprised of a legal

⁵ Special Commissioner (jurisdiction and procedure) Regulations 1994 Regulation 4

⁶ as above, regulation 9

⁷ as above, regulation 21

chair sitting alone or with one or two members if required. All panel members are remunerated.

30. Tribunal administration is provided by DCA and there are three main processing and hearing centres (London, Manchester and Edinburgh) although there is a network of satellite hearing centres which are also used.

Caseload

Case type	VAT	Customs duties	Excise duties	Insurance premium	Landfill tax	Total
Received	2176	64	410	1	5	2656
Disposals	2394	110	776	0	13	3293

Jurisdiction

31. The VAT and duties tribunal hears all appeals from decisions of HMCE (eg VAT, climate change levy, landfill tax) apart from decisions to on whether Customs officers lawfully seized goods; these are made by magistrates. Very few cases (less than 5) a year 'leapfrog' from the tribunal to the Court of Appeal, a greater (and unknown) number appeal to the High Court. Caseload and disposal figures for 2003 are shown above.

32. The VAT and duties tribunal can make Directions and award costs⁸. Decisions may be given orally and/or in writing

SECTION 703 TRIBUNAL

Organisation

33. The Lord Chancellor appoints the Section 703 Chairman and tribunal members. The Section 703 Tribunal is the only one of the four current tax tribunals not within the remit of the DCA; it is currently funded by the Inland Revenue. It is administered by a registrar appointed by DCA. Each tribunal panel consists of the chairman together with two or more other members who have special knowledge of and experience in financial and commercial matters.

Caseload

34. The number of cases referred to the Section 703 tribunal either for their opinion or substantive decision varies from year to year, but does not usually exceed 20. The costs of the appeal system is itself low. Small retainers are paid to the members and Registrar. Members receive an addition daily hearing fee. Overall the costs of the Section 703 tribunal is less than £10,000 pa. The current costs of the Special Commissioners in respect of these cases cannot be identified separately.

⁸ VAT tribunal rules 1986, Regulation 29

35. No specific powers for costs, Directions and preliminary hearings. The prima facie caseload is largely dealt with on the papers.

Jurisdiction

36. The tribunal performs two functions:

- to determine whether there is a prima facie case for the Board of the Inland Revenue to continue with proceedings to cancel a tax advantage; and
- re-hearing an appeal to the Special Commissioners on the grounds that statutory provisions relating to a cancellation of a tax advantage do not apply to the appellant.

37. There is no permission or point of law requirement from the Special Commissioners to the Section 703 Tribunal. Alternatively, the IR or the appellant can elect to appeal the decision of the Special Commissioners directly to the High Court under Section 56A of the Taxes Management Act 1970.

38. DCA is consulting on how the Section 703 tribunal functions can best be accommodated within the proposed two-tier framework. The suggestion is that the jurisdiction of both the Section 703 tribunal and the Special Commissioners be transferred to the first tier where the flexible deployment of judiciary will enable panels to be constituted of expert legal and specialist judicial members, as within the present system, under the proposed tribunals structure.

SUMMARY OF EVIDENCE AND PROPOSALS FOR TAX APPEAL REFORM

39. There have been several consultation exercises and reports over recent years which have commented on reform of tax appeal tribunals. Annex B summarises the main points arising from the Tax Law Review Committee in 1999, the Leggatt report in 2001 (recommendations relating to tax tribunals) and the Tax Appeal Consultation exercise in 2000. Some responses to the July 2004 White Paper also mentioned tax specifics and there was some overall support for the role of lay members throughout tribunals.

40. There are broad themes that emerge from these reports and consultations; briefly these are:

- Support for a unified tax tribunal hearing direct and indirect tax cases
- Lodging of appeals with the tribunal rather than Inland Revenue to make manifest the tribunals independence from the decision making department
- Mandatory training for panel members
- Flexible panel constitution to meet the needs of the case (and access to legal advice where that is not inherent to the panel)
- Local access to tribunals
- Two tier system with less complex onward appeal routes
- Highly complex cases heard at appellate tier in first instance

41. A number of the themes will be covered by measures proposed in the Courts and Tribunals Bill for which DCA was given drafting permission in the last Queen's Speech.

THE ADMINISTRATIVE JUSTICE CONTEXT FOR REFORM

42. The White Paper set out the policy intent for the whole administrative justice landscape. A number of these will be translated into legislative proposals in the proposed Courts and Tribunals Bill and these will enable much of the structural framework for tax appeal reform. These therefore form the broad parameters within which options for tax tribunal reform must fit.

- All appeals default to the first tier unless otherwise specified;
- All judiciary default to first tier unless otherwise specified
- A second, appellate tier which will hear appeals, subject to a permission requirement, on a point of law;
- Decisions of the appellate tier are binding on the first tier;
- Onward appeals to the Court of Appeal/Session;
- Creation of generic judicial offices at both tiers (subject to considerations about the manner and terms and conditions of appointments);

- Flexible deployment between appeal groupings for legally qualified judiciary;
- Creation of Senior and jurisdictional Presidents who will set requirements for appraisal and training;
- 'Authorised officers' responsible for the non-judicial aspects of tribunal work who would be under the control of the Tribunals Service;

43. As a result of these measures there are a number of features of the existing tax appeals system that will inevitably cease

- All existing judicial roles
- All existing tribunal structures
- The right of election to either the Special or General Commissioners (as there will be a single first tier tribunal)
- The existing General Commissioner divisional structure
- Geographically specific appointments (eg to Divisions or in the case of VAT and duties to country specific panels)
- High Court appeal route (and ability to 'leapfrog' to the Court of Appeal)

44. However there are aspects of the overall proposals that do not require legislation but which will inform the overall approach and culture for reform. These range from better explanation of decisions by the original decision-maker through proportionate dispute resolution to a feedback loop from the tribunals back to the originating departments to draw attention to poor standards.

45. The White Paper noted a number of alternative dispute resolution approaches to formal hearings in sectors outside the tribunals' world, for example the Financial Ombudsman Service and the Adjudicator's Office. There are common features and outcomes from these alternative mechanisms that will bear keeping in mind when considering the overall approach to tax reform

- An investigative approach (rather than consideration of evidence as presented by the parties) leading to earlier and less formal dispute resolution for a significant number of appeals.
- Early investigation puts onus on the front end of the process rather than the formal hearing
- A reduced need for formal hearings and concomitant reduction in the need for expert representation.

46. The approach described above sets the judiciary (including non-legal members of tribunals) at the apex of a decision-making structure (rather than at the base) where staff working under their guidance would be taking a proactive role in identifying problems and potential solutions, managing cases, and guiding users to solutions they will accept. It also implies a stronger relationship between the tribunals' world, independent advice services and original decision-makers to improve the end-to-end process. Ultimately that would affect the physical requirements for the tribunals with

a reduced need for an extensive network of customised hearing locations but more need for information and communications technology and informal conference venues.

47. Although some of what is described above remain ideas that will have to prove their worth through pilots, there is an overall theme that dominates and which should characterise any reformed tribunal – the needs of the users, rather than the tribunal institutions and structures, are paramount.

TAX LAW REVIEW COMMITTEE RECOMMENDATIONS 1999

Appointments and training

- Need to improve the method of selecting Commissioners and their clerks and to introduce effective training programmes for both Commissioners and clerks.
- It is important that legally qualified members should have a reasonable level of experience in tax or some other aspect of fiscally related law.

Structure

- All tax appeals should be heard by a single division of the High Court, and preferably by a small panel of judges within that division.
- There should be a single appeals system for all taxes but with two broad types of tribunal. Local tribunals would continue to deal with more straightforward cases, while a second tribunal would be able to draw on greater specialist knowledge to decide the more complicated and technical appeals.
- The second tribunal must still be accessible to ordinary taxpayers and, as with the VAT and Duties tribunals at present, there should be a regional network of hearing centres.

Composition of panels

- Composition of tribunals should be flexible, with (e.g.) two VAT and Duty chairs sitting in pairs where a case centres on a complicated point of law. Or Special Commissioners able to sit with lay members where their experience would be valuable.
- As an option for further consideration: the local tax tribunals under a unified system should include a professionally qualified chairman.

Onward appeals

- Need to reduce the number of stages of appeal in the High Court and beyond, bringing the procedure in England closer into line with that already in force in Scotland and, for direct taxes, in Northern Ireland.

LEGGATT REPORT RECOMMENDATIONS 2001

Appointments and training

- The tribunal should include members with tax or accountancy qualifications. [para. 5]

Structure

- There should be a system of first-tier tribunals with a second-tier tribunal dealing with appeals. [para. 2]
- The second-tier tribunal should have high quality leadership from its President, and good quality lawyers. [para. 6] There should be a legally qualified President and Regional Chairmen to provide the necessary leadership in achieving consistency of decisions. [para. 5]
- Decisions of the second-tier tribunal will be binding on the first-tier tribunal. [para. 6]
- The second-tier tribunal should hear appeals from the first-tier, and act as a tribunal of first instance in the most complex appeals involving direct or indirect taxation. [para. 4]
- The first-tier tax tribunal should broadly cover the cases heard by the General Commissioners. [para. 4] and have jurisdiction to hear straightforward VAT cases, such as those dealing with reasonable excuse. [para. 4].
- The most complex appeals should be referred to the second-tier by the first-tier tribunals as matters requiring special consideration. [para. 4]

Composition of panels

- There should be a flexible approach to determining the composition of first-instance tax tribunals. [para. 5]
- Where a case raises legal issues, the necessary expertise should be provided by a legally qualified chairman. [para. 5]
- At least in its first-instance jurisdiction, the second-tier tribunal should have suitably qualified expert members for the cases that require them. [para. 6]

Administration

- Both levels of tribunal should be administered by the Tribunals Service, on a regional basis. [para. 7]
- Appeals should be made to the relevant tribunal not to the respondent department. [para. 7]
- Similar rules of procedure should operate in both first-tier and appellate tribunals. [para. 8]
- Rules of procedure should be applied flexibly to recognise differences between the varied kinds of cases arising. [para. 8]

Tax appeal consultation 2000

Appointments and training

- Majority in favour of greater openness and transparency of process however responses also supported a continuing local involvement.
- Mixed views on whether lay members should be remunerated
- Panel members should sit more frequently to develop and consolidate their expertise and experien

Structure

- General support for a combined tax tribunal
- Majority of respondents favoured a first tier dealing with general cases and a second tier dealing with specialist cases (although also supported leaving the choice of tier to the appellant)

Composition of panels

- General Commissioners supported a lay panel, all other respondents supported retention of a lay element
- General Commissioners favoured provision of legal advice by Clerk, rather than within the panel. Most respondents thought legal advice should always be on hand as legal issue may evolve in the course of what appears to be a 'factual' case
- Some method of case allocation favoured to suit panel members to list

Administration

- Majority supported appeals direct to the tribunal (rather than Inland Revenue)
- General Commissioner responses supported a continuance of the current administration with local tribunals other respondents favoured a Court Service style administration

Onward appeals

- A mixed response to what an onward appeal route should be but general consensus that it should be proportionate
- Support for three or fewer levels of appeal
- 'Leap-frogging' should be possible

SUMMARY OF TAX RELATED RESPONSES TO WHITE PAPER

Appointments and training

- Law Society and Tax Faculty broadly in support of lay members throughout the tribunals

Structure

- Law Society and Low Income Tax Reform Group's (LITRG) interested in local access – (LITRG primarily concerned with local access to assistance with case preparation)
- LITRG view is that if the an onward appeal route is to the 2nd tier is with permission there must be legal chairs at the first tier
- Tax Faculty, LITRG and Deloitte's all expressed concern at loss of election to either General or Special Commissioners.

Onward appeal

- Law Society support second tier and onward appeal to Court of Appeal with permission
- Tax Faculty consider an appellate tier that did not include the tax experience of High Court judges a retrograde step
- Deloitte – In favour of unfettered access to justice for tax / social security matters so not in favour of the permission requirement to the 2nd tier

GENERAL COMMISSIONERS AND CLERK REGIONAL CONSULTATION EVENTS AUTUMN 2004

- An overriding theme of the discussions was that General Commissioners performed a valuable role successfully, making common-sense decisions within a process that was proportionate to the subject of the appeal: there was, in fact, little within the system that required reform

Appointments and training

- General agreement that the introduction of peer appraisals would be useful. The majority felt that attendance at training events should be mandatory.
- Many of the General Commissioners felt that they should remain unpaid as this enables them to maintain their independence from the government, whilst many recognised that payment could attract more diverse candidates for appointment.

Structure

- There must be sufficient and engaging work in any new system for members to hear
- It was felt that mediation would serve no useful purpose - introducing delay rather than speeding resolution.

Composition of panels

- General Commissioners provide a form of justice by one's peers and that their lay status emphasises this.

Administration

- The General Commissioners feel that there is a need to have local tribunal centres.

Onward appeals

- Some were of the view that there was no reason to change the existing appeal route to the High Court, others that an appellate tribunal would better meet the needs of appellants.

NATIONAL ASSOCIATION OF GENERAL COMMISSIONERS RESPONSE TO 2004 WHITE PAPER

Appointments and training

- The NA support the retention of a significant and substantial lay element bringing a strong common-sense approach to appeals backed by their experience in business and their local knowledge.
- No strong opinion either in favour of payment or otherwise but with higher sitting rates payment might become more of an issue.
- Training should be mandatory (including induction; continuing and chairmanship elements)
- Favour appraisal.

Composition of panels

- Favours use of panels constituted according to case type e.g. mix of lay and suitably qualified for complex cases with points of law but straightforward cases (e.g. daily penalty ratification or standard penalty appeals) heard by lay panels with appropriately trained chairs.

Administration

- Local pattern of hearing centres should be retained.
- Support use of case management.
- Support dual mediation/judicial role but note those who act as mediators need to be trained and should not hear any related appeal.
- Taxpayers should be able to access information and advice by telephone, electronically and ideally face to face.
- Appeals should be made to the tribunal and not Inland Revenue.

Onward appeals

- Support for complex cases to skip to appellate tier for first hearing
- Welcome reduced costs to appellant through introduction of appellate tier rather than current High Court route, recognise that permission filters may limit unmeritorious appeals.