Tribunals Service

Transforming Tribunals

Implementing Part 1 of the Tribunals, Courts and Enforcement Act 2007 - The Government's Response

This is the Government's Response to the Consultation Paper CP 30/07 Transforming Tribunal's Document - Implementing Part 1 of the Tribunals, Courts and Enforcement Act 2007 issued 22 November 2007

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Ministry of JUSTICE

Foreword by Bridget Prentice MP, Tribunals Minister

On the 28th November last year we published the Consultation Document, Transforming Tribunals, Implementing Part 1 of the Tribunals, Courts and Enforcement Act 2007. The consultation ran until 22nd February 2008 and we received 140 replies. This is the Government's response.

On behalf of the Government, I would like to thank all those who took the time to contribute to this extremely important debate on the future of Tribunals. Their insight and knowledge has proved invaluable in writing this response. In addition the Government are grateful to the Tribunal's Service Senior Judiciary for their contribution and guidance throughout the consultation period.

Part 1 of the Tribunals, Courts and Enforcement Act 2007 is a continuation of the reforms set into motion by Sir Andrew Leggatt in his review *Tribunals for users: One System, One Service*[1]. A White Paper in 2004 placed reform firmly in the context of a broad view of administrative justice, which is now recognised as a separate part of the justice system in its own right. The Act addressed this disorganisation of tribunals, by creating a cohesive statutory framework with a unified tribunal system, which has a collective commitment to improvement and innovation for the benefit of the public it serves.

This response paper confirms that there will be Social Entitlement; General Regulatory; Health, Education and Social Care; Taxation and Land, Property and Housing Chambers in the First-tier Tribunal and Administrative Appeals; Finance and Tax and Lands Chambers in the Upper Tribunal. Each of the Chamber's will be lead by Chamber Presidents under the supervision of the Tribunal Services Senior President, Lord Justice Carnwath, who was appointed under the Act in October 2007. The First-tier Tribunal will be the natural starting place for all jurisdictions, with onward appeal to the Upper Tribunal which will also have the power to deal with judicial review work delegated from the High Court.

The Act also creates a 'Tribunals Procedure Committee' that will be responsible for making Tribunal procedure rules, and will bring greater consistency and simplicity to rules across jurisdictions. Appointments have been made to the committee and the committee will shortly begin consultation on procedure rules for the new tribunals.

The Government are committed to ongoing transformation of our Tribunals, placing the user at the very heart of the service. In addition to the statutory changes introduced by the Act, the Tribunal's Service is also undertaking a programme of work creating a network of multi-jurisdictional Hearing Centres, re-engineering administrative processes to improve case management and exploring alternatives to standard hearings such mediation, conciliation, and support and advice services. The Implementation of the Act works alongside this transformation and is a vital part of it, and we will continue to put in place necessary arrangements and legislation to realise the full benefits the Act will have.

[1] Tribunals for users: One System, One Service – Report of the Review of Tribunals by Sir Andrew Leggatt, The Stationary Office, March 2000.

Tribunals often form the public's only experience of the legal process and it is vital that experience is effective and services their needs. This truly modern and unified service will help people to find their way around the system and get solutions to their issues solved more quickly and efficiently.

Bridget Prentice MP
Tribunals Minister

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1. Introduction

1.1 On November 28 2007 the Ministry of Justice published a consultation document seeking views on the proposals to implement Part 1 of the Tribunals, Courts and Enforcement Act 2007. The Regulatory Impact Assessment for the Act can be obtained at www.ministryofjustice.gjustice.gov.uk/risk/tce_bill.pdf. This is the Government's Response. It will cover the proposals in the consultation, a summary of the responses question by question, with the Government's position on each, and advise of the next steps and proposed actions.

1.2 The Consultation Document was sent to over 165 interested key stakeholders, organisations and individuals. This included the Judiciary; Other Government Departments; representative organisations and professional organisations. A full list of those who received it can be seen at **Annex A**. The Consultation Document was also published on the Ministry of Justice website.

1.3 A total of 140 responses were received, 87.1% during the 12 week consultation period, and 12.9% once the consultation had closed. 4148 users downloaded the document from the Ministry of Justice Website during the 12 week period and a further 893 once the consultation period closed. The date view of receipt of responses can be seen at **Annex B.** The breakdown of respondents by category can be seen at **Annex C**.

1.4 All respondents were advised in the Consultation Document that all responses could be published or disclosed in accordance with the Freedom of Information Act 2000; the Data Protection Act 1998 and the Environmental Information Regulations 2004. One respondent asked their response be treated anonymously, they have been recorded as 'Anonymous' at **Annex D** which lists all respondents. A full list of their details can be obtained by contacting the details provided at 1.5.

1.5 Further copies of this document can be obtained at www.tribunalss.gov.uk/latestnews.htm. or from

Michaela Strange
Tribunals Service
First Floor
4 Abbey Orchard Street
London
SW1P 2BS

2. The Consultation Criteria

2.1 The Consultation and Government Response have been conducted in accordance with the Department for Business, Enterprise and Regulatory Reform (Dbrr) Consultation Criteria. These are as follows.

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescales for the responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

******In accordance with Dbrr Consultation Guidance this list must be reproduced within all consultation documents******

Consultation co-ordinator Details

2.2 If you have any complaints about the consultation process rather then the topic covered by this paper you should contact Gabrielle Kann, Ministry of Justice Consultation Co-ordinator, on 020 7210 1326, or e-mail her at consultation@justice.gsi.gov.uk<mailto:onsultation@justice.gsi.gov.uk> Alternatively, you may wish to write to the address below:

Gabrielle Kann
Consultation Co-ordinator
Ministry of Justice
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW

2.3 If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given on page 4.

3. Background and Proposals

Background

3.1 The Transforming Tribunals Consultation Document discussed the Government's proposals for the new Tribunals Service. The basis for the reforms was Sir Andrew Leggatt's Report*, Tribunals for users: One System, One Service*[2]. This found that tribunals had grown in a haphazard way and were not organised for the benefit of users.

3.2 Part 1 of the Tribunals, Courts and Enforcement Act 2007 is a continuation of the reforms set into motion by Sir Andrew Leggatt.

Proposals

3.3 The 2007 Act creates a two-tier tribunal structure, the First-tier and Upper Tribunal for most jurisdictions. Existing jurisdictions currently administrated by the Ministry of Justice will form part of one of the two tribunals, or both. The Employment Tribunal and the Employment Appeal Tribunal will stand as a distinct pillar within the new organisation and are unaffected by these proposals. The Government is currently considering bringing the AIT into the unified tribunals structure and is likely to consult on proposals very shortly.

3.4 The First-tier Tribunal will be the first instance tribunal for most jurisdictions, appeals from the original decision making body will commence in this tier. The Upper Tribunal will deal with appeals form the First-tier Tribunal and from some tribunals outside the unified system, it will also have the power to deal with judicial review work delegated from the High Court.

3.5 Onward appeal from the First-tier will lie to the Upper Tribunal only with permission and normally on a point of law. The onward appeal from the Upper Tribunal to the Court of Appeal or the Court of Session will be on a point of law. The main base of the Upper Tribunal will be located in Central London, however it will have the ability to hear cases throughout the UK if the appellant or parties are unable to travel.

3.6 Both the First-tier and Upper Tribunal will be split into chambers grouping together similar jurisdictions, a full list of Chambers can be seen at **Annex E**. Chambers will be flexible groupings able to maintain and expand expertise and incorporate new jurisdictions where they fit best.

3.7 The Senior President, Lord Justice Carnwath who is a Lord Justice of Appeal, leads both Tribunals. Judges and members can be cross-ticketed to sit in another jurisdiction, however only if the individual satisfies the eligibility criteria and there is a business need.

3.8 Each Chamber under the Act is required to have a 'Chamber President' whose role is the maintenance and improvement of the Chamber's expertise. They

[2] Tribunals for users: One System, One Service – Report of the Review of Tribunals by Sir Andrew Leggatt, The Stationary Office, March 2000.

will be appointed under the Judicial Appointments Commission, and may have Deputies as also envisaged by the Act. Their aim will be to ensure the proper degree of judicial expertise is brought to bear on cases. They will also be members of the Upper Tribunal.

3.9 The Act will also create a 'Tribunals Procedure Committee' that will bring greater consistency and simplicity to tribunal procedure rules. Members of the committee have been appointed by the Lord Chancellor, the Lord Chief Justice, the Lord President and the Senior President of Tribunals. The Administrative Justice and Tribunals Council, created under the Act to replace the Council on Tribunals will also have a seat on the Committee bringing it in to the heart of the rule making process for Tribunals. The Committee will consider the first sets of rules prior to November 2008.

3.10 The Committee members are: The Hon Mr Justice Elias, Mark Rowland, Nicholas Warren, Lesley Clare, Douglas May QC, Michael James Reed, Mrs Carolyn Kirby, Philip Brook Smith QC and The Rt Hon the Lord Newton of Braintree.

3.11 In addition to the statutory changes introduced by the Act, the Tribunals Service is also undertaking a programme of work to support the new system, creating a network of multi-jurisdictional Hearing Centres centrally located with an extremely high standard of accommodation; re-engineering administrative processes to improve case management and exploring alternatives to standard hearings such mediation, conciliation, and support and advice services.

4. Statistical Analysis

4.1 The consultation ran for 12 weeks from 28 November 2007 to 22 February 2008. Over half the responses, 51.4% were received on the day before and on the day consultation closed with almost one third of responses received on the actual day of closure. An additional 12.9% of responses were received after the official closure date on 22 February with the last received on 18 March 2008, 4 weeks after the consultation closed. All responses received were included in the analysis.

4.2 Only 1 respondent provided answers to all of 30 questions, the other respondents tended to limit their comments to the jurisdiction they knew and were replying with reference to. 22% of respondents used the answer grid provided, the remaining 78% submitted their own format for responses, this sometimes made gleaning the information difficult. In total 1137 answers were received, averaging 8.2 answers per respondent. The highest number of responses received was to Question 15 on tribunal composition with 60% of respondents answering this, then Question 2 on chambers composition at 54.3% and Question 17 on categories of members at 52.8%. The fewest number of responses were received to Questions 8 to 12 on proposed changes to and exclusions from appeals for incoming jurisdictions, with between 9% and 5% of respondents answering these questions. A full breakdown of the questions answered can be seen on the table at **Annex F.**

4.3 80% of responses received were for just 5 jurisdictions. The highest number of responses was for jurisdictions relating to the Lands Tribunals at 19.3% of the total responses received. Then the Finance and Tax tribunals at 16.4% and SSCSA and ET/EAT at 13.6%, despite the fact that ET/EAT are excluded from these proposals. The Pensions Appeal Tribunal and Generic responses each accounted for 8.6%, with the remaining 20% of respondents being split across the other jurisdictions. This can be seen in full at **Annex C**.

4.4 The Judiciary were the single largest group of respondents at 23.6%, followed by Professional Organisations at 16.4%, Representative Organisations at 15% and Government Departments and Agencies at 11.4%. Lawyers, Accountants and Surveyors provided 10.7% of the responses, and this combined with the Professional Organisations accounts for 27.1% in total, both of these groups are predominately involved with the Lands and Tax jurisdictions, which in turn accounted for the highest percentage of responses in the tribunal by tribunal breakdown. Other respondents included tribunal members at 7.9%, Unions at 4.3%, private business and personal responses each accounted for 2.9%. ‘Other’ responses at 5.7% were received from the NHS; Royal College of Psychiatry; members of both Houses of Parliament and the Welsh Assembly Government.

5. Summary of Responses

Chapter 7: The First-tier Tribunal

Assignment

Q1: Do the proposals on assignment of judges and members strike the balance between maintaining judicial expertise and encouraging career development?

The Consultation Document explained the Government's proposals on deployment, ticketing and assignment of judges and members. The overriding aim is to strike the correct balance between maintaining judicial expertise and career development. Of the 140 responses received, 65 answered this question. 41 of the respondents agreed that the proposals met this aim, whilst 8 did not express an opinion either way.

15 did not agree, 6 of these came from respondents working in or with Employment Tribunals (including Employment Appeals Tribunal). Their concerns were that cross ticketing would lead to dilution of skills and expertise and that ET/EAT judges should be 'ring fenced'. As the proposals in this section of the paper relate to jurisdictions moving into the new First-tier and Upper Tribunals and as Employment Tribunals are to remain a separate pillar outside of the new Tribunals, these concerns do not relate to the proposals in the consultation paper. The Act does not allow for members of the First-tier Tribunal to be cross-ticketed or assigned to the Employment or Employment Appeal Tribunals.

Of the other 9 respondents who disagreed, the main concern expressed was that the proposals would lead to the dilution of expertise. The Government recognises this concern, but considers that the proposals address these and will preserve specialist knowledge whilst also increasing expertise. The overriding principles behind assignment include the requirement for the judge or member to have the necessary skills and ability to hear cases within the Chamber to which they are assigned. There is no diminution in what is deemed to be the necessary skills and knowledge in any individual jurisdiction as a result of the creation of the Chambers structure, and mapping and ticketing will ensure that judges or members do not sit in jurisdictions within a Chamber they are assigned to unless they have the appropriate skills and knowledge for that jurisdiction. Furthermore the Senior President and Chamber Presidents will act as 'gatekeepers' for the assignment and ticketing of judges and members into chambers and jurisdictions, ensuring the deployment of only those with appropriate skills and expertise

A concern was expressed that training and induction does not qualify someone to sit on a Tribunal. The Government believe that training plays an essential role in skills development, and we will work closely with the jurisdictions and in partnership with voluntary organisations to create training packages, but acknowledge that the specific expertise and experience that jurisdictions require can not be provided for entirely through training.

Proposed Chambers Structure

Q2: Do you agree with this general approach for Chambers?

Following discussions with the senior members of tribunal's judiciary the Government proposed that Chambers should be created broadly enough to group similar or related subject matter together, engendering judicial leadership and guidance from the Chamber Presidents, whilst not being too wide as to prevent the leadership and guidance from being meaningful. They are organisational structures designed to bring together similar jurisdictions and judicial expertise. Of the 140 responses received, 77 answered this question.

56 of respondents thought the approach was right. 2 answered the question but didn't express an opinion either way, and an additional 19 disagreed with the approach.

Of those who opposed the chamber structure, 8 came from respondents with an interest in the Pensions Appeal Tribunal. They believe that the Pensions Appeal Tribunal will be lost and military issues overwhelmed in the Social Entitlement Chamber. As a result they argued that the Pensions Appeals Tribunal should stand outside the Chambers structure as a separate jurisdiction, continuing as it does at present. Some of these respondents also commented that the name of the Chamber was not suitable for a Chamber dealing with war pensions appeals, as these are viewed as a right and not an entitlement.

The Government acknowledges these concerns and other concerns raised by respondents on this Tribunal and deals with them elsewhere in this paper. However we do not consider that the expertise in this area will be lost by a move into the Social Entitlement Chamber.

The new tribunals will have an organisational structure that recognises each jurisdiction's individuality. Members of the existing tribunal will be transferred into the new structure to continue their work in the same way as at present. Any new judges or members moving into this jurisdiction will need to demonstrate appropriate skills, and knowledge and satisfy statutory criteria in relation to appointments. This will ensure there is no watering down of the expertise in this jurisdiction.

The Government does not believe that the title of the Chamber is inappropriate. All jurisdictions within this Chamber deal with establishing whether an appellant is entitled to the relief sought in their appeal, and where the entitlement is proven there is a right to the relief sought.

Of other respondents disagreeing with the approach to Chambers, there were views expressed that Land, Property and Housing should form a separate pillar in the same way as ET will as they hear 'citizen v citizen' cases and not 'citizen v state' appeals. The Government does not accept this argument. Unlike Employment Tribunals there is at present a number of separate Tribunals dealing with related issues, bringing them together in Chambers will provide a stronger identity and greater cohesion than would be possible if they were to stay outside the new structure. The demarcation

between Chambers enables the jurisdictions to be brought together whilst recognising that much of their workload is citizen v citizen.

The other main area of opposition to the Chambers structure related to the future of Tax Credit Appeals. This is dealt with in the responses to Question 3 and Questions 23-28.

Proposed Chambers Structure

Q3: Is the allocation of jurisdictions to Chambers the right one?

As with Question 2 on the approach for Chambers, the Government proposed to group similar subject matter together. Of the 140 responses received, 67 answered this question. 48 thought the approach was right, 19 disagreed with the approach.

One respondent opposed the Information Tribunal being in the First-tier. This is addressed in the response to the Question 14.

2 respondents said that Consumer Credit Appeals (CCAT) should be in the Upper Tribunal as they dealt with issues similar to those of the Financial Services and Markets Tribunals (FinSMaT) and their onward appeal right is, like them, to the Court of Appeal. They further argued that Estate Agent Appeals should also be dealt with in the Upper Tribunal as appeals in the two jurisdictions may be brought simultaneously. The Government does not consider these arguments to be persuasive. Whilst there may be some similarity in terms of outcome, the level of complexity and breadth of issues in cases dealt with by FSMT is not replicated in these jurisdictions. Whilst noting that appeals from CCAT are dealt with by the Court of Appeal the Government believes that the Upper Tribunal will be able to act as an appellate body for onward appeals without any reduction in the quality of judicial decision making. The natural starting place for all cases is the First-tier Tribunal.

2 respondents thought the MHRT should be moved, one to sit alongside SSCSA as a number of MHRT appellants tend to be too unwell to work and claim Disability Living Allowance. Another respondent thought it was not best placed alongside Care Standards and SENDIST as these are very different jurisdictions, and called for the establishment of a ‘Children’s Chamber’ for these two jurisdictions, without specifying which chamber MHRT should be part of.

The Government has considered both of these options, but has rejected the former as the work of MHRT is primarily health related with links to disability living allowance being a minor associated consideration rather than the main issue in any of its appeals. The option of a dedicated Children’s Chamber is also rejected as this would need to also include appeals in relation to Child Support, Child Benefit and Child Trust fund, currently dealt with by SSCSA, to take in all work related to children, and we believe these jurisdictions are best served by remaining in SSCSA. Whilst acknowledging the differences in nature of appeals to MHRT compared to SENDIST and CST, we believe that the similarities within these tribunals and others proposed for inclusion in the Health, Education and Social Care Chamber, supports the proposed grouping.

7 of the 19, who opposed the allocation of jurisdictions to chambers came from respondents with an interest in the Pensions Appeal Tribunal. They stated the proposals, which affect England & Wales only, will result in a discriminatory service being delivered to serving and ex-military personnel as they will be treated differently both legally and administratively and that this will be divisive in the military community. The Government do not accept that users of the war pensions appeals tribunal will suffer a detriment to the service they will received, the purpose of the reforms is to give a better service to users.

They also raised concern that potential mixed listings will prove problematic for those organisations that provide representation to appellants, their widows and families. The administration of the Tribunals Service will continue to work in partnership with these organisations, as it does with many others, to ensure representation is unaffected. The Government would like to reassure respondents that these concerns are unfounded. The concern with mixed lists arose partly from a linked concern that proposals would mean service members would not be required to sit on PAT appeals. The valuable contribution service members make to these appeals is well recognised, and there is no intention of removing them from panels who will sit on these cases in the new chamber. Any efficiency advantages from 'mixed lists' cannot override such a requirement.

The Government also notes that the inclusion of the Pensions Appeals Tribunal in the Social Entitlement Chamber has the full support of the GB Social Security and Child Support Appeal Commissioners who deal with onward appeals from decisions made by the Pension Appeal Tribunal. They believe being in the Social Entitlement Chamber will benefit the users and the jurisdiction of the Pensions Appeal Tribunal.

The Government has indicated its intention for tax credits to transfer initially into the Social Entitlement Chamber, and in the longer-term into the Tax Chamber of the new two-tier Tribunal structure, because it considers the issues involved in Tax Credits relate more to issues of tax than financial assistance through the benefit system. A few respondents argued that Tax Credit Appeals should stay within the Social Entitlement Chamber as they believe it has more in common with that jurisdiction than tax.

The Government will consider these responses as it takes forward the development of the Tax chambers. The fundamental objective is to ensure the right judges deal with the appropriate cases.

One respondent stated that the Employment Tribunal should remain outside the Chambers structure. We note this concern and would like to emphasise that in our proposals, and response to them, the Government is not proposing bringing the tribunal within the Chambers structure.

Chapter 8: The Upper Tribunal

Structure of the Upper Tribunal

Q4: Do you agree with the proposed three-chamber structure for the Upper Tribunal?

The need to rationalise the array of appeal routes from tribunals was highlighted by a number of reports: The Law Commission report on Administrative Law; the Woolf report on Civil Justice and the Leggatt Report. The Upper Tribunal will achieve this, and establish a strong and dedicated appellate body in the new tribunals system.

The Government proposed that the Upper Tribunal should be divided into three chambers: The Administrative Appeals Chamber; The Finance and Tax Chamber and the Lands Chamber. Of the 61 respondents who answered this question, it was overwhelmingly supported with 52 agreeing with this proposed structure.

5 answered the question but did not express an opinion. Of these 1 answered with reference to the Asylum and Immigration Tribunal and 2 to the ET/EAT. The ET/EAT will be unaffected by the creation of the Upper Tribunal: they will stand as a separate pillar and continue to presided over by a High Court Judge under the supervision of the Senior President. The Government is currently considering bringing the AIT into the unified tribunals structure and is likely to consult on proposals very shortly.

Another respondent stated that the ordinary route of Judicial Review should be closed off to those appealing to the Upper Tribunal, otherwise there is the risk of exhausting all remedies available then pursuing a Judicial Review. The Government does not consider that this is necessary, and it would also be in direct conflict with the Supreme Court Act.

Under the Tribunals, Courts and Enforcement Act 2007 the Upper Tribunal will be a Superior Court of Record, and will also be able to undertake Judicial Review cases transferred from the High Court. The Government is advised that it will be for the courts in due course to determine, having regard to this statutory framework, in what circumstances (if any) the UT is itself judicially reviewable (cf. *R v Manchester Crown Court ex p DPP* [1993] 1 WLR 1524, 1528; *G v Secretary of State* [2004] Civ 265).

Of those who opposed the proposal, 1 respondent stated the Chambers of the Upper Tribunal should mirror those of the First-tier to make it easier for appellants to understand. The Government does not believe that this is necessary and considers that separate Upper Tribunal Chambers linked to First-tier Chambers are only required where onward appeals from the jurisdictions require a level of specialist expertise that can not be provided within the Administrative Appeals Chamber (AAC).

Another stated the AAC was too wide and would not enable the development of judicial expertise; another that the Chambers structure would result in greater separation and the coherent development of the law would be impeded, undermining the principles of the Leggatt Review.

Another respondent stated there should be a single chamber as three chambers would perpetuate current divisions of jurisprudence and judiciary and have implications for the appointment of judges. In the alternative, they suggested deferring a decision on the Chambers structure pending an assessment on how the Upper Tribunal operates and the volume of work it receives.

The Government considers that the three-chamber structure is appropriate for the division of work to the Upper Tribunal. Consistency across chambers will be supported under the supervision and co-ordination of the Senior President which will enable them to evolve on similar principles. Chambers provide a flexible structure and the allocation of work between Chambers can be revisited in future if it appears there is either scope for bringing some Chambers together or a need to establish a separate Chamber to reflect developments in the law in a particular area.

Paragraph 180 of the Consultation Document stated the Administrative Appeals Chamber of the Upper Tribunal would not have any first instance work. The Government have noted that it will have first instance work with the Forfeiture Act which is currently within the jurisdiction of the Social Security Commissioners.

Location

Q5: Do you agree with this approach to where the Upper Tribunal is located?

If the 140 responses received, 65 responded to this question. 42 of the respondents agreed with the suggested proposals for the location of the Upper-Tribunal, some of this support was conditional on the commitment in the Consultation Document to make hearings available throughout the UK based on business needs and the needs of the parties. A number were also conditional on there being a presence in Wales and Northern Ireland.

19 fundamentally opposed the suggested approach, and an additional 4 expressed no opinion either way

Of those who objected to the proposals, a number stated the office of the Upper Tribunal should not be in London, but should be in another location in the UK. A number called for a stronger statement of commitment from the Government for local hearings, however the vast majority of the opposition was based on the proposal not to have an office of the Upper Tribunal in Wales.

Whilst noting calls for the main Upper Tribunal office to be located outside London the Government considers that this is neither practical nor desirable, as this is where the Senior President and most of the salaried judges of the Upper Tribunal are presently based. However there will be no compulsion for Chamber Presidents or Upper Tribunal Judges to have a permanent base in London where they do not do so already. The Government is also of the firm view that hearing facilities for Upper Tribunal appeals need to be available in different parts of the United Kingdom with the venue for any particular appeal being determined with regards to the needs and wishes of all parties and their representatives and the issues in a case.

The Government respects the devolved powers of the Welsh Assembly and the linguistic right to have tribunal proceedings in Wales conducted in Welsh.

The Government considers that decisions of devolved Welsh tribunals should be challengeable in Wales, and further proposes that this facility should be extended to all First-tier Tribunal decisions generated in Wales. The Government is committed to establishing an Upper Tribunal Office in Wales and will explore the suggestion made by several respondents of the possibility of coordinating this office with the proposed Administrative Court Office in Cardiff. Whilst Upper Tribunal work in Wales will initially be sent to London and dealt with by staff in the London Upper Tribunal Office, the Government will seek to establish a permanent presence in Wales as soon as possible after establishment of the Upper Tribunal.

In relation to the Welsh language, the Government is committed to the Welsh Language Act 1993 and has a Welsh Language Scheme which sets out how it will comply with its statutory obligations for delivering its service in Wales. This can be seen at http://www.tribunals.gov.uk/Documents/Publications/welshlangscheme.pdf. During the period Upper Tribunal work for Wales is dealt with in London, compliance with the Welsh Language Scheme will be maintained

Paragraph 188 of the Consultation Documents stated there was no judicial presence at this level in Northern Ireland. The Government is grateful to a number of respondents who correctly pointed out that there is the Office of the Social Security Commissioners for Northern Ireland in Belfast, and apologises for any confusion caused.

Jurisdictions of the Upper Tribunal

Q6: Do you agree?

Q7: Are there any other appeal rights not listed?

The core function of the Upper Tribunal will be as an appellate body, providing the normal route of appeal or review from decisions of the First-tier Tribunal on a point of law. The Government set out the jurisdictions for which it intended to transfer appeal rights to the Upper Tribunal, and asked for agreement with the list and any appeal rights not listed.

40 respondents answered Question 6, 26 agreed with the proposal, 6 did not express an opinion either way.

Of the 8 respondents who did not agree1 fundamentally opposed any change to the current onward appeal procedures for Land matters. The Government confirmed in paragraph 201 of the Consultation Document that it would preserve the broader right of appeal in these appeals.

1 respondent answered Question 6 and 7 together stating the Finance and Tax Tribunal should have first instance jurisdiction in addition to hearing appeals from the First-tier. The consultation paper confirms this to be the case.

1 respondent was concerned about the onward route of appeal for ET / EAT, however this is unaffected by these proposals.

The remaining respondents who did not agree did not specifically question the transfer of the jurisdictions, but raised objections based on limitation of appeal rights to points of law or the introduction of permission requirements. The Government consider the permission stage to be an important part of an appeal process, to minimise overall costs to taxpayers by preventing meritless appeals from proceeding, and to enable earlier finality. Where an appeal does raise a valid point of law, the introduction of a permission stage will in no way limit access to justice, as permission will be granted.

As the majority of respondents agreed with Question 6 we intend to proceed with transfer of these appeal rights.

23 respondents answered Question 7, of those 17 stated there were no appeal rights not listed. Of the remainder 1 response was in relation to ET/EAT. 2 were based on onward appeals from the Schools Admission Appeals panel and the Schools Exclusions Appeals Panel. These jurisdictions do not form part of the Tribunals Service and so cannot have an onward right of appeal to the Upper Tribunal; their current existing right of appeal to the High Court will continue.

1 respondent stated concerns over all existing and prospective appeal rights relating to the decisions by the Transport Commissioner not being carried forward, but did not give any specific examples.

Another respondent stated an onward right of appeal from AST had not been included. At paragraph 202 of the consultation paper the Government stated that it favoured the continued exclusion of an appeal right because of the need for a rapid resolution of these cases and the risk of tactical appeals.

The final respondent who thought appeal rights were missing stated the intended lands jurisdictions for the Upper Tribunal should be included at this Point. The Government confirms that these jurisdictions will be included when the Lands, Property and Housing Chamber is established.

Proposed Changes to and Exclusions from Appeals

Q8: MHRT. Do you agree?
Q9: SENDIST. Do you agree?
Q10: PAT. Do you agree?
Q11: CST. Do you agree?
Q12: Transport. Do you agree?
Q13: Lands. Do you agree?

A number of tribunals that will become part of the First-tier Tribunal have no onward appeal or limited onward appeal rights at present. Section 11 of the 2007 Act creates a general right of appeal on a point of law as a default position. It also allows this right to be excluded by an order made by the Lord Chancellor so that existing appeal rights, where appropriate, can be preserved.

The Government consulted on the areas cited above. The responses were as follows:

Q8: MHRT. Do you agree?

Currently there is no right of appeal on a point of law from a decision of the MHRT. The only route open for applicants is through Judicial Review. The Government favours the default position under the 2007 Act, i.e. an appeal on a point of law with permission to the Upper Tribunal with out exclusions or restrictions.

12 respondents answered this, 11 stated that they agreed, 1 stated they did not agree, however this appeared to be based on a misreading of the question as the supporting comments were consistent with the Government's proposals. The Government will therefore proceed with its proposals as set out in the consultation paper.

Q9: SENDIST. Do you agree?

At present there is an appeal from SENDIST to the High Court with no permission requirement. The Government favours the default position under the 2007 Act, i.e. an appeal on a point of law with permission to the Upper Tribunal with out exclusions or restrictions, replacing the right of appeal to the High Court.

11 respondents answered this, 2 disagreed, one stated the permission requirement would result in costs that parents may have to fund themselves, the other stated as this was a specialist tribunal further consultation should take place with relevant parties before any changes are made. As the overwhelming majority of respondents agreed with the Governments proposal we will introduce onward appeals in line with the default position in the 2007 Act.

Q10: PAT. Do you agree?

At present there is no appeal from a decision of a Pension Appeal Tribunal on a matter relating to assessment, the only remedy open to the appellant is Judicial Review. The Government favours the default position under the 2007 Act, i.e. an appeal on a point of law with permission to the Upper Tribunal with out exclusions or restrictions.

13 respondents answered this question, all agreed with the Government's proposal. The Government will therefore allow for onward appeals on a point of law with permission to the Upper Tribunal without exclusions or restrictions. The Government notes that in Northern Ireland the appeal to the Upper Tribunal will be limited to matters relating to assessment as Pension Appeal Commissioners will continue to hold their NI appointments and will hear appeals on entitlement. However, as they

will also hold appointments as Judges of the Upper Tribunal they will in most, if not all, instances, hear both entitlement and assessment appeals.

Q11: CST. Do you agree?

Section 4(9) of the Safeguarding Vulnerable Groups Act 2007 enables an appeal on a point of law in that area of its jurisdiction to go directly, with leave, to the Court of Appeal. The Government proposed that for this reason and because of the sensitive nature of some of the appeals from the Independent Safeguarding Authority (ISA), appeals from the ISA go to the Upper Tribunal rather than the First-tier Tribunal.

7 respondents answered this question, 5 agreed with the proposal.

The 2 who opposed felt it would be intimidating and off putting for appellants and thought the hearing in the First-tier would enable fact finding in a more neutral environment, and stated that other sensitive issues were dealt with at the First-tier.

The Government acknowledges the concerns of those who oppose this proposal but as these appeals will be on points of law there will be less of a fact finding nature to them, and in the interests of justice and to enable effective resolution of appeals at the earliest opportunity, consider that there should not be a second appeal within the Tribunal system and accordingly the first instance appeal should be dealt with by the Upper Tribunal.

Q12: Transport. Do you agree?

The question order in the text did not reflect the questionnaire grid. The Government apologies for any confusion.

The consultation invited views on whether the onward right of appeal from Traffic Commissioners should be explicitly restricted to a point of law, and proposed that this might be achieved by adding a permission requirement for the onward right of appeal from the Traffic Commissioners

10 respondents answered this question, 8 agreed with the Government's proposals, 2 opposed it. 1 of these opposed the limitation of appeal rights, whilst the other had concerns that introducing the permission requirement would pose problems for making the appeal in 28 days. They also stated that they thought it would be difficult to establish an error of law with the body that made the original decision. The Government notes these concerns, and notes that in areas such as licensing and disqualification decisions it may be incorrect to regard the Traffic Commissioners as an appellate body, rather than as initial decision makers. We will therefore look at how best to transfer the work of the Transport Tribunal in respect of Traffic Commissioner work to ensure that it is dealt with by the appropriate tribunal and will consult further with respondents who replied to this question ahead of transferring the Tribunal into the new structure.

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Q13: Lands. Do you agree?

Appeals from Valuation Tribunals and Leasehold Valuation Tribunals are not restricted to points of law. Appeals are by way of rehearing and many of the issues are valuation questions, rather than questions of law in the narrow sense. The Government considers that the current role of the Lands Tribunal in relation to appeals could not be preserved if confined to points of law so proposes that the broader right of appeal is preserved.

All 20 respondents who answered this question agreed with the Government's proposal not to limit appeals to a point of law.

First Instance Jurisdiction in the Upper Tribunal

Q14: Which would be the appropriate option for the Information Tribunal's work?

The Information Tribunal deals with appeals from the Information Commissioner. There is an onward appeal right to the High Court. The Government consulted on 3 options for the Information Tribunal's work:

1. Put all the work in the First-tier Tribunal, with weightier cases being dealt by Upper Tribunal Judges.
2. Put all the work in the Upper Tribunal.
3. Confer the jurisdiction over both tiers to enable flexibility.

13 respondents answered this question. 7 thought to confer the jurisdiction over the two-tiers was the best option as it enabled the greatest flexibility with National Security cases being a first instance jurisdiction in the Upper Tribunal. 1 did not express an opinion either way, but expressed concerns about Upper Tribunal judges sitting in the First-tier as advocated by Option1. Similarly they thought Option 2 would reduce a layer of appeal and so, diminish appeal rights.

3 preferred option 1, 2 opted for Option 2 on the grounds that the Information Tribunal acts as an appellate body, and also would enable the right level of judge and expertise to deal with the cases.

The Government has carefully considered all the responses. It fully understood all the points raised by the Information Tribunal itself, however, it has decided to pursue Option 3 and confer the jurisdiction of the Information Tribunal over both tiers. This, it believes, will provide the maximum flexibility in how appeals are handled in this jurisdiction, recognising the diversity of its caseload, and its role in dealing with national security cases. The natural starting place for all cases is the First-tier Tribunal, only issues principally of law that need to be dealt with at a higher level should be heard in the Upper Tribunal. It is open to the Upper Tribunal to have non-legal members but, even where the tribunal does not have sufficient relevant expertise in its members, the Act enables assessors to be appointed to ensure that appropriate expertise is available**.**

The First-tier jurisdiction will sit in the General Regulatory Chamber of the First-tier, with any cases requiring Upper Tribunal judicial expertise being held within the Administrative Appeals Chamber. This will mean that there will be two Chamber Presidents with a role in the work. The Senior President and Chamber Presidents will be asked to consider what their respective roles should be in relation to allocation of cases to tiers ahead of the transfer of the Jurisdiction.

Chapter 9: The Role of Non-Legal Members

Appointments and tribunal Composition

Q15: Do you agree that this is the right approach to tribunal composition?

Q16: Should there be different principles for certain chambers or appeal rights, and if so, why?

The Government would like to create a unified approach to tribunal composition, and better use the experience and expertise non-legal members (NLMs) bring to the tribunal, whether they be accountants, surveyors, service or disability members.

The Government cited a number of principles it intended taking forward for the composition of tribunals:

- The maximum hearing a case is 3
- Hearings of more than one judge are only appropriate if it is a significant question of law, or training is taking place
- In tribunals of two the chair has the deciding vote
- Non-legal Members (NLMs) are there to provide expertise and should be applied selectively
- Expertise is not confined to those with professional qualifications
- NLMs may be able to hear cases alone
- NLMs can be used outside the hearing room, i.e. to chair expert witness hearings.

Of the 140 responses received, 84 answered Question 15, 50 agreed that this was the correct approach to tribunal composition. 7 expressed concerns over the future role of NLMs, and opposed the inclusion of ET/EAT members as ex-officio members of the First-tier and Upper Tribunal. The Act enables ET/EAT members to be ex-officio members of the two-tier structure, however this is not a reciprocal arrangement: members of the two-tier structure cannot sit in ET/EAT cases. Whilst the Government recognises these concerns we believe that the requirement for NLMs to have skills or experience required for each jurisdiction they are assigned to will mean that ET/EAT members will not sit on panels for appeals in other jurisdictions unless they held, or were qualified for, non-legal member positions under existing Tribunal appointment procedures.

26 disagreed with the approach for tribunal composition. 11 of these were with regard to ET/EAT composition. The Government would like to emphasise that ET/EAT will stand as a separate pillar outside the two-tier tribunal structure, the composition of the tribunal will be completely unaffected by these proposals.

7 respondents disagreed with proposals because of concerns in relation to the future role of service members hearing appeals in the Pension Appeals Tribunal jurisdiction. In particular they were concerned that the Government may be contemplating the removal of service members on these appeals. The Government would like to give categorical assurance that this is not the case. The role of the service members on war pension appeals is crucial to the decision making process and to the appellant's

assurance in the system. The Government recognise this. The consultation paper expressed the view that non-legal members should be used on particular hearings where they bring to the table skills, experience or knowledge that tribunal judges cannot provide. Service members clearly do this, and the Government believes their presence is vital in these appeals, accordingly the qualification criteria for service members hearing war pension appeals will not change.

Other reasons for disagreeing with the proposals for tribunal composition, and Government responses to them are:

NLMs should not sit alone; the Government wish to stress that NLMs, some of which are accountants and surveyors currently successfully deal with cases and it is intended that they will continue to do so. There may be other instances where it is appropriate for NLMs to sit alone. However this will be a matter for judicial decision by the Senior President or a Chamber President under his delegation, and would be subject to consultation in accordance with established procedures for Practice Directions.

The term ‘judge’ should not be used as it will act as a barrier; the Government are attempting to unify an array of tribunals, this is viewed as an important step in doing so, although terminology may change it will not affect how individual tribunals are conducted;

SSCSA disability members should be retained on all DLA/AA tribunals and their role should be increased to sit on other appeals for Industrial Injuries Disablement Benefit, Incapacity Benefit and Income Support where there is a disability question. The Government considers the current use of disability members in SSCSA cases to be appropriate in most circumstances. Proposals for composition of Tribunals do not limit the jurisdictions they can sit on as NLMs. We do not consider these categories should be extended.

52 respondents answered Question 16, 11 agreed that there should not be different principles for certain chambers or appeal rights, 7 stated there should be and an additional 34 expressed no opinion either way, but took the opportunity to reinforce their answer to Question 15 or other earlier questions.

Of the 7 who thought there should be differences, 6 called for enshrining panel composition in the legislation, with concerns raised that introduction of wider judicial discretion carried risks such as inconsistent treatment of customers between countries and regions, and increase in costs if there is a move away from use of single person tribunals. Another stated discretion should always be available in the different jurisdictions as they all operate in different ways.

The Government intends that discretion will be available within boundaries set by the Composition Order the Lord Chancellor will make under Schedule 4 of the Act. While the Order will state that the Senior President must have regard to existing provision made by or under any enactment when determining composition, we do not believe that panel composition should be enshrined in legislation as this would remove any flexibility where it is clear that the issues in an appeal hearing do not relate to the non-legal members expertise. For example in some social security appeals the key

issue may be whether the person is resident in the United Kingdom as opposed to any disagreement on disability.

In these cases the compulsory requirement for a medically qualified member would mean that qualified professionals were required to give up valuable time for appeals in which they had no active part to play. We believe that the Judiciary are best placed to decide composition in instances such as this. We do not believe the discretion the Judiciary will be afforded will result in a wholesale change of approach to Panel composition as the Judiciary clearly recognise the expertise and knowledge non-legal members bring to proceedings.

The Government believe many may have misconstrued the section on NLMs in the Consultation Document as an attempt to rationalise and reduce their role, and would like to provide reassurance that it is neither. The Government aim is to make the best possible use of the experience and expertise NLMs bring to the tribunal, whilst at the same time avoid placing unnecessary burdens on those who give their time to Tribunals to perform this role.

Categories of Non – Legal Members

Q17: Do you agree that these are the appropriate categories for members?

Non-Legal Members (NLMs) will be mapped into Chambers on the basis of the jurisdiction they currently sit on. The Senior President, with the concurrence of the Lord Chancellor, has to specify the qualifications of the different categories for the orders to do this. The Government proposed the following

- Healthcare Qualified Professional: this could encompass doctors, nurses, psychologists etc. In order to overcome recruitment issues, the Government also proposed the appointment of a small number of full time salaried medical members. This was overwhelming supported by those who responded to this question.
- Other Qualified Professionals: the underlying principle for this is a professionally validated qualification, i.e. surveyors, accountants, pharmacologists, social workers, etc.
- Other Experts: the Government wish to remove the ‘lay’ as members are involved in tribunals by virtue of their experience, which does not have to carry a professional qualification.

74 of the 140 respondents answered question 17. 41 agreed that these were the appropriate categories for members, 11 answered but did not express an opinion either way and 22 disagreed.

Of those who disagree, a number of respondents felt there was no value in attempting to categorise members. The Government accept that there are arguments for not having separate categories but consider that categories provide a useful means with which to ensure members are assigned only to cases for which they are suitably qualified, and as such support the administration of the Tribunals and delivery of effective justice within them.

Other respondents were concerned that the proposals were advocating the removal of, or diminished role of lay members, particularly service members on PAT tribunals, whom, they felt brought value to the decision making process and were “invaluable” in the experience they have. This has been covered in the responses to previous answers.

Some respondents disagreed with proposals for Healthcare Professionals; stating that they should not replace qualified Doctors on SSCSA, MHRT or PAT tribunals. The Government confirm the role of Doctors on these tribunals will continue, but the intention is to have a wider range of health care professionals available to reflect the changing world of health care. For example, in Disability Living Allowance appeals heard by SSCSA, a Clinical Psychiatric Nurse could assess the level of support a person who has suffered from mental illness, may need when they are moving back into the community after being in hospital.

A few stated only members with recognised professional qualifications should be invited to sit on tribunals. The Government do not accept this. Expertise and experience can be equally as important as qualifications in many tribunal hearings. Pension Appeal Tribunals are a clear example of this where the experience of service members is crucial to the issues in an appeal.

Titles

Q18: What should the description be?

Q19: Would the term ‘member’ suffice?

The Government would like to cease using the term ‘lay member’ as it believes it is misleading and does not recognise the profession or expertise the individual brings to the tribunal. It proposes, in order to simplify what can be a confusing process for people, to call specialist and experts ‘members’.

Of the 64 that responded to Question 19, using the term ‘member’, 41 agreed that this would suffice. 2 answered but did not express and opinion either way, 21 opposed ‘member’.

Of those 21 who opposed, 8 answered with regard to ET and the description of non-legal members in that jurisdiction. There are no plans to change the description of members for ET in this consultation, as the proposals do not relate to this Tribunal. 2 commented that they thought the term ‘judge’ should not be used. As these questions did not relate to judicial titles these comments have not been considered further. The remaining 11 suggested alternatives such as: non-legal member; expert member; specialist member; surveyor member; medically qualified member; financially qualified member; disability qualified member and member of the (x) tribunal. These were also cited as answers to Question 18 to which 63 responses were received.

In view of the support for the proposal, the Government proposes to call all specialists and experts ‘members’. The range of alternative options proposed contain either considerable overlap or are insufficient to fully capture the range of skills,

qualifications and expertise held by non-legal members. The Government will make an Order setting out the qualifications and experience requirements for members and this will cover Healthcare, professional, disability, and other qualifications as four separate categories.

Chapter 10: Tribunal Procedure

Improving the Service to Tribunal Users

Q20: Do you agree where a function of a tribunal is carried out by a member of staff there should always be right of access to a judge?

Q21: Are there any judicial functions of a tribunal which should never be performed by staff whatever the safe guards?

Paragraph 3 of schedule 5 to the Act empowers the TPC to allow the functions of the First-tier and Upper Tribunal to be carried out by staff. Questions 20 and 21 related to the range of functions that may be suitable for delegation, and access to Judiciary where a function is delegated.

71 of the 140 respondents answered Question 20, 61 thought where functions were carried out by staff there should always be right of access to a judge. 1 respondent did not express an opinion either way. 9 stated no judicial function should ever be conducted by staff, but did express support for legally qualified officers carrying out specific delegated judicial functions.

64 respondents answered Question 21. 2 did not express an opinion either way. 35 were of the opinion that no judicial functions should ever be performed by staff whatever the safeguards. 5 of these were from respondents with interests in ET only. ET will not be covered by rules made by the TPC under Schedule 5.
26 of those who responded thought some functions could be performed with judicial supervision, but cited the following as examples of functions that could never be carried out by administrative staff: determination of the appeal; strike outs; late application; application for extension; questions of liability or remedy; giving directions; determining issues of law or fact; application for onward appeal; adjournments; postponements and set asides.

The TPC will take forward these points and discuss any proposals for delegation of judicial functions with Tribunals Judiciary. The AJTC will be represented on the TPC as will Bar Pro Bono Unit, Law Society and Free Representation Unit. This will ensure a wide range of interests contribute to developments in this area.

Costs

Q22: Are these the right criteria against which a costs regime should be judged? Is there good reason for the inclusion of other principles?

The Government made it clear during the passage of the tribunals, Courts and Enforcement Bill through both Houses of Parliament that it had no intention of introducing a costs regime which would prevent socially and financially vulnerable people accessing justice. Existing costs regimes will continue. Costs in the Tax Chamber are dealt with separately at Question 27.

The Government wanted to look at existing provisions to see how viable it is to arrive at a costs regime that could operate across the work of the First-tier and Upper Tribunals. It proposed the following criteria for:

- Fair – both to Government and private litigants
- Easy to understand – so that the potential financial costs of appeals are clear to litigants from the beginning of the process
- Proportionate to the issue to be decided, and
- Widely accepted by users of the tribunals.

62 of the respondents answered this question, 49 agreed this was the right approach, 3 opposed it, 1 responding with regard to ET's, which are excluded from this proposal, the other 2 opposing costs in any tribunal, 1 stating the threat of costs would stop people appealing.

8 answered but did not state an opinion either way, of these 1 stated that for Lands Tribunals there should be a different approach to costs between First-tier and Upper Tribunal appeals, 1 made specific comments in relation to CSA cases, and 3 stated the practice, whereby the party who loses the case pays the costs, should continue and be extended. 2 respondents suggested alternative models; the party bears their own costs; the county court model; the ET model; the VAT & Duties model and the 'opt in' model whereby the parties take the risk knowing they could pay the full costs.

The Law Society stated costs were too complex to address as the paper does and that a full and careful analysis of the implications of a change regarding tax tribunals should be undertaken separately. On the former point, the consultation paper aimed to distill key criteria, but we recognise complexities underneath this that will need to be taken forward in the more detailed development of any costs regime. On the latter point, costs in tax cases is dealt with separately in this paper.

Given the overwhelming majority in support of a cost regime being judged against the four proposed criteria, the Government intend to recommend the criteria be applied by the Tribunal Procedure Committee in any regime it may develop. The Committee will also take into account specific issues raised by respondents in relation to individual jurisdictions.

Chapter 11: Tax Appeals Modernisation

The modernisation of the tax appeals system is a distinct exercise within the wider reform of the tribunals system.

The proposals for the creation of a distinct tax chamber in the First-tier Tribunal and a Finance and Tax Chamber in the Upper Tribunal were supported by a wide majority of respondents.

A summary of responses to the consultation questions relating to tax appeals modernisation are set out below.

Q23: What are the features of the current system that should be retained in the new one?

18 respondents addressed this question and identified various features of the present system that they regarded as important. 8 respondents supported the current system of holding appeal hearings in locations which are local and convenient to appellants, citing this regional aspect as essential for those who may not be able to afford to travel, or those based in rural areas who may find it difficult to travel to towns & cites.

5 respondents cited the informality of the current system as a positive feature, particularly for those who represent themselves, with 2 respondents highlighting that costs are kept down by the system remaining as simple and user-friendly as possible.

3 respondents were supportive of the speed in which appeals are processed and heard in the current system, although unacceptable delays were cited by one respondent. 2 respondents supported retaining the expertise of the panels which hear appeals. 1 respondent recommended that the tax appeals system should continue with non-legal members who have relevant knowledge and experience, and another respondent supported the current local knowledge of panel members, who tend to know the problems faced by local businesses.

The Government agrees that the informality and accessibility of the present system must be retained in the design of the new one. The new tax appeals system will deal with a wide variety of matters, but many cases will be straightforward and should be dealt with promptly without the need for overly legalistic processes. The tax chamber will provide informal and accessible hearings for cases of this type, heard quickly and as locally as possible. Non-legal members will play a key role, with many hearings dealt with by them sitting alone. They will also sit on a panel with legal members where this is appropriate to the needs of the case.

The new system will also aim to ensure, through efficient administrative processes, that all tax appeals are dealt with as efficiently and promptly as is appropriate in the new system. A hearing will be arranged and a suitable panel listed to hear the case. This will be done as quickly as possible, although sufficient time must be allowed for the panel to consider fully all relevant aspects of the appeal.

The Government recognises the concerns about local hearings. The Tribunals Service has a good network of dedicated hearing centres where most tax appeals can be heard. The Ministry of Justice also has a large number of court buildings that would provide hearing solutions in other locations and in more remote areas casual or daily hires and use of video conferencing facilities will provide alternative solutions. In Scotland and Northern Ireland the Tribunals Service will work with the Scottish Government and the Northern Ireland Executive to ensure the provision of suitable local facilities for hearings.

3 respondents felt that the simplicity of the current rules and procedures was important. New rules are being drafted for the tax chamber, which will be put before the Tribunal's Procedure Committee. These will aim to enable straightforward and rapid processes for dealing with simpler cases. They will also be flexible enough to allow the tribunal to deal with complex and difficult cases. There will be a public consultation on the rules. The Tax Appeals Modernisation Stakeholder Group will be consulted on early drafts.

While a modern and accessible approach is paramount the Government also recognises the wide spectrum of cases that will come before the new tax chamber in both the First-tier and Upper Tribunals. Where cases are complex or difficult, judicial case management will be required ahead of the hearing. The work of the Special Commissioners and the VAT & Duties Tribunal will transfer into the new system and our aim is to ensure that the services currently provided by those jurisdictions will be enhanced by their transfer into the Tax Chamber.

3 respondents expressed the view that the right to appeal to a higher body should remain automatic; that is that a similar distinction between General and Special Commissioners should be retained in the new system. The Government believes that, as we have set out, the First-tier Tribunal will have appropriate levels of flexibility and judicial expertise available to it to remove the need for a two tier system within the First-tier Tribunal. Neither would a right of appeal directly to the Upper Tribunal be appropriate or necessary. There will be a right to appeal from the First-tier to the Upper Tribunal, and from the Upper Tribunal to the Court of Appeal and onwards from that Court (with the leave of each body, as appropriate). However, the right to appeal will be on point of law only, in line with other courts and tribunals. In exceptional cases, appeals will be able to be heard in the Upper Tribunal in the first instance.

Q24: What are your views on the type of cases that could be heard by non-legal members?

The consultation document asked respondents to express opinions on which types of cases could be heard by non-legal members. Of the 28 tax-specific responses, 22 respondents addressed this question. 6 responses considered that matters of fact, rather than significant issues of law, should be heard by non-legal members. Those 6 responses variously suggested that non-legal members should have a blend of specialist tax knowledge and wider commercial experience, that the majority of tax cases turn on facts, and would be suitable for non-legal members to hear, and that

non-legal members could create time for legal members to hear the more complex cases.

1 respondent suggested that a robust system of quality control should be set up to oversee the work of non-legal members. Cases identified as suitable for hearing by non-legal members included those concerning reasonable excuse, matters of fact and possibly law. 2 respondents indicated non-legal members should be able to hear all cases, 1 with the caveat that this should be subject to training in the relevant law. It was also suggested non-legal members should not hear procedural arguments regarding the admissibility of evidence.

1 response maintains that non-legal members should not have the ability to create precedent. The Government does not envisage that the First-tier will create precedent which binds the First-tier itself, nor any other court or tribunal. One submission suggested non-legal members should not hear judicial review matters. The Government agrees with this.

Responses included recommendations that non-legal members hear both direct and certain indirect tax cases; they should hear applications by HMRC for daily penalties & VAT case penalty issues, the role should continue as at present, and they should hear cases akin to those currently heard by the General Commissioners of Income Tax.

Non-legal members of the First-tier Tax Chamber will be selected for their tax and financial expertise and will receive appropriate training in legal and procedural matters, and will, it is envisaged, hear a range of both direct and indirect tax cases.

Some respondents suggested that panels should not be compromised by even numbers without detailed casting vote guidance and also panels should consist of at least one member with relevant tax, accountancy or legal knowledge. A small number felt that non-legal members should not sit alone, especially if the right of appeal is not automatic, and they should sit as part of a panel on cases which require some legal input, such as those requiring basic directions.

2 respondents felt that non-legal members should be eligible to sit in the Upper Tribunal, and decisions by non-legal members should not be taken into account if appealed to the Upper Tribunal.

The Government notes the wide variety of views on this issue. It agrees that non-legal members have a critical role to play in the new system and non-legal members will be involved in the majority of First-tier tax appeals. Detail will be worked out in consultation with stakeholders, based around the case-categorisation developed by the Tax Appeals Modernisation Stakeholder Group which is providing advice to the Tribunals Service on design issues in the new tax appeals system.

1 response considered that non-legal members should hear tax credit appeals, with assistance from expert disability, medical or financial members where appropriate. The Government has indicated that it wishes tax credits to transfer initially into the Social Entitlement Chamber and in the longer-term into the Tax Chamber, as

discussed in response to Question 3. This suggestion would be considered in the context of the longer-term transfer.

Q25: What types of cases should go straight to the Upper Tribunal?

22 respondents addressed this question. 11 suggested that complex cases which involve complex questions of law should go directly to the Upper Tribunal. They gave examples of such cases as: anti-avoidance cases; human rights law where allegations of dishonesty are made; administrative law issues; trust law; s.703 of the Income & Corporation Taxes Act; Insurance Company taxation; Petroleum Revenue Tax; and where there are conflicting First-tier decisions or guidance is needed from the Upper Tribunal. High value cases involving important procedural issues and appeals within section 222(3) of the Inheritance Tax Act 1984 were also given as examples.

8 expressed the view that cases where a referral to a higher court such as the Court of Appeal or the European Court of Justice is likely, they should bypass the First-tier. 7 responses supported such a path for group litigation matters and 6 recommended this for test or lead cases. 3 said that cases which will set an important precedent or which raise an important point of law should commence in the Upper Tribunal, and 5 also considered this an appropriate route for cases which raise judicial review issues.

A number also commented on the mechanism for first instance referral of cases to the Upper Tribunal. 6 considered this should be on the application of one or both of the parties, 2 thought that individuals should be able to go to the Upper Tribunal directly and 1 favoured this course of action only with the agreement of both parties. 1 suggested that any first instance referral to the Upper Tribunal should have the consent of the appellant, especially if there are to be differing costs regimes in the First-tier and Upper Tribunal.

2 were of the opinion that Upper Tribunal members should be able to drop-down to hear cases in the First-tier where necessary, and 1 recommended that any appeal should go straight to the Court of Appeal in these circumstances.

The Government welcomes the views expressed, and the theme coming through that the numbers of such cases will be very small and would be cases that deal with complex or important points of law, lead and test appeals and group litigation cases, and cases where there are conflicting lower tribunal decisions. These would be cases where points of fact are settled or are of subsidiary importance to the outcome of the dispute

The Government sees this as consistent with the envisaged role of the Upper Tribunal as a Superior Court of Record, making findings on points of law that set important points of precedence for the First-tier.

The Government will work with the Stakeholder Group over the coming months to refine procedures and rules for how such cases would be referred to the Upper Tribunal.

Q26: What types of cases will require early case management?

The consultation document asked respondents to express opinions on which types of cases might require early case management. Of the 28 tax-specific respondents, 16 respondents addressed this question. 6 respondents were of the opinion that all cases should be subject to early case management, 2 considered that early case management should used be to dispose of cases which have no merit, 2 recommended this with a view to alternative dispute resolution and 1 considered it necessary for a decision to be made on whether to assign to the Upper Tribunal.

4 respondents favoured early case management where there are multiple documents, witnesses or parties in a case, with 3 respondents expressing the view that this would be appropriate in group litigation matters. There were 2 respondents each advocating early case management for cases involving difficult issues of fact or law, heavy and sensitive cases and cases where appellants are unrepresented. 2 respondents suggested early case management by optional mediation or by an alternative dispute resolution process. The Government welcomes this in light of the work which has started in evaluating the benefits of such techniques in other courts and tribunals.

Other singular suggestions for the types of cases which would require early case management included: cases which have been stayed pending the decision of a higher tribunal or court; cases involving significant expert evidence; cases raising points of wider significance; where it appears that the bringing of a case may be being used as a delaying tactic by one of the parties; cases where the appellant may face hardship if the proceedings are delayed; and cases involving the use of HMRC's information gathering powers. There was one respondent recommending the use of amicus curiae in the tax tribunals, as well as a pro bono scheme of assistance for the unrepresented.

The Government favours wide use of early case management in order to ensure that the tax appeals system can deal effectively and efficiently with the wide spectrum of cases that come before it; so that most cases are processed promptly, but where judicial case management is required, cases can be identified and passed to judges without delay.

Q27: What are the types or features of cases that you think should be subject to an award of costs?

Q28: How do you think the award of costs should operate in practice?

26 respondents replied to the two Costs questions. They expressed a range of views around the extent to which Costs should be recoverable by parties in the new First-tier Tax Chamber.

Unreasonable, vexatious and frivolous behaviour

11 respondents considered that the Tax Chamber should have the power to award costs where a party or their representative has acted unreasonably. 1, however, was

concerned that this power being available could deter taxpayers from accessing the Tribunal.

2 supported an award of costs against a party who has behaved “vexatiously”. 2 supported the model of the current Employment Tribunals system, where costs can relate to the bringing or conducting of proceedings having been misconceived.

3 thought the unreasonable behaviour power should apply only in relation to HMRC’s behaviour. A variety of views were expressed around what such behaviour was, including failing to comply with directions, excessive delays by either party, unreasonable introduction of late evidence etc.

The Government agrees that there should be an award of costs in relation to unreasonable, vexatious or frivolous behaviour, which should deter potential abuse of the Tribunal system. This power needs to be applied even-handedly between the parties. The general power would be set in Rules, though any award and its quantum is at judicial discretion.

Costs following the event

Most respondents expressed a view on whether there should be a further provision for costs beyond unreasonable behaviour. Views ranged from no costs, to limited provision, to costs being widely available. The weight of opinion was that any further provision should be in relation to a minority of cases in the First-tier.

The view that costs should be widely available was mainly based on the view that there should be a Sheldon practice in the new Tax Chamber. The Sheldon practice (presently operating in the VAT & Duties tribunal) is where HMRC pays costs when it loses, but seeks costs only in a minority of cases that it wins. The consultation document stated that the Government’s intention was that, on the move to the new tribunal, this practice would cease to apply.

7 respondents argued for retention of the HMRC Sheldon practice in the First-tier Tax Chamber. 2 respondents looked to a continuation of the Rees practice (under which HMRC can come to alternative arrangements about costs in appropriate cases of significant interest to taxpayers as a whole).

6 respondents argued, in a post-Sheldon world, for an asymmetrical approach, whereby a taxpayer might opt-in to a costs regime but HMRC could not. They argued that this would take account of a perceived power imbalance between taxpayers and HMRC, which had the potential to deter taxpayers from seeking access to the Tribunal. 3 argued for no costs power beyond unreasonable behaviour on a similar basis, though 1 caveated this heavily around there being early dispute resolution or a pro bono scheme of assistance for the unrepresented.

There were 4 responses to the question around the features of cases where costs might be appropriate. They suggested substantial and complex cases, and ones dealing with important points of law, which were ones where it was important that the taxpayer sought appropriate representation.

1 respondent considered that costs should follow the event in the Upper Tribunal, though there should be protection for taxpayers taking public interest cases. 2 said that Tax Credits should never be subject to fees and costs.

The Government considers that the basic principle should be that any power of the tribunal to award costs should apply equally to both parties, and intends not to operate the Sheldon practice in the new Tax Chamber. On this basis, where costs follow the event, each party will bear the other party's costs if they lose. Costs will not be appropriate for the majority of tax appeals. However, the Government intends to take forward the proposition in the consultation document that costs should be available for some large, substantial or complex tax cases, whilst at the same time ensuring that taxpayers are not deterred from taking their case to the tribunal because of a fear of incurring HMRC costs.

Cases appropriate for costs will not be able to be defined or categorised in advance. It is therefore proposed that such cases would be identified through the Tribunals case management processes and judicial directions. It would work in the following way. Costs would be applicable where a case is allocated to the Complex procedural track, and costs considerations would come within the scope of directions hearings for complex cases.

When allocated to the Complex Track costs would apply, however this would be subject to the taxpayer being able to opt-out. This is consistent with the principle that no taxpayer be obliged to be in a costs regime against their will, which was a significant concern voiced in the consultation. It will be made clear to taxpayers at the outset, through guidance and operational procedures, what their options would be if a case were determined to be appropriate for the complex track, and so potentially subject to costs.

Parties would have the opportunity to make representations to the tribunal about the track to which a case has been allocated, in particular if they consider its weight were such that it merited being allocated to the complex track.

The Government will work with the stakeholder group over the coming months to appropriately incorporate this proposal into detailed rules and procedures.

Chapter 12: Land, Property and Housing

Land, Property and Housing

Q29: Do you agree that this is the right long term vision for tribunals dealing with land, property and housing? If not, do you have an alternative suggestion?

Q30: Do you agree that the jurisdictions of the Residential Property Tribunal (RPTS) and the Adjudicator to the Land Registry should be transferred to the First-tier Tribunal and their administration to the Tribunals Service?

The Government proposes to create a two-tier structure for the Lands, Property & Housing jurisdictions which will be assigned to the Tribunal system. Ahead of the results of a Law Commission report on housing it proposed to take the following interim measures: transfer the existing jurisdiction of Residential Property Tribunal (RPTS) and Adjudicator to the Land Registry to the First-tier Tribunal; transfer the administration of the RPTS to the TS and create a Lands, Property & Housing Chamber.

23 respondents answered this question 29, 16 agreed with the proposals, 4 did not and 3 did not express a view of the proposed question either way.

Of the 17 that responded to question 30, 15 agreed with the Government's proposals, although not disagreeing, 2 did not express an opinion either way.

Of those that agreed, a few respondents stated that important, difficult and high value valuation disputes should go straight to the Upper Tribunal. Other expressed that the needs of the user should be paramount in all consideration and not to apply the 'one type fits all' approach. We will consider these issues further as part of the development of the Chambers.

Reservations were expressed by certain respondents in relation to RPTS and Valuation Tribunals. In relation to RPTS it was said that, with the exception of its Housing Act jurisdiction, it dealt with party v party disputes rather than citizen v state disputes, and that this could justify its treatment as a separate "pillar", like Employment Tribunals, rather than as part of the First-tier Tribunal.

The Government does not agree with this view. There would be within the UT and FTT Land Chambers other party v party jurisdictions: for example the Lands Tribunal's restrictive covenant cases and the jurisdictions of the Adjudicator, while appeals from LVTs would continue to go to the Lands Tribunal when incorporated as the UT chamber.

Of those that opposed this approach, a common theme was that the Government should wait for the Law Commission's Report and consider its recommendations before making any decisions on the future of these tribunals and leave all 'as is', and one respondent felt that all tribunals dealing with property matters have to be brought in including those dealing with Council Tax and Business Rates. The Government does not accept these arguments. The Chambers structure will be sufficiently flexible

to accommodate any recommendations arising from the Law Commission's report where the Government response supports them. Similarly we do not believe it is necessary to bring in all Tribunals from day one, and to do so may be at odds with Law Commission recommendations. For this reason we consider that the proposed approach, as supported by the majority of respondents is the correct one to take.

Views were also expressed about the scope of appeals from the FTT to the UT. We have already said in relation to Q13 that all those who responded agreed with the Government's proposal that appeals from LVTs and VTs should not be confined to points of law but should continue on the existing wider basis. The principal need for this wider right of appeal is to enable the UT to deal with matters of valuation principle. A response suggested that appeals from the Adjudicator should lie on both fact and law. The Government does not agree that this would in general be appropriate, and although it is accepted that appeals should not be confined to points of law only it would expect that Practice Directions would limit the circumstances in which factual matters could be reopened on appeal.

Reservations were expressed about the transfer of the VTs' jurisdictions, and there was concern lest the wholly lay constitution of these tribunals might be replaced. Transfer of these jurisdictions is not at present proposed, but consideration will be given to this and to the appropriate composition of the panels.

A further respondent expressed the view that difficult valuation decisions of the FT should be appealable, whilst another said that as the main function of the Adjudicator is to determine *inter partes* disputes which are likely to involve issues of both fact and law, the parties should be able to appeal on the facts as well as on points of law. The Government does not agree with these arguments. The First-tier Tribunal will rule on the facts of a case and will have the appropriate expertise to do this as it does now. The question for the Upper Tribunal to decide should only be whether the First-tier Tribunal has correctly applied the law in these instances, issues of fact or difficulty of appeal decisions should only be before the Upper Tribunal where they relate to points of law.

Specific reference to appeals under Section 111(3) of the Land Registration Act 2002, where the court must determine how equity due to an applicant is to be satisfied, was made in one response. The respondent argued that in order to exercise this function effectively, the appellate body needs the power to review and make findings on the facts of the case.

6. Next Steps and Proposed Actions

6.1 The Government will now lay the Statutory Instruments in Parliament to enact those parts of the 2007 TCE Act that will establish the First-tier and Upper Tribunals enable tribunals to be transferred into them. Subject to Parliamentary approval, the new tribunals will commence in November 2008, and the transfer of all jurisdictions will be complete by April 2009.

6.2 The Tribunal Procedure Committee will undertake a consultation on the proposed rules for those tribunal's transferring in to Chambers in November 2008.

Annex A

List of Recipients of Consultation Document

To follow is a list of people and organisations who requested a copy of the Consultation Document. Often a number of tribunal members requested a copy of the document, for simplicity it has only been listed once.

ACAS
Adjudication Panel
Adjudicator to HM Land Registry
Administrative Justice and Tribunals Council
Anonymous
Association of Appeals Service District Chairman
Asylum & Immigration Tribunal
Asylum Support Adjudicator
Cabinet Office
Care Standards Tribunal
Chair SEN & MHRT
Chairman, Information Tribunal.
Chartered Institute of Management Accountants
Chartered Institute of Public Finance & Accountancy
Chartered Institute of Taxation
Child Poverty Action Group
Civil Justice Centre
CJS
Clerk to Tax Commissioners
Confederation of British Industry
Confederation of Passenger Transport
Council of Employment Tribunal Members Association
Criminal Injuries and Compensation Appeals Panel
Crown Office Chambers
Department for Business Enterprise and Regulatory Reform
Department for Children, Schools and Families
Department for Communities and Local Government
Department for Environment, Food and Rural Affairs
Department for Work and Pensions
Department of Health
Eastern War Pensions Committee
Education Advisor Napier University Students Association
Employment Appeal Tribunal
Employment Tribunal Member
Employment Tribunals Service
Family Health Services Appeal Authority
Finance & Tax Tribunal
Forum of Tribunals Organisations
Freight Transport Association
Friends of the Earth
Gender Recognition Panel
General Commissioner
General Medical Council
HM Prison Service

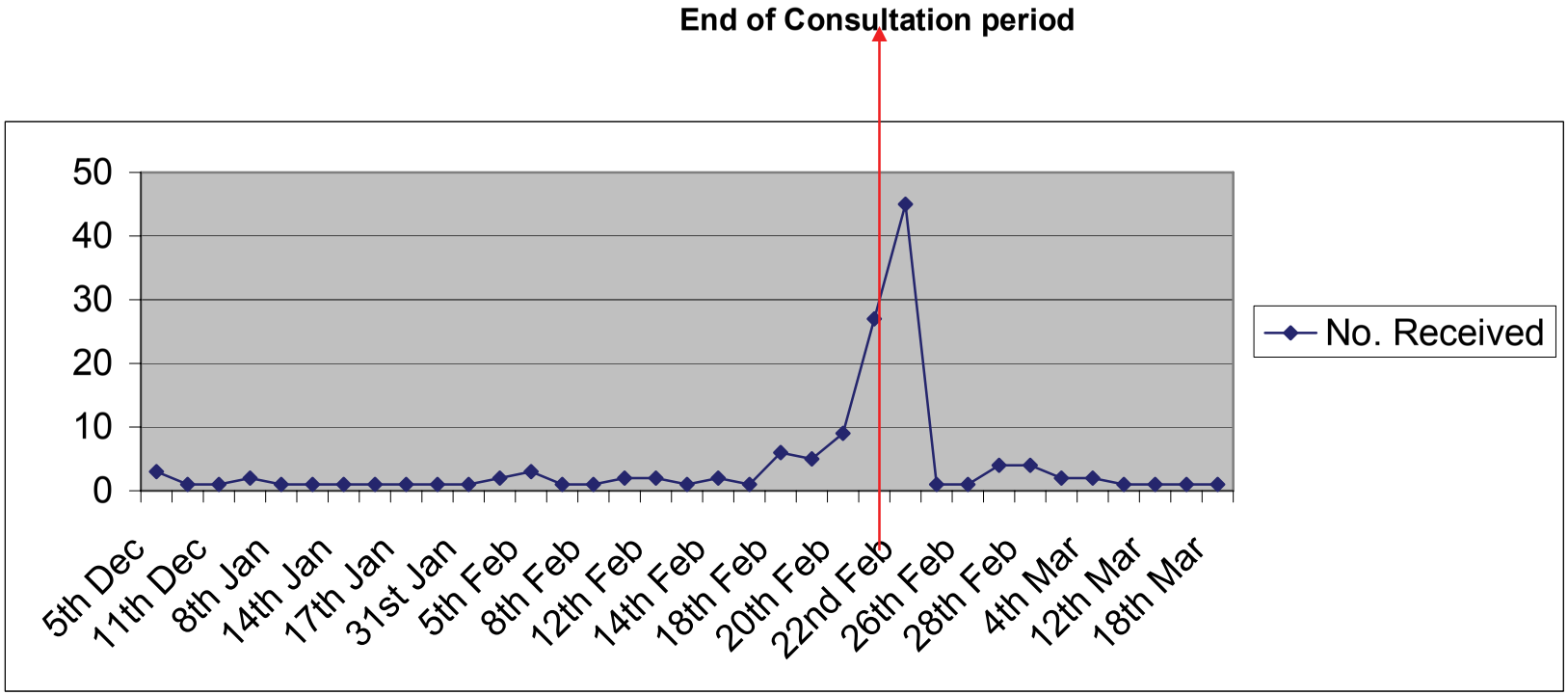
HM Revenue & Customs
HM Revenue & Customs
Home Office
House of Commons Library
Human Rights Centre University of Essex
Immigration Services Tribunal
Institute of Chartered Accountants in England & Wales
Institute of Legal Executives
Judicial Studies Board
Judicial Working Group
Kingsley Napley
Land Registry
Lands Tribunal
Law Commission
Lay Member
Legal Aid Action Group
London Society of Chartered Accountants
Lord Justice Carnwath
Mann Accountancy Services
Mental Health Review Tribunal
Ministry of Defence
Ministry of Justice
Mr Justice Kitchen
Mr Justice Ouseley
Mr Justice Sullivan
National Association for Mental Health
National Children's Bureau
Northern Ireland Court Service
Office of Roger Gale MP
Office of the Commissioners for Social Security and CSA Appeals
Office of the Lord Chief Justice
Pension Appeals Tribunal
Personnel Consultant
President Administrative Appeals Tribunal Australia
Private Office of the Chancellor of the High Court RCJ
Residential Properties Tribunal Service
Road Haulage Association
Rotherham Welfare Rights Team
Royal British Legion
Royal College of Nursing
Royal College of Psychiatrists
Royal Institute of Chartered Surveyors
Salford Welfare Rights Service
Scottish Committee of the Administrators Justice
Scottish Courts
Scottish Executive
Service Personnel and Veterans Agency
Sir Igor Judge
Socio-Legal Studies De Montfort Law School
Special Commissioners
Special Educational Needs & Disability Tribunal
Special Educational Needs Tribunal Wales

SSRB - Office of Manpower Economics BERR
Suffolk Advisory Committee, Tax Commissioner
The Bar Council
The Chamber of Experts
The Law Society
The Law Society of Scotland
Trades Union Congress
Transport Tribunal
University of Edinburgh, Department of Social Policy
University of Liverpool, Law School
University of London, Department of Law
VAT & Duties Tribunal
Welsh Assembly Government

Annex B

Date View of Responses Received

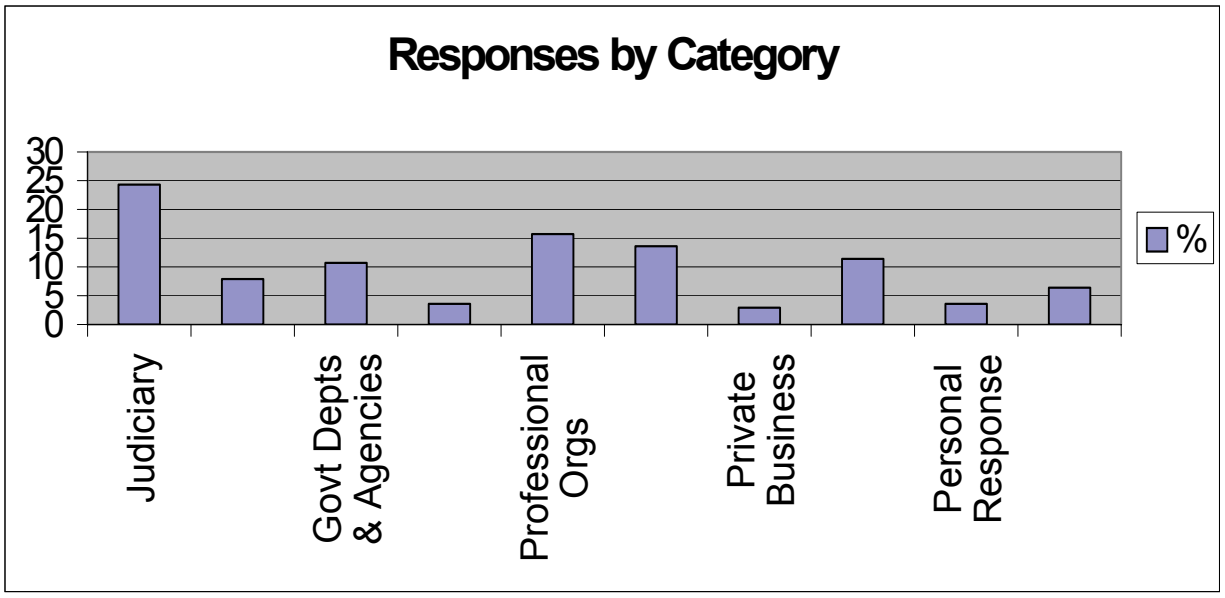
The following diagram shows the date view of when the responses were received; all responses received after the official end of the Consultation period on 22nd February 2008 were accepted.



Annex C

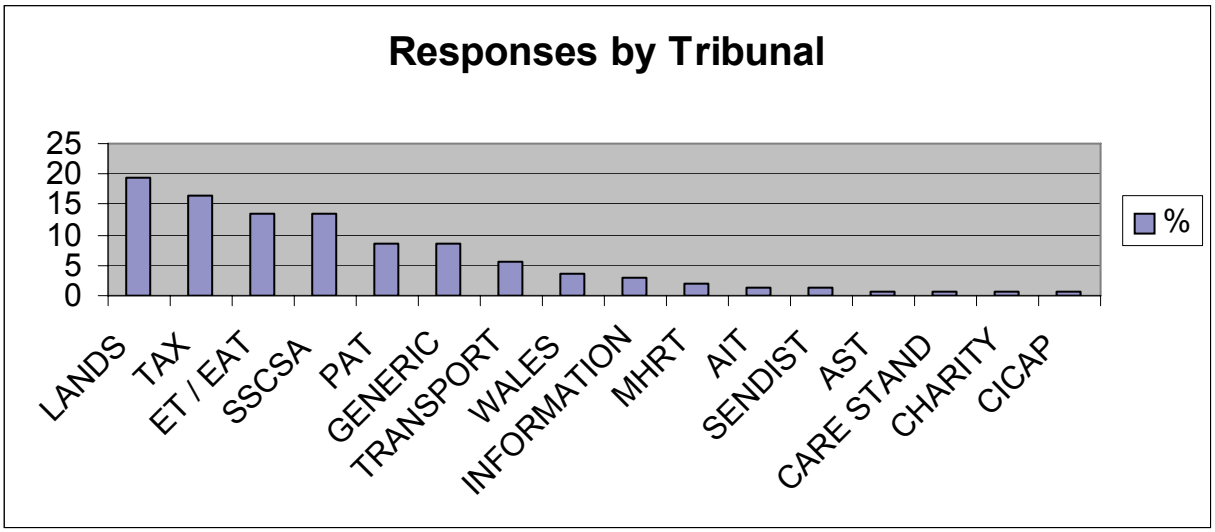
Category breakdown of Respondents

The following diagram shows the category breakdown of respondents.



Category breakdown of Respondents

The following diagram shows the breakdown of responses by Tribunal.



Annex D

List of Respondents

To follow is a list of respondents and their position / organisation. This has been recorded in alphabetical order for their position/organisation.

Reviewer's Name	Position / Organisation
John Taylor	ACAS
Julie Stewart	Adjudication & Constitutional Issues, DWP
Edward F. Cousins	Adjudicator, Land Registry
Nigel Thomas	Agricultural Lands Tribunal, Chairman
Anonymous	Anonymous
Brian Swift	Appeals, Manager, Legal services, Dbrr
David Hewett	Association of Residential Managing Agents
Martha Street	Association of Appeals Service District Chairman
Ruth Dudley	Audit Commission
Zoe Bruce	Backhouse Jones Solicitors for Association of Road Transport Lawyers
Andrew Edwards	Bristol Employment Tribunal, Members Association
President & Members	Care Standards Tribunal
Carolyn Kirby	Chair, MHRT Wales
Lt Col RR Holland	Chairman & Central Advisory Committee Member, Eastern War Pensions Committee
John Angel	Chairman of Information Tribunal
HHJ Machin	Chairman, Agricultural Lands Tribunal, East
Martin Wood	Chairman, Agricultural Lands Tribunal, West
Roger Goodier	Chairman, Criminal Injuries Compensation Appeals Panel
Christopher Lowe	Chairman, General Commissioners City of London
Henry Russell	Chairman, National Association of General Commissioners
Mr Justice Langstaff	Chairman, Tribunals Committee, Judicial Studies Board
Peter Jackson	Chartered Fellow, Policy adviser, Hertfordshire Branch, CIPD

Sehba Haroon Storey	Chief Adjudicator Asylum Support Tribunal
Michael Ross	Chief Executive, Residential Property Tribunal Service
Dr Jane Rayner	Chief Medical Member, SSCSA
HHJ Martin QC	Chief Social Security Commissioner, Northern Ireland
Sarah Clarke	Child Poverty Action Group
Peter Poole	Combat Stress
Edward Jacobs	Commissioner SSCSA
Simon Llewellyn	Communities & Local Government
Barry Denyer-Green	Compulsory Purchase Association
Major Gen Sir E Webb-Carter	Controller of Army Benevolent Fund
Gillian Flemming	Council of Employment Tribunal Members Association
Carwyn Jones	Counsel General & Leader of the House, Welsh Assembly Government
Andrew Francis	Counsel, Searle Court
Judith Marsden	Department for Environment, Food & Rural affairs
Matthew Hammond	Department for Transport
HHJ Gary Hickinbottom	Deputy Senior President, Tribunals Service
Georgina Hirsch	Director of Legal Service, Unite the Union
Bronwyn McKenna	Director of Organisation & Membership, UNISON
Steve Salmon	Director of Policy Development. Confederation of Passenger Transport
John H. Owens	Director of the Governing Council, Valuation Tribunals Service Wales
Sarah Wulff-Cochrane	Director, British Banker's Association
Margaret Cole	Director, Enforcement, Financial Services Authority
Derek R Allen	Director, Taxation, The Institute of Chartered Accountants of Scotland
Barry Fitzgerald	Employment Appeals Tribunal Lay Members Committee
Stephen Levinson	Employment Lawyers Association
DW Hinde	Employment Tribunals Birmingham
Michael Beswick	Executive Director, Rail Policy, Office of the Rail Regulator
Barry Denyer-Green	Falcon Chambers
Jenny Curson	First Group Plc
Jane Bennett	Forum of Private Business
Michael Reed	Free Representation Unit
Chris Yarsley	Freight & Transport Association
Jerome Church	General Secretary British Limbless Ex-Service Men’s Association

Alan Landsown	Head of Additional Needs and Inclusion Div. Welsh Assembly Government
Phil Michaels	Head of Legal, Friends of the Earth
Lisa Wise	Head of Public Policy, the Royal British Legion
Michael Hunt	Herbett Smith
Jeremy Donaldson	HM Land Registry
Lord Wedderburn of Charlton	House of Lords - Labour Peer
Richard Thomas	Information Commissioner
Simon Brilliant	Lamb Chambers
George Bartlett	Lands Tribunal
Mike O'Dwyer	Law Commission
Jan Bye	Law Reform Committee of the Bar Council
Peter Scanlon	Lay Member Leeds, Mental Health Review Tribunal
Belinda Knight	Lay Member, Employment Tribunal, South London
Alexander Hermon	Legal Adviser, Administrative Justice & Tribunals Council
Stephen Cooper	Legal Awareness, Department for Work & Pensions
Kay Powell	Legal Wales
Andrew Lloyd	London Commissioners, SSCSA
Peter Leighton	London Liaison Group of Residential Property Tribunal
Adrian Manbridge	London Society of Chartered Accountant Tax Commission
Norman Charles	Member Leasehold Valuation Tribunal
Mohammed Farooq	Member, VAT & Duties Tribunal
Robert McCracken	Meyric Lewid
Hugh Bayley MP	MP City of York
Jo Swinson	MP East Dunbartonshire
Tim Sales	NABARRO
Phil Hanns	National Association of Welfare Rights Advisors
Amanda Brown	National Union of Teachers
Nigel Cates	Office of Fair Trading
John Hughes	Personal Response
Rory O'Kelly	Personal Response - Member SSCSA
Joanna Finlay	Personal Response - Pensions Appeal Tribunal Member
Roger Stone	Personal Response with reference to Property & Lands Tribunal
John Seargeant	PLE Development Group

Beth Reid	Policy & Research Officer, National Autistic Society
Moira hepworth	Policy & Research Projects Officer, Institute of Revenues Rating & Valuation
Nadia Nath-Varma	Policy Officer, Royal Institute of Charted Surveyors.
Matthew Cowan	Policy Researcher, Professional Contractors Group
Hon Mr Justice Hodge	President Asylum & Immigration Tribunal
Olga Harper	President of Council of Employment Judges
Colin McEachran	President Pensions Appeal Tribunal Scotland
Lady Rosemary Hughes	President Special Educational Needs & Disability Tribunal
Robert Martin	President SSCSA
David Laverick	President, Adjudication Panel for England
Dr Harcourt Concannon	President, Pensions Appeals Tribunal England & Wales
Jerry Shurder	President, The Rating Surveyors' Association
Nigel Davies	Presiding Judge - Wales
Richard Glover	Private Practice
Dr David Howells	Private Response
Marion Scovell	Prospect
David Wright	RAF Association War Pensions & Welfare Development
The Rt Hon Roderick Evans	RCJ
Imogen Redford	Research Officer PCS
Nicola Shaw	Revenue Bar Association
Tom Dixon	Sandersom Weatherall Char Surveyors
Anne Toovey	Senior Manager, Tax Policy Group
David Stokes	Senior Policy Adviser, Civil & Family Legal Aid, Ministry of Justice
Rowena Daw	Senior Policy Analyst, Royal College of Psychiatrists
James Sandbach	Senior Policy Officer, Legal Affairs, Citizens Advice Bureau
Douglas May QC	Senior Social Security Commissioners. Scotland
Stephen Guy	Senior Welfare Rights Officer, Durham City Council
Louisa Bruce	Sheffield Mental Health CAB
Kay Burton	SLAM Mental Health Manager, London
James Wood	SSCSA Chairman, Wales
Andrew Bano	SSCSA Commissioner
Mark Larpell	St John's Chambers
Mike Robinson	Stockton Citizens Advice Bureau

Malcolm Gammie	Tax Law Review Committee
Darren Williams	Team Manager, Benefits Advice Service, Kirklees Council, Huddersfield
Kelly Hayworth	Technical Officer, Chartered Institute of taxation
Louise Speke	The Law Society
Richard Arthur	Thompson's Solicitors
Hugh Carlisle QC	Transport Tribunal
Paddy Cullen	Tribunal Support Unit, Disability Alliance London.
Linda Bingham	Tribunal Services Change Manager, Leicester
Hannah Reed	TUC
Michael Pearce	Valuation Office Agency
Anne Galbraith	Valuation Tribunal Chairman
Colin Bishopp & David Demack	VAT & Duties Tribunal Chairmen
Group Response	VAT Practioners Group
Andrew Needham	VAT Solutions (UK) Ltd
Michael Taylor	Vice Chairman Association of Members of Asylum and Immigration Tribunal
Robert leader	Vice Chairman, Confederation of British service and ex-Service Organisations
Vince Curley	Vince Curley Solicitors
Jackie Hankins	Welfare Rights Manager, Neath Port Talbot County Borough Council.
Giles Charter	WRO Rotherham Connect

Annex E

Proposed Chamber Structure

The following tables show the proposed Chambers structure for the First-tier and Upper Tribunals as set out in the original consultation, and confirmed in this response.

First-tier Tribunal Proposed Chambers

- Social Entitlement
- General Regulatory
- Health, Education & Social Care
- Taxation
- Land, Property & Housing

Upper Tribunal Proposed Chambers

- Administrative Appeals
- Finance and Tax
- Lands

Annex F

Summary Table

The following table shows a breakdown of the responses received.

Question	Anticipated Response	Total No. of Reponses	% of Total No. (140) of Respondents	In Line with Anticipated Response	%	Against Anticipated Response	%	Response Made but No Opinion Expressed	%
1	Y	65	46.8%	42	64.6%	15	23.1%	8	12.3%
2	Y	77	55.4%	56	72.7%	19	24.7%	2	2.6%
3	Y	67	48.2%	48	71.6%	19	28.4%	0	0.0%
4	Y	61	43.9%	52	85.2%	4	6.6%	5	8.2%
5	Y	65	46.8%	42	64.6%	19	29.2%	4	6.2%
6	Y	40	28.8%	26	65.0%	8	20.0%	6	15.0%
7	N	23	16.5%	17	73.9%	5	21.7%	1	4.3%
8	Y	12	8.6%	11	91.7%	1	8.3%	0	0.0%
9	Y	11	7.9%	9	81.8%	2	18.2%	0	0.0%
10	Y	13	9.4%	13	100.0%	0	0.0%	0	0.0%
11	Y	7	5.0%	5	71.4%	2	28.6%	0	0.0%
12	Y	10	7.2%	8	80.0%	2	20.0%	0	0.0%
13	Y	20	14.4%	20	100.0%	0	0.0%	0	0.0%
14	Option	13	9.4%		0.0%		0.0%		0.0%
15	Y	84	60.4%	50	59.5%	26	31.0%	8	9.5%
16	N	52	37.4%	7	13.5%	11	21.2%	34	65.4%
17	Y	74	53.2%	41	55.4%	22	29.7%	11	14.9%
18	#	64	46.0%		0.0%		0.0%		0.0%
19	Y	60	43.2%	37	61.7%	21	35.0%	2	3.3%

20	Y	**71**	**51.1%**	61	**85.9%**	9	**12.7%**	1	**1.4%**
21	N	**64**	**46.0%**	27	**42.2%**	35	**54.7%**	2	**3.1%**
22	Y	**62**	**44.6%**	49	**79.0%**	3	**4.8%**	8	**12.9%**
23*	#	**18**	**12.9%**		**0.0%**		**0.0%**		**0.0%**
24*	#	**22**	**15.8%**		**0.0%**		**0.0%**		**0.0%**
25*	#	**22**	**15.8%**		**0.0%**		**0.0%**		**0.0%**
26*	#	**16**	**11.5%**		**0.0%**		**0.0%**		**0.0%**
27*	#	**27**	**19.4%**		**0.0%**		**0.0%**		**0.0%**
28	#	**27**	**19.4%**		**0.0%**		**0.0%**		**0.0%**
29	Y	**23**	**16.5%**	16	**69.6%**	4	**17.4%**	3	**13.0%**
30	Y	**17**	**12.2%**	15	**88.2%**		**0.0%**	2	**11.8%**

Key

Option	Question required an option number as an answer, Opt 1 = 3, Opt 2 = 2, Opt 3 = 7, no opinion = 1
#	Question required additional information and not simply a 'yes' or 'no' answer
*	For tax question breakdown please refer to text