Papers

Valuation 'accuracy' within the Right to Buy process

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Abstract

Based on surveys undertaken with local authorities and valuers who provide the valuations on which purchase prices for local authority houses under the Right to Buy are based, this paper reports on research which aims to establish the reasons for the differences between the initial valuations provided by the local authority valuers and those provided by the District Valuer on appeal. The paper reports on the reasons why tenants appeal the initial valuation and discusses issues of valuation accuracy, uncertainty and the different and imperfect data available to valuers employed by the organisations involved, as well as the factors within the valuation process, including the absence of any requirement to agree a value, which contribute to the different outcomes.

Keywords:

housing, valuation variation, right to buy, market data, valuer behaviour

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INTRODUCTION

This paper reports on the results of research into the Right to Buy (RTB) valuation process and outcome. The research was prompted by a 50 per cent increase in the number of RTB valuation appeals to the District Valuer (DV) against the initial valuation made on behalf of the local authority landlord, from around 3,500 in 1997/98 to nearly 5,500 in 2000/01.

An analysis of the number of admissions¹ to purchase under the RTB provisions in England over this period of time showed an increase from around 60,000 in 1994 to 90,000 post-1998 — a 50 per cent increase (ODPM, 2003). However, the proportion of valuation appeals relative to admissions over this period of time remained relatively stable at between 4–6 per cent (ODPM, 2003). Thus, while the actual number of appeals increased by around 50 per cent, in line with the number of admissions, the underlying proportion of appeals appears stable.

This analysis implies that the increased rate of appeals simply reflects a commensurate increase in the number admissions. However, analysis of RTB statistics for individual local authorities, supplied to the project by the ODPM, showed significant variation in the proportion of appeals to admissions, from zero to 27 per cent. This prompted the research to investigate why appeals were so much higher in some areas than others and what factors influenced the decision of tenants to appeal against the initial local authority valuations.

This paper focuses on the research into the valuation processes and records the outcome of interviews with valuers employed by local authorities to undertake the initial s.127 valuation and also with valuers employed by the DV, to undertake the s.128 determination on appeal. This analysis is reviewed in the light of a survey of tenant purchasers regarding their perceptions and their experience of the valuation.

The surveys undertaken with local authorities, local authority valuers (including external valuers), district valuers and tenant applicants showed that there was a wide range of factors influencing the appeals against the original valuations made by the councils' valuers on which the offer of a purchase price was based. These included:

- Comparison — 38 per cent of the local authorities believed that the main reason tenants appealed was on the basis of a comparison between their valuation and that provided to a neighbour. The results of the interviews with DVs support the evidence from tenants that a major reason (reported by 59 per cent of all valuers) underlying the appeals is the belief that the original valuation was excessive based either on information gleaned from neighbours or from the property market.
- Thirty-six per cent of local authorities said that tenants believed that the valuation did not properly reflect the condition of the property; either because they felt the valuer had not ignored tenants' improvements; or because they felt that the valuer had ignored the poor state of repair which resulted from the landlord authority's failure to undertake maintenance in accordance with its obligations.
- Perception that appeals reduced purchase prices — 96 per cent of those tenant applicants who appealed believed that they would pay less for

the property as a result of the appeal. It seemed that, in areas where appeals tend to be successful, more appeals are generated. According to the local authority respondents, 70 per cent identified the tenants' belief that the price would be reduced as being a very important factor influencing them to make an appeal.

- Affordability and discounts — 31 per cent of tenants appealed because they could not afford the original offer price. The discount limits² introduced in February 1999 affected the majority of RTB applicants (80 per cent) in a high-value London area where appeals were reduced, and the number of tenants who purchased following an appeal also reduced. This suggests that the capping of discounts in certain locations reduced affordability to a level where fewer people found it worthwhile making an appeal and fewer were able to afford purchase.
- Misunderstanding — many tenants (28 per cent) expect the RTB to enable them to purchase at a price they can afford (rather than at the unimproved market value less any available discount).

Whether or not tenants have a genuine concern about the valuation made by the local authority valuer or are merely seeking to reduce the purchase price, the reality of the RTB process means that if tenants are not prepared to accept the local authority's initial purchase offer, they have no alternative, but to appeal to the DV. The appeal process is very easy (just tick a box) and tenants incur no cost. In locations where there is an expectation that values are reduced on appeal, there is a great incentive to require a s.128 determination.

Why did such a large proportion of tenants believe that the original asking prices did not reflect market values? Were tenants correct in their perception that the initial purchase price did not appropriately take into account tenants' improvements? Were tenants correct in their perception that a large proportion of the valuations were in fact reduced on appeal? And, if so, how does this variation in valuation arise? This paper discusses the valuation process involved in the RTB in the light of these concerns.

RTB METHODOLOGY AND PROCESS

Valuations for RTB purposes are based on the 'open market value' of the property, defined for RTB purposes as the price the dwelling would realise if sold on the open market by a willing vendor subject to certain assumptions, disregarding any improvements made by the current or previous occupiers and any failure by such occupiers to keep the dwelling in good internal repair (s.127 and Sch. 6, Housing Act 1985). Any improvements made by the landlord authority or any lack of repair by the council under its repairing obligations (for the structure and exterior) must be taken into account in the valuation. The valuation date is the date the RTB application was made to the landlord authority.

Thus, if the current or previous tenants have made significant improvements to the dwelling, it is necessary for the valuer to imagine the dwelling without these improvements, but assuming the tenants have observed their internal maintenance obligations. The valuer must then find

recent market transactions of similar 'unimproved' dwellings at or near to the valuation date, in order to arrive at the required valuation. The use of imagination in this way is not an unusual expectation of valuers, but a clear statement of what has to be ignored (if anything), and the availability of suitable and reliable comparable transactions to support such a valuation is of vital importance to the reliability of the outcome.

It is, therefore, crucial to the valuation process that valuers (whether producing a s.127 valuation or a s.128 determination on appeal) are provided with detailed and accurate information about the improvements undertaken by the tenant and by the landlord authority, that they have up-to-date comparable market transactional data on which to base their valuations and that thorough internal inspections are undertaken, both of the subject property and the comparables used.

Direct comparison method of valuation

There is no legislative requirement to use any particular method of valuation, nor does the RICS (2005) *Appraisal and Valuation Manual* provide any advice on the methodology for RTB valuations. In addition, there are no RTB valuation guidelines which are common across local authorities or between local authorities and the DV's office.

It is clear, however, that all valuers use the direct comparison method (or comparable method) of valuation — a traditional approach to valuing residential property, and a methodology which is well documented in texts and in Valuation Office Agency (VOA) internal guidance, available on the internet (VOA, 2002). The direct comparison method is also well understood by professional valuers undertaking RTB valuations and has been described as '... the simplest and most direct method of valuation' (Johnson et al., 2000).

The method is based on comparing the property to be valued (the subject property) with similar properties for which sale prices are known, and then making adjustments for the differences between them, in order to establish the value of the subject property. The method, therefore, relies upon the valuer having access to sufficient up-to-date market transactions of dwellings which are similar in all material respects. This means that, first, the transactions should relate to property which is comparable for valuation purposes, and secondly, that the valuer has access to all relevant details of such transactions including (ideally) the chance to inspect the comparable properties internally. It also relies on the skill and experience of the valuer, first to identify such transactions, and secondly to make appropriate adjustments where the 'comparable' properties are materially different from the subject property being valued.

Thus, it is fundamental to the success of this methodology that valuers have detailed market knowledge of up-to-date market transactional data for the full range of residential property types across the locality in which they work. Because of the absence of an open, publicly and freely available database of sales transactions in England and Wales, this is often somewhat problematic.

In the absence of such a database, valuers rely on personal experience, office records and, in extreme cases, asking prices and their perception of

the market trends in undertaking residential valuations. Obviously, the more comprehensive, accurate and up-to-date the transactional data base available, the more useful the comparables.

The research investigated the valuation process adopted by valuers who undertook the initial s.127 valuation on behalf of the local authority landlord (referred to here as local authority valuers) and also the process adopted by the DVs in their s.128 determinations, with particular attention to data issues and the reason for any difference in the resulting valuation as a result of the DV's determination. This process is described below, followed by an analysis of the results in the context of existing literature.

VALUATION PROCESS

The research revealed that, despite both local authority valuers and DVs undertaking the valuation of the subject property using the same methodology, as at the same valuation date and with identical assumptions, there were differences in approach, resources, data availability and roles. Specifically, local authority valuers were well aware of the ease with which an RTB applicant could make an appeal to the DV, and DVs were highly conscious of their quasi-judicial role in the process. For these reasons, the way the local authority valuers and the DVs undertook their valuations is discussed separately.

LA valuers' process

Local authorities used either in-house valuers, external consultants, DVs or a combination of these in obtaining the initial s.127 valuations (Table 1). There was a clear indication that more local authorities with a high appeal rate used in-house valuers for all their s.127 valuations, but the data also show that outsourcing these valuations to external consultants does not always result in lower appeal rates (Table 2).

The research investigated the initial s.127 process of valuation and the main points to emerge related to:

- initial information provided in advance of the valuation inspection;
- the use of comparable transactional information;
- the use of in-house and external consultants; and
- the extent to which RTB workloads were organised.

Table 1: Use of in-house valuers for s.127 valuations

Local authority in-house valuers	Local authority appeal rate (%)		
	Low	Medium	High
All	25.0	22.7	56.1
Some	12.5	11.4	7.3
None	62.5	65.9	36.6
Total	100	100	100

Table 2: Use of consultations for s.127 valuations

Use of consultant valuers for s.127 valuations	Local authority appeal rate (%)		
	Low	Medium	High
All	55.0	61.4	35.7
Some	15.0	11.4	11.9
None	30.0	30.0	52.4
Total	100	100	100

Initial information provided

The level of information made available by the instructing local authorities to the valuers (whether internal or external) was somewhat variable. In some cases, the local authorities' housing services departments provided the full history of repairs and/or improvements undertaken by the local authority and reported by the tenants. In other cases, none of this was provided to the valuer prior to the inspection, leaving the valuer to gain such information from the tenant on inspection. In the case of flats, valuations were delayed when information about the proposed service charge and planned future maintenance costs, for which the tenant would be liable, was not supplied to the valuer.

Comparable transactional information

It was clear that in certain locations and for certain property types, there was a paucity of suitable market transactional evidence on which to base s.127 valuations. In major urban areas with a well-established resale market of former council houses, there was a good source of comparable transactional evidence. However, local authority valuers reported difficulty when:

- properties to be valued are 'unusual' eg one-off dwellings in rural locations;
- valuing 'defective' properties and those of nontraditional construction, for which a mortgage may be difficult to obtain;
- identifying the difference in value attributable to tenants' improvements, because evidence of unimproved properties being transacted was rare; and
- valuing property with development potential and where the potential for planning permission had yet to be tested.

External consultants

It seemed that the use of external consultants was helpful, particularly in the case of unusual property types, because the consultants were also trading as estate agents and therefore had wider market experience and access to appropriate market evidence. However, external consultants

tended to have difficulty with ignoring any tenants' improvements and therefore arriving at the 'unimproved' rather than a market value of the property in its current state.

Organisation of workloads

Local authority in-house valuers are increasingly under pressure of work as a result of staff shortages and other cut-backs. In one local authority with a high appeal rate, the heavy RTB workload was resolved by in-house valuation staff working overtime, which was found to be popular with both staff and tenant/applicants.

Where external consultants were employed, the fee agreed for RTB valuations ranged from £16.79 to £135 per dwelling, with a median fee of £55 and a mean of £59.26 per dwelling. The difference in fee levels between private work and RTB valuations was also reflected in the response time of the consultants and the likelihood that the property would not be inspected internally. For example, external consultants interviewed commented that:

'... [for] bank / building society valuations you charge about £100 or so and you spend about an hour looking at the property in detail. Whereas in comparison you are charging £15 per [RTB] valuation, which is nothing.'

'... then you say, OK, I'd rather do a drive-by survey on that basis and maybe visit 10 per cent of the [RTB] sample'.

'Normally when a valuation comes in we deal with it within ten days for the local authority, whereas with banks and building societies we react within three days.'

The survey findings therefore indicate that some councils may be underpaying consultants and getting a poor valuation service, suggesting that the specification of service quality within RTB fee tendering might bear further investigation. Certainly the emphasis in Audit Commission reports³ on the RTB in recent years has been on councils meeting statutory time limits, the costs of doing so, and customer satisfaction with the process, rather than on the quality of 'outputs' in terms of valuation accuracy and the impact on valuation appeals.

Similarly, several local authorities had taken the decision not to require an internal inspection of the property where tenants had failed to keep previous appointments to enable access. Indeed, the research showed that for reasons of cost and workload, the invitation to attend the DVs inspection in appeal cases, was never taken up by the original local authority valuer.

It was also clear that local authorities tended to adopt a geographical approach to allocating valuation work in their area, whether in-house or external valuers were used. Batching the valuations by geographical location also enabled valuers to increase the number of inspections in a day. However, there was little opportunity for cross-checking to spot whether any one valuer tended to value higher or lower than colleagues.

Valuation methodology

All local authority valuers interviewed used a direct comparison method of valuation and were familiar with the methodology both in theory and in practice. However, by the nature of their employment, they each worked within the confines of their employing organisation. This had the advantages of access to other valuers' experienced in RTB work, to previous s.127 valuation evidence (in-house valuers), and access to market transactional evidence, albeit produced for actual sales, rather than RTB s.127 valuations (external consultants). As discussed below, this range of data availability contrasts with that available DVs from within the VOA.

District Valuers' process

The issues which emerged from interviews with the sample of DVs included:

- information provided in advance of the valuation inspection;
- the use of comparable transactional information;
- property inspection; and
- new procedural requirements since April 2002.

Initial information provided

As for local authority valuers (see above), the level of information provided by the instructing local authority to the DVs for their s.128 determination varied greatly in areas of both high and low appeal rates. Some authorities provided a large amount of information, including a copy of the original s.125 offer notice, the valuation report prepared for the s.127 valuation and details of comparables relied on. In some areas, it was reported that DVs are provided only with the applying tenant's name and address.

As for local authority valuers, where dealing with flats, the inspections and valuations have to be deferred until service charge information is provided.

Comparable transactional information

The DVs have access to all information on property sales in their area. Although local authorities can now gain access to this information via the Land Registry, there is a cost incurred for this service, and, it seems, few subscribe. In addition, because DVs are undertaking their s.128 determination at a later date than the initial s.127 valuation, there tends to be a greater volume of transactional data through the system that is relevant to the valuation date fixed at the date of the tenant's RTB application.

Nevertheless, despite this comprehensive database, DVs face some of the same issues as local authority valuers where there is a paucity of comparable transactions, for example, in the cases of unusual property types in a particular locality, where nontraditional construction methods

have been used, and where extensive improvements have been made to the dwelling.

It also emerged that local knowledge had been an issue, when, during the early 1990s, several London Boroughs had suffered staff shortages and reorganisation and had been served by DVs sent from other parts of England and from Wales.

Property inspection

District Valuers' instructions (given to all offices) require an internal inspection of the property and the survey showed that DVs regarded meeting the tenant applicant as an essential part of the process. As for local authority valuers, in the absence of specific relevant details from the instructing local authority, the information provided by the tenants, particularly in relation to tenants' improvements, was essential.

New procedural requirements since April 2002

Since April 2002, new procedural requirements have been imposed on DVs to reinforce their role as independent valuers for RTB cases, to bring the appeal system into line with the requirements of human rights legislation and to reflect the fact that there is no appeal against their s.128 determinations.

Thus, DVs are now required to ask for representations and counter representations from both tenants and the landlord authorities, to provide more details in their valuation reports and also to provide feedback on their appeal valuations.

Even before the introduction of the 2002 requirements, DVs reported that they saw the inspection process as something of a public relations exercise — an opportunity to allow the tenants to express their personal views, to establish why they had appealed against the local authorities' valuation and also to obtain details or confirmation of the tenants' improvements. Tenants reported that they appreciated the time and attention given by the DVs, which also left them with the impression of the valuation being done 'properly'. In their quasi-judicial role of resolving an appeal against the s.127 valuation, such an approach by DVs has huge merit.

REASONS FOR APPEALS

Feedback provided to the DVs by tenants indicated that, in addition to the reasons stated earlier in this paper (eg knowledge of local sales/talking to neighbours; property condition not properly taken into account), there are reasons stemming from the initial s.127 valuation which prompt or contribute to the decision to appeal.

Several DVs reported tenants complaining that the local authority valuer (whether in-house or external consultant) spent a very short time (five to ten minutes) at the property, and that the tenants did not believe that the inspection was sufficiently detailed to provide an accurate valuation. There was, in some cases, a general mistrust of the local

authority. There was also evidence of the desire for a second opinion, as well as a level misunderstanding, eg that discounts for 'nontraditional' construction should have been made on top of the valuation, not built into it.

A relatively small proportion of tenants obtained a valuation on their own behalf from an estate agent (6 per cent) or mortgage company (27 per cent), and, while only 1.5 per cent obtained both, 66 per cent obtained neither. Of those who had obtained an independent valuation, 33 per cent said the council's valuation was lower, 18 per cent said it was the same and 28 per cent said it was higher. There was no significant difference between these responses in high or low appeal areas.

Unsurprisingly, the reason most tenants (39 per cent) gave for lodging an appeal was simply that they wanted to pay less for the property, and 96 per cent thought that if they appealed, they would end up paying less.

The research demonstrated that more applicants in low appeal areas were satisfied with the length of time spent on the original inspection than those in high appeal areas (80 per cent and 62 per cent respectively), and 62 per cent who attended the inspection felt that they were able to ask the valuer questions (compared with 35 per cent who said they felt unable to question the valuer). In cases where the DV's s.128 determination differed from the original local authority offer, the tenants believed that this was because:

- the first valuation was rushed;
- the first valuation did not take into account the tenants' repairs and improvements; or
- other unspecified reasons.

VARIATIONS IN VALUATION

Valuation variation usually measures the difference between the valuation of a property and the price at which that property is subsequently sold in a market transaction, or in 'experimental research' between independent valuations of the same property without valuers knowing the figures arrived at by their counterparts. The RTB valuations do not conform to either of these situations, because, although the property is ultimately sold, the sale is not a market transaction. In addition, the DV provides the selling 'price' in the light of knowledge of the original s.127 valuation.

The results of the analysis showed that the initial local authority s.127 valuations for the 5,415 cases in the data set ranged from £13,750 to £525,000, with an average of £78,243. The range of DVs' s.128 determinations was wider, between £10,000 and £580,000, with the average lower at £71,641. The proportion of valuations changed on appeal is illustrated in Table 3. Analysis by ± 10 per cent was used as the 'permissible bracket' or 'margin of error' within which a 'competent, careful and experienced valuer might be expected to vary', based on *Singer & Friedlander Ltd. v John D. Wood & Co.*⁴ The 'margin for error' theory is discussed further below.

Table 3: Proportion of valuations changed on appeal

	Count	Percentage
DV < LA by more than 10%	1,935	35.8
DV < LA by up to 10%	2,182	40.3
No difference	1,188	22.0
DV > LA by up to 10%	55	1.0
DV > LA by more than 10%	51	0.9
Total	5,411	100

Nevertheless, the research assumed that if a large number of appeal valuations vary by more than ± 10 per cent from local authority valuations, this is an appropriate indicator that the valuation process requires investigation. It was not taken to indicate that either valuer was wrong. Each may have used the same methodology and worked to an appropriate standard. However, if they had been provided with different information and/or were using different market evidence, it is not unreasonable to expect that their valuations would vary. This is discussed further later.

Most of the opinions gleaned by the research about why valuations changed on appeal came from the DVs interviewed, rather than the local authority valuers. These are set out in Table 4. The main reasons, however, can be summarised as:

- the property condition and/or market condition was ignored;
- a shortage of good comparable evidence; and
- the initial valuation was out of step with the market.

Table 4: Reasons for change in valuation on appeal (valuers provided multiple answers)

	District valuer	Local authority	Total respondents
Property/market condition ignored	8	0	8
Shortage of good comparables	4	2	6
First valuer out of step with market	3	1	4
Do not know — just wrong	1	1	2
Occurs more on high value property	1	1	2
Other	3	1	4
Total respondents 17	6	23	
	High appeal rate	Low/medium appeal rate	Total respondents
Property condition ignored	3	5	8
Shortage of good comparables	4	2	6
First valuer out of step with market	3	1	4
Time lag between s.127 and s.128 valuations	1	2	3
Do not know — just wrong	2	0	2
Occurs more on high value property	1	1	2
Other	2	2	4
Total respondents	13	10	23

REASONS FOR DISPARITY

Thus, the major reasons cited by respondents for valuation variation relate to the extent to which the condition of the property (failure to adequately ignore tenants' improvements) and market data are reflected in the valuation.

Property condition

In relation to the condition of the property (tenants' improvements), initial information from the landlord authority must be clear and comprehensive if valuers are to be able to provide s.127 and s.128 valuations which reflect the unimproved state of the property. If such information is not provided, then the only other source of data is the occupying tenant, although obtaining such data adds time to the inspection process. It seems that local authority valuers' workload prevents them from spending anything more than the minimum time on inspection (indeed, some do not inspect internally) and thus they may not have the appropriate information to provide the unimproved value of the property.

In contrast, the DVs, conscious of their quasi-judicial role, consider it appropriate to allow tenants to talk about (among other things) their improvements to the property, and may therefore be valuing on different assumptions to those made by the local authority valuer.

Market data

Local authority valuers have access to transactional data within their own personal experience and that of their offices. They have details of all RTB valuations, but not of all market transactions in their area. Such details are now available from the Land Registry at a cost, but can only be obtained by local authorities if their valuers spot properties which have been sold, for example, by monitoring sales through local estate agents, and then requesting the Land Registry information. It is clear that very few local authorities subscribe to the Land Registry service.

District Valuers, on the other hand, are provided with details of all property transactions in their area through the 'particulars delivered' system and therefore have access to a much wider range of transactional data than local authority valuers.

A second point is the 'time lag' of the market, which means that local authority valuers are often providing their valuations very close to the dates at which comparable properties are sold or agreed to be sold, but before such sales become recorded. District Valuers who may be valuing some months later are able to reflect on a more complete range of sales data.

Finally, the need for the valuer to ignore actual improvements made to the property by the tenant (which of course would not be ignored by the true market) means that valuers (both local authority and DVs) are seeking comparable sales transactions of similar properties in their original unimproved state. Thus, unless a dwelling has been totally unimproved by the current or previous tenants, it is necessary for the valuer to imagine the dwelling in its original and well-maintained

condition and to find recent market transactions of similar unimproved dwellings at or near to the valuation date, in order to arrive at the required valuation.

Although they are skilled and experienced in adjusting market comparables to reflect the specific circumstances of the individual property, they have no right to internally inspect the properties the sales of which they use as market comparables to discover the extent to which the market is reflecting improvements. There is therefore an added element of uncertainty to their valuations which provides scope for variation.

RESULTS IN CONTEXT

The issues which emerged from the analysis revolve around the lack of homogeneity; imperfect market knowledge; the availability of information; valuer behaviour; uncertainty in valuation and margin for error. These issues are now discussed in turn.

Lack of homogeneity

By its very nature, property (land and/or buildings) is unique, because, if for no other reason, no two properties can be built in precisely the same location. However, there are some properties that are similar in all material respects, such that it is likely that the market would pay the same purchase price for each. In an ideal world, the direct comparison method of valuation would be simple.

However, the problem for valuers is that such a high degree of comparability is almost never achieved. Particularly within the residential market, there is a wide variety of property types (houses — detached, semi-detached, end of terrace, terraced; flats — purpose-built, converted, and at various storeys) constructed at various times, from differing materials, with a range of accommodation and other facilities, which are not comparable one with another. Indeed, when RTB legislation was first introduced, it was difficult to compare the value of houses on a council estate even with similar properties on a private estate where the necessary sales evidence was available (Baum and Sams, 1997). The VOA (2001) still recognises that for certain property types (specifically defective dwellings and flats in tower or other large blocks), there may continue to be a paucity of comparable market evidence on which to base a valuation.

There does, however, appear to be a well-established resale market for former council houses which provides sound comparable evidence of market sales of such properties. Indeed, in certain locations, such as new towns, the owner-occupied sector is essentially a product of public sector activity, and those districts with the largest council housing stock now have a private sector which mainly comprises former council housing (Jones and Murie, 1998: 21).

Thus, it is necessary for valuers to identify the material (and therefore 'valuable') attributes of the subject property and seek properties which

have recently been sold in the market, the attributes of which are substantially the same. Allowances must then be made (additions or subtractions of value) which it is anticipated a prospective purchaser would make for the differences. Material attributes can affect the dwelling itself, its location and the wider environment and also the economic and other circumstances that were prevalent at the date of sale.

The issue of location is important, because the precise definition of 'location' varies both for a particular property type and within different urban and rural areas. For some property types, 'location' can be a very large geographical area. This would be true, for example, of rural dwellings, where 'location' may comprise several villages; while for other property types, typically suburban dwellings, 'location' can be merely one housing estate or a few streets. Additional influences, such as proximity to shops or a public space, may further blur the value-effect of location.

Thus, valuers implicitly or explicitly identify the attributes of a property which, in their opinion, materially affect the market value of the subject property. They select as many transactions of comparable properties, at or near the valuations date, as is reasonable to provide reliable evidence of value; the availability of such comparables depends on circumstances. In a rapidly moving property market there may be a lot of market evidence of recent and comparable transactions on which valuers can base their opinions. In slow-moving markets there is little choice and the valuer is forced to rely more heavily on experience when interpreting what little market evidence there is.

A skilled valuer may use three comparables or fewer (Adair et al., 1996). But, clearly, the more comparables that are available to the valuer, the better the position the valuer is in to substantiate the valuation, although the longer and more complex the analysis may become. The number of attributes in use by valuers can vary: research by Adair (1992) and Jenkins (1992) identified 47 and 69 attributes, respectively. The valuer then adjusts the resulting sale prices for the attributes that differ between the comparables and the subject property. This can be done using a matrix or a computer, but it is not unusual for valuers to undertake this comparison intuitively. Thus, the availability and selection of comparables and the subsequent analysis of attributes that affect value are highly complex.

Clearly, it is necessary to understand the nature of the residential property in the locality, because the market recognises variations in both property types (although all may be residential property) and geographic locations, even within housing estates. Similarly, values can change rapidly in a fast-moving market and transactions can become of limited use if they have taken place some time away from the date of valuation. In addition, the valuer needs not merely to be sure which attributes in the sale of a comparable property have had an effect on the sale price, but also to be able to quantify that effect in order to adjust the price of the comparable and arrive at an opinion of value for the subject property.

Imperfect market knowledge

A valuer relies on the evidence of sale prices of comparable properties when using the direct comparison method. This method of valuation requires the valuer to have access to a detailed and thorough system of records in order to make such a comparison. Such records tend to be held 'in-house' (either as a personal or office database) and the information is most unlikely to be available to valuers in other organisations or to the general public.

In some cases, valuers will be aware of appropriate market transactions but, not having been directly involved in the sale, they will not have the benefit of having personally inspected the property internally, nor of the other details of the sale. Their knowledge of the market transaction is relevant within the valuation process, but its importance is secondary to those transactions in which the valuer has had personal experience. Valuers therefore rely on available transactions of comparable properties and on their skill and experience in the specific property market in order to make such a comparison. Thus, valuers with different experience tend to arrive at different opinions of value.

When a market sale is agreed, there is usually a time lag of two to three months until contracts are exchanged, generally followed in a few weeks by completion of the conveyance. The sale information and price does not reach the Land Registry records until after completion. Thus, a valuer required to assess the market value of a house today, based on valid comparables, will normally be dealing with information on sale prices agreed some months beforehand and needs to predict how the evolving market is affecting current and future market activity.

Whereas DVs automatically receive price information on all property sales in their area, local authority valuers do not. Councils could access information from the Land Registry, which started recording sale price information from April 2000. This information was made available online to solicitors from June 2000 and piloted to the public from March 2003, but this service is at a fee per address. Local authority valuers therefore largely rely on following up sales in their area through contacts with local estate agents.

Availability of information

The availability of comparable sales transaction information varies depending on circumstances. Valuers often record and retain their own notes of properties that they have personally inspected. As a source of information, this is generally considered the most reliable, subject to the date at which the property was inspected, the date the market value was established and the date of valuation for which the previous transaction is considered a comparable.

In addition to their personal records, valuers working for private practice estate agents, valuers working for local authorities, and DVs each have access to different internal sources of information.

Valuers working in private estate agencies are regularly estimating market value when they provide indicative values on which asking prices are based, although such asking prices may be varied by the intervention

of the client owner. Such valuers may be in negotiation with potential purchasers and are thus able to establish at first hand how purchasers are influenced by the various attributes of the available properties. This knowledge is vital in establishing how the interaction of demand and supply affects price. Private practice estate agents are the closest to having their 'finger on the pulse' of their local housing market, as they are able to refine their opinions of value for particular property types in particular locations whenever a property is sold. All other valuers must inevitably 'follow the market', as asking prices are modified and sale prices become known.

It is unlikely that valuers employed by local authorities will have first-hand experience of market sales of residential property in their area. They are therefore required to use their second-hand knowledge of the market, to use publicly available information on sales prices, and to read up on and discuss with professional colleagues the changing influences within the local residential property market. They may be guided by previous valuations, but unless these have led to market (or the equivalent) sales, these valuations may be of little relevance.

District Valuers, who value property for a range of purposes, including revenue and tax purposes, also have access to second-hand data sources, including a records database that includes all relevant information regarding properties in their area. This information includes sale prices, as recorded in sales completion statements. It is somewhat dated, however, and may be of limited value unless accompanied by up-to-date survey details, which is not always the case. Thus, while a DV may have an accurate and recent sale price on record for an apparently similar property, it may not be possible to establish whether the property being valued has the same valuable fixtures and fittings, such as central heating and double glazing, and therefore the extent to which it is comparable. District Valuers therefore have access to accurate and date-specific market sale prices of properties in their locality, but recognise that the inability to undertake internal inspections to verify the details of the attributes of the comparable properties sold represents an important limitation to their database.

Hansz (2000) reports that feedback is central to the learning of expertise, yet the extent of market feedback to valuers undertaking RTB valuations is varied, both in location and content. Recognising that valuers rely on market transactions to supply data, it is interesting to note the extent to which the feedback of transactional data affects subsequent valuations. Feedback in the form of actual sale prices is crucial to valuers if they are to have constant and up-to-date data with which to guide and support their interpretation of a wide range of market evidence and trends. The feedback of actual and potential purchasers who can provide up-to-date perceptions of demand and thereby relative values is also critical to this process, and there is evidence that valuers need a greater awareness of the factors that influence buyers' decision-making processes (Adair et al., 1996).

It is significant for the purposes of this paper that, generally speaking, external valuers who work in private practice are exposed to both

transactional data and demand feedback. Valuers employed by the VOA have access only to transactional data through their comprehensive database of all completed sales. Local authority-employed valuers are unlikely to experience either form of feedback unless they keep their own personal or office-based records of actual transactions. Regardless of where they are employed, valuers do, of course, have other less formal means of monitoring the property market. However, transactional feedback may be particularly significant for this research.

It should be remembered that valuers are not always required to value the property as it in fact exists on the date of inspection. All tenants' improvements must be ignored and, as recognised above, in some cases the improvements could be extensive. It is therefore necessary for the valuer not only to imagine the original dwelling without any tenants' improvements, but also to seek recent transactions of similarly unimproved dwellings at or near the date of valuation (application) in order to arrive at a market value. This is not an unusual exercise for valuers, but the availability and relevant details of suitable and reliable comparable transactions to support such a valuation are likely to be a major issue. In the absence of such evidence, the tendency to rely on previous valuations (rather than market transactions) has become accepted (but not ideal) practice. Once again, in such circumstances, feedback from DVs' s.128 determinations is particularly important for local authority valuers. However, the research revealed evidence of a failure of feedback from the DVs to the original valuers regarding the level of their s.128 determinations (although the amount of the determination may be relayed back to the local authority). Regardless of whether the DV's s.128 determination is 'accurate', without the knowledge of the level at which values are being determined on appeal, valuers undertaking s.127 valuations are not likely to benefit from the information or be able to engage in any discussion with their professional colleagues from the VOA.

Valuer behaviour – anchoring

Recent research (see Havard, 1998) has investigated the extent to which valuers themselves influence value, because of their tendency to 'anchor' to a particular figure. Much of the work on anchoring has been undertaken in the area of mortgage valuation, where the valuer undertaking the mortgage valuation may 'anchor' the figure produced to the actual sale price as being the 'best' evidence of market value available (assuming that similar characteristics, including the bases of valuation and time of valuation, apply to both the mortgage valuation and the sale price).

One set of data supplied to the research enabled some investigation of the relationship of s.127 valuations and s.128 determinations to market house prices. The 1,037 appeal cases between 1988 and 2002 for a local authority in the South West were analysed against the Halifax standard price for houses in the South West. This showed that average DV valuations were always below average council valuations by 5.5–14 per cent, with an average difference of 9.6 per cent. The analysis also

showed that the rate of change in both s.127 and s.128 valuations tended to lag the market, and that s.128 valuations appeared to follow s.127 valuations more closely than they did the market index.

It was clear that DVs recognised the importance of their quasi-judicial role and the requirement for an impartial valuation. There may be 'anchoring' on previous valuations carried out by individual valuers, possibly in the absence of any useful comparable information, any feedback from DVs regarding subsequent s.128 determinations or merely because the pressure of time prevents any diligent market investigation in order to provide additional sources.

Uncertainty in valuation

Uncertainty in valuation stems from the fact that a valuation '... is an individual valuer's estimate of the exchange price in the market place. [It is] not a statement of discerned objective fact' (Mallinson and French, 2000: 13). Thus, a degree of uncertainty arises owing to the difficulty either of assessing the market itself or of assessing how the market would price the individual characteristics of the subject property. It is a real and universal phenomenon in all valuations and should be distinguished from 'abnormal uncertainty', which occurs when some particular condition of the market or the property leads to the valuer being unable to value with the confidence of accuracy which might normally be expected (Mallinson and French, 2000: 14).

There is a difference between the uncertainty within the process of valuation by a particular valuer and the variance of value between valuers (Mallinson and French, 2000). Valuation variance is discussed below. It should, therefore, be recognised that, with the absence of homogeneity in property and with imperfect knowledge of the property market, a degree of uncertainty in predicting the sale price of a property is inevitable.

What must be avoided, however, is failure to adopt an appropriate methodology (whether legal or valuation); failure to take into account or give inappropriate consideration to relevant and significant information; or generally to provide an unprofessional service.

Valuation accuracy and valuation variation

As stated above, valuers rely on their skill and experience in the property market in order to compare those attributes that affect the price of a specific property with the attributes of comparable properties that have been sold recently in the market and, thus, valuers with different experience tend to arrive at different opinions of value. According to Crosby (2000: 131):

'Valuation accuracy is the ability of a valuation to correctly identify the target. If the valuation basis is market value, this is the ability of the valuer to identify the sale price of the property ... this is usually taken as a subsequent sale price transacted in the market place.'

As properties valued for RTB purposes are not sold 'in the open market', valuation accuracy is not an issue in this research. Of more significance is

valuation variation, defined as ‘... the ability of two or more valuers to produce the same valuation on the same basis at the same time’ (Crosby, 2000). Crosby also explains that there is also evidence that:

‘... valuations lag actual prices in the marketplace ... this is a rational result of valuers anchoring on past transactional information and perhaps placing less weight on ‘softer’ nontransaction-based information. This is rational because the courts and other third-party decision makers have made the comparable the most important piece of information in the valuation process ... Comparables are the cornerstone of market valuation. They are perceived to be the most reliable evidence, but the time for transactions to complete means that of necessity, they occurred before the subject property valuation date ... [P]rofessionals likely to be judged on both their result and their approach will anchor their valuations to the hard transactional information ... this explains why it is rational to tend to lag market movements rather than overestimate them. In rising markets, valuations would be expected to be lower than prices and vice versa in falling markets.’

With RTB valuations, the availability of comparable evidence to the local authority valuers and the DV is different, for the following reasons:

- In order to estimate the RTB value as at the date of the tenant’s application, the local authority’s valuers must collect comparable evidence, which means they must actively track local house sales from ‘For Sale’ boards and press advertising, then check with agents whether contracts have been exchanged at or close to the RTB application date. This means they need to have been aware of properties that were most likely marketed and prices agreed several months beforehand.
- The DVs have access to price information for all completed house sales through the ‘particulars delivered’ system, so they simply wait for the information to arrive in the office.
- Because of the time lag between the s.127 valuation and s.128 determination, more information is likely to have filtered through to the DV by the time of the s.128 determination.

Thus, the DV is working with more complete and accurate sales information than the local authority valuer and, therefore, it is not surprising that their valuations differ.

Because ‘... a valuation is merely an opinion, based on often imperfect information expressed by a suitably qualified valuation professional’ (Havard, 1999: 1), it follows that different valuers with different professional experience can arrive at different valuations, in good faith, having undertaken the process of valuation professionally. Such divergence of opinion does not imply professional negligence. Indeed, ‘... differences in opinion are important to encourage an active property market because value is by definition a variable, it is a concept that involves the judgment and opinion of others’ (Bretton and Wyatt, 2000).

However, valuers are very conscious of the need to base opinions of value on available evidence rather than a more nebulous ‘gut feeling’. Thus, the fact that there is a difference between the nature, quality and quantity of evidence available to the different kinds of valuers involved in the RTB valuation process is significant to variation in the valuations

produced, without indicating the use of any inappropriate methodology or a breach in the standard of care which the valuer adopts in the valuation process.

Margin of error

As indicated above, a valuer is required to arrive at an opinion of value for a property, based on the evidence available and in the light of that individual's professional knowledge and experience. With different experience and with different information being made available to valuers from different employers, it is not surprising that valuations vary. However, it seems to be generally accepted that there is, in valuation, a range within which a value is expected to fall, and that to produce a value outside of this range indicates a degree of negligence. This principle stems from *Singer & Friedlander*, which mooted the idea that valuers are both capable of valuing and are somehow required to value within a certain band. It is a controversial idea that has been applied, developed and modified by the courts (Foster et al., 1998: 92; Crosby and Murdoch, 1997).

In the *Singer & Friedlander* case, the judge said that a valuation which falls outside a 'bracket' which on the evidence was 10–15 per cent either side of the figure which a competent, careful and experienced valuer would have produced at the time of valuation, after making all necessary enquiries and paying proper regard to the state of the market, brings into question the competence of the valuer and the care exercised when making the valuation. In the Arab Bank case, the judge widened the margin to 20 per cent (Anon, 1998).

However, the use of a 'margin of error' is controversial within the valuation profession. According to Crosby (1998; see also Crosby and Murdoch, 1997; Crosby et al., 1998) the principle that valuations outside a bracket of plus or minus 10–17.5 per cent can be held to be negligent was 'fundamentally flawed'. Crosby (1998) pointed out that such a margin of error was applied only to valuers and not to others who predict the future value of assets, such as stockbrokers and art dealers: 'No-one else is judged by the result, they are judged by the approach'.

Does negligence arise where a valuer gives an opinion outside a permissible bracket? This is unlikely, unless it can be shown not only that the value is outside a permissible bracket, but also that the valuer acted otherwise than as a reasonably competent valuer. Thus, 'cases of negligence that focus solely on the margin of error without reference to the way the valuations have been estimated are failing to address the most important issue in valuation — methodology' (Brown and Matysiak, 1998). Valuing in accordance with the Red Book can, therefore, go some way to demonstrating reasonable competence. But, by its nature, valuation is a prediction, based on imperfect knowledge, by a skilled, experienced and recognised practitioner. Different valuers have different levels of skill and experience and access to different market information; it is therefore to be expected that they will produce different valuations.

Recent research by Drivers Jonas (2003) found that standards of accuracy in commercial property valuations are now better than in the 1980s, when, on average, 45 per cent of valuations were within 10 per cent

of the eventual sale price. In 2001, 65 per cent of valuations were within 10 per cent, a level of accuracy that has remained broadly static for the past six years.

CONCLUSIONS AND RECOMMENDATIONS

When the appropriate instructions are provided to different valuers, who each follow the normal process and valuation methodology, and who have access to relevant and useful but different market information, valuation variation is neither unusual nor unprofessional.

Abbott (2000: 1233) defines 'valuation' as:

'The act or process of determining the value or worth of something. An assessment of the market value of a property at a given point in time ... a process normally carried out by an expert or valuer using his or her skill, experience and objective view of the subject.'

According to Part 2 of the RICS' Valuation and Appraisal Standards (RICS (2005), a valuation is:

[An RICS] member's opinion of the value of a specified interest or interests in a property at the date of valuation, given in writing. Unless limitations are agreed in the terms of engagement this will be provided after an inspection, and any further investigations and enquiries that are appropriate, having regard to the nature of the property and the purpose of the valuation.

Thus, a valuation is the opinion of value provided by a valuer based on that valuer's skill, experience and objective view, after an inspection and any further investigations and enquiries that are appropriate, having regard to the nature of the property and the purpose of the valuation. It is implicit within this definition that skilled valuers with different experience and access to different sources for 'investigations and enquiries' could reasonably and justifiably arrive at different values for the same interest in a property with neither of them being in error.

One of the unusual aspects of the RTB process is that the local authority valuers and the DVs are not required to negotiate an agreed value, nor is there any formal process by which they are able to discuss either the issues or the evidence they have used. Tenants are generally advised to obtain valuation advice on their own behalf, but are not required to do so. This is in line with policy that there should be no barriers and therefore no costs to tenants exercising their RTB. Indeed, it was the view of several of the valuer interviewees that requiring any form of payment in order benefit under the legislation was incompatible with the 'right' to buy. Of course, purchasers do have conveyancing costs, but these can often be rolled up in the mortgage arrangements.

It seems likely that part of the reasoning behind the RTB valuation process was that it should circumvent the need for negotiation, with the valuations being presented as the result of a technical process, rather than as a matter of opinion open to debate and thereby susceptible to pressures (other than property market forces) to increase or decrease the purchase price of the properties. It should, therefore, be possible to get it 'right first time', or at least second time, on appeal, and thereby avoid any protracted and potentially confrontational negotiations. It seems

that the imposition of a strict timetable on the valuation process reflected the view that delaying the purchase process (potentially through negotiations) was not appropriate.

The DVs have a quasi-judicial role which effectively means that they are impartial in their arbitration of a value (on which the sale price is based) between the purchasing tenant and the selling authority. Detailed negotiations with the local authority valuer are therefore seen to be inappropriate for the DV in such a role. Although there are (since April 2002) provisions for DVs to provide feedback to local authorities, the research found very little evidence of other dialogue between the professionals on this issue, although it was clear that, as professionals, there were very good relations between local authority valuers and District Valuers.

Thus, discrepancy arises in the case of RTB valuations for a range of reasons:

- variation in the details provided about the tenants' improvements;
- availability of appropriate market transactional data; and
- the time lag between the two valuations.

It could also be argued, based on the interviews undertaken with the tenants, that in high appeal areas, local authority valuers are not perceived to take sufficient time to inspect the property, to listen to the tenants' points of view, and are therefore not seen to provide a 'reliable' valuation. This coupled with the tenants' perception (with some apparent justification) that the valuation will be reduced on appeal, fuels the appeal rate. District Valuers are perceived to spend more time on their inspections and on listening to the tenants. They are also seen to be independent of the landlord authority and therefore to provide a 'second opinion'. However, there are also underlying pressures for both sets of valuers, with local authority valuers under severe pressure both of workload and cost constraints, and DVs keen to protect their independence and quasi-judicial role.

It may seem obvious that only tenants who believe that their initial RTB valuation is too high will appeal against it and the research has focused entirely on the incidence of and circumstances surrounding such appeals. The research has not established if there are additional problems with the valuation process which give rise to valuations which are too low relative to market values (although there is some evidence from the tenants' survey, see note 5). In all probability, 'low' valuations do occur, and may be concentrated in 'low' appeal areas. If a valuation is 'low', then tenants are unlikely to care about such issues as the time valuers spend on inspecting their properties. However, the reliability of such valuations has not been investigated by this research, and the additional subsidy in the purchase price caused by any such 'low' valuation increases the cost of RTB sales to the taxpayer. Without an independent audit of all RTB valuations, there is no way of knowing whether and to what extent such 'low' valuations are unreliable.

For the purposes of this paper, the main question to answer is why the s.127 and s.128 valuations are different. If it is because different valuers have access to different sources of evidence on which to base an opinion of value, then this is a legitimate reason which, if the RTB process required agreement between the two professionals, could be resolved through negotiation. However, if the reason why the s.127 and s.128 valuations are different is that the process of valuation is flawed (eg inadequate inspection; insufficient or erroneous information regarding the nature of the repairs or structural defects), then this should be remedied within the regulatory procedures. If it is the result of an absence or paucity of suitable and reliable comparable market information available to one or both of the valuers involved, then this is a different matter which should be dealt with by either:

- statements incorporated in the valuation to that effect, and accepted as part of the normal valuation process; or
- introduction of an additional stage into the RTB procedure whereby valuers are required either:
 - to negotiate an agreed valuation; or
 - to present evidence to an impartial arbiter (not an expert) for adjudication on the evidence presented at the hearing.

Both of these options would increase the time and expense (to either central or local government) but once the applying tenants became aware of the improved consistency in the valuations, such remedies would be likely to reduce the level and therefore the expense of appeals.

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Notes

- 1 Admissions are those applicants whose right to buy is confirmed by the landlord authority.
- 2 The Housing (Right to Buy) (Limits of Discount) Order introduced regional limits to the maximum discounts with effect from 11 February 1999. Thus, the maximum discount for dwellings in London and the South East of England is £38,000 and in the North East of England, £22,000. In 2003, the maximum discounts for certain specified local authority areas in London and the South East of England were further reduced to £16,000. Previously the discount had been £50,000, with no regional variation.
- 3 Notably Tower Hamlets (Audit Commission 2001 London Borough of Tower Hamlets — Right to Buy and Leasehold Services, Audit Commission: London), Audit Commission 2002 London Borough of Camden — Housing Management Service, Audit Commission: London) and Liverpool City (Camden Audit Commission 2002 Liverpool City Council — Right to Buy, Audit Commission: London).
- 4 *Singer & Friedlander Ltd. v John D. Wood & Co.* [1977] 243 EG 212.