



Ministry of  
**JUSTICE**

# **Response to consultation on reforms proposed in the Public Bodies Bill**

Reforming the public bodies  
landscape of the Ministry of Justice

Response to Consultation CP(R) 12/2011  
15 December 2011





**Response to consultation on reforms  
proposed in the Public Bodies Bill**

Presented to Parliament  
by the Lord Chancellor and  
Secretary of State for Justice  
by Command of Her Majesty

December 2011

**© Crown copyright 2011**

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-Government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at Ministry of Justice Public Bodies Bill Team – [PBB.Consultation@justice.gsi.gov.uk](mailto:PBB.Consultation@justice.gsi.gov.uk), telephone 020 3334 6298.

This publication is available for download at [www.official-documents.gov.uk](http://www.official-documents.gov.uk) and on our website at [www.justice.gov.uk](http://www.justice.gov.uk)

ISBN: 9780101823524

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
ID 2467094 12/11

Printed on paper containing 75% recycled fibre content minimum.

## **About this consultation**

**To:** This was a consultation produced by the Ministry of Justice. There is a requirement, as relevant, to consult those bodies/individuals, Scottish and Welsh Ministers and the Lord Chief Justice, listed in clause 10 of the Public Bodies Bill. However, this consultation was also aimed at anyone with an interest in the Public Bodies Bill and the proposals it contains in relation to Ministry of Justice bodies.

**Duration:** From 12/07/11 to 11/10/11

**Enquiries (including requests for the paper in an alternative format) to:** Public Bodies Bill Team  
Ministry of Justice  
Post point 10.03  
102 Petty France  
London SW1H 9AJ  
Tel: 020 3334 6298  
Email: [PBB.Consultation@justice.gsi.gov.uk](mailto:PBB.Consultation@justice.gsi.gov.uk)



## Contents

Ministerial Foreword	3
Introduction	5
Background	7
The Consultation - Summary of responses	9
Administrative Justice and Tribunals Council - Summary of responses	10
Administrative Justice and Tribunals Council - Responses to specific questions	12
Administrative Justice and Tribunals Council - Conclusion and next steps	15
Courts Boards - Summary of responses	19
Courts Boards - Responses to specific questions	20
Courts Boards - Conclusion and next steps	22
Crown Court Rule Committee - Summary of responses	24
Crown Court Rule Committee - Responses to specific questions	25
Crown Court Rule Committee - Conclusion and next steps	26
Her Majesty's Inspectorate of Court Administration - Summary of responses	28
Her Majesty's Inspectorate of Court Administration - Responses to specific questions	29
Her Majesty's Inspectorate of Court Administration - Conclusion and next steps	31
Magistrates' Courts Rule Committee - Summary of responses	34
Magistrates' Courts Rule Committee - Responses to specific questions	35
Magistrates' Courts Rule Committee - Conclusion and next steps	36
Office of the Chief Coroner - Summary of responses	38
Office of the Chief Coroner - Responses to specific questions	40
Office of the Chief Coroner - Conclusion and next steps	42
Public Guardian Board - Summary of responses	44
Public Guardian Board - Responses to specific questions	45
Public Guardian Board - Conclusion and next steps	46
The National Archives - Summary of responses	48
The National Archives - Responses to specific questions	49
The National Archives - Conclusion and next steps	50
Victims' Advisory Panel - Summary of responses	52

Victims' Advisory Panel - Responses to specific questions	53
Victims' Advisory Panel - Conclusion and next steps	54
Youth Justice Board - Summary of responses	55
Youth Justice Board - Responses to specific questions	56
Youth Justice Board - Conclusion and next steps	59
The consultation criteria	61
Annex A – List of respondents	62

---

## Ministerial Foreword

In July 2011 the Ministry of Justice published a consultation on reforming its public bodies through the Public Bodies Bill. The Bill, which received Royal Assent on 14 December, is part of the Government's commitment to radically reform its public bodies, and the consultation set out the case for reform of bodies within the justice sector. Key to effective reform is the balance that must be struck between the independence which is vital for some functions of Government to be exercised effectively, and the need to optimise accountability and efficiency. I am pleased to be able today to publish the response to this consultation.

The Ministry of Justice has 350<sup>1</sup> public bodies – the most of any department – and we proposed to reduce that figure by at least one quarter, to 264. We have also announced that the department will save approximately £1.6bn in total over the current spending review period through reductions in its public bodies' administrative, programme and capital budgets. The Public Bodies Act 2011 is one part of this package of reforms; there are 13 Ministry of Justice public bodies within the scope of the Act which will either be abolished, merged or reformed.

The consultation received 2,742 responses and I would like to thank all respondents for their views. We have carefully considered the views expressed in the responses, and of those who haven't spoken and corresponded with the department during the passage of the Bill.

Views were particularly strong concerning two of the bodies on which we consulted – the office of the Chief Coroner and the Youth Justice Board – and these are two areas where the Government has significantly changed its proposals to reflect respondents' views.

The Government intends to implement the office of the Chief Coroner and to use the Public Bodies Act 2011 to repeal the bespoke appeals system provided for in the Coroners and Justice Act 2009. We also do not now intend to abolish the YJB. The Government still believes strongly that there should be more direct ministerial accountability for youth justice, and Ministers are now considering options for achieving reform outside of the Act.

The passage of the Public Bodies Bill is by no means the end of the Ministry of Justice's reform of its arm's length bodies. Rather, it marks the beginning of the next phase of reform for this department as well as for other parts of Government. Statutory instruments using the powers in the Act that will give effect to the decisions set out in this response paper will be laid from early 2012. Closure plans for the Ministry of Justice bodies to be abolished or reformed, both through the Act and through other means, are well under way. The Government also recognises the need to periodically review all public bodies to ensure that they offer the best possible value to the taxpayer while preserving independence where necessary.

---

<sup>1</sup> Includes multiples

The Ministry of Justice is on course to deliver a more accountable and simpler public bodies landscape which will continue to exercise its functions in an open and transparent way, while maximising efficiency and accountability to Ministers and the public.

A handwritten signature in black ink, appearing to read 'K. Clarke'.

The Right Honourable Kenneth Clarke QC MP  
Lord Chancellor and Secretary of State for Justice

## **Introduction**

This document is the post-consultation report for the consultation paper, 'Consultation on reforms proposed in the Public Bodies Bill'.

### **The Consultation**

The consultation was published on 12 July 2011 and closed on 11 October 2011. The department received 2,742 responses. A list of those who responded to the consultation is provided at Annex A.

The key issues raised in the consultation, and the Government's response, are summarised in this document.

The consultation has been conducted in line with the Code of Practice on Consultation. The consultation criteria, which are set out on page 61, have been followed.

Impact Assessments have not been completed for all bodies. Impact Assessments were prepared in relation to the Administrative Justice and Tribunals Council (AJTC), HM Inspectorate of Court Administration (HMICA) and the Youth Justice Board (YJB). The Impact Assessments published alongside the consultation document indicated that the wider impact of the proposals is likely to be limited since, where appropriate, functions will be transferred back to the department to ensure that they continue to be provided. The proposals are unlikely to lead to additional costs or savings for businesses, charities or the voluntary sector, or on the public sector. Updated Impact Assessments have been completed for the AJTC and HMICA and are published separately alongside this post-consultation report.

Initial Equality Impact Assessment screenings were also completed for all bodies and published with the consultation document. These screenings have been re-considered in the light of the responses to the consultation and, where required, updated versions are published alongside this response paper.

More information on the completion of Impact and Equality Impact Assessments is provided in the following chapters relevant to each body.

All documents related to the consultation and the Government's response, including a Welsh language version of this paper, can be accessed at:  
<http://www.justice.gov.uk/consultations/reform-public-bodies.htm>

Further copies of this report and the consultation paper or alternative format versions of this publication can be obtained by contacting the Public Bodies Bill Team at the address below:

**Public Bodies Bill Team  
Ministry of Justice  
Post point 10.03  
102 Petty France  
London SW1H 9AJ**

**Telephone: 020 3334 6298**

**Email: [PBB.Consultation@justice.gsi.gov.uk](mailto:PBB.Consultation@justice.gsi.gov.uk)**

## Background

The Government announced planned reforms to public bodies on 14 October 2010, updating those proposals in March 2011. In conducting the Ministry of Justice's review of public bodies, the department first addressed the overarching question of whether a body needed to exist and its functions needed to be carried out at all. In common with other Government departments, where the answer was yes, the department then subjected each of its bodies to three further tests:

- does it perform a technical function?;
- do its activities require political impartiality?; and
- does it need to act independently to establish facts?

A body would remain if it met at least one of these three tests. Where relevant, the department has also considered further reforms, such as merger or transfer of functions, as part of the Government's commitment to streamline the public bodies landscape and remove duplication.

The Public Bodies Act 2011 now provides the legislative framework for reform, giving Ministers powers to enact changes by order. Where a body's functions are no longer required or it has fulfilled the purpose for which it was created, the proposal is to abolish the body. In appropriate circumstances, the relevant Government department would take responsibility for any particular functions to be retained, ensuring increased Government accountability – a key aim of the reforms.

Bodies for abolition are included in Schedule 1 of the Act. The department's bodies in Schedule 1 are:

- Administrative Justice and Tribunals Council
- Courts Boards (x19)
- Crown Court Rule Committee
- Her Majesty's Inspectorate of Court Administration
- Magistrates' Courts Rule Committee
- Public Guardian Board
- Victims' Advisory Panel

Schedule 2 (power to merge) includes bodies which have previously been subject to an administrative merger. Inclusion in Schedule 2 will give legislative effect to the administrative changes. Included in Schedule 2 are the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions, whose offices merged administratively in January 2010. A separate consultation on proposals to make these two offices a single legal entity using the powers in the Public Bodies Act 2011 will be undertaken by the department in early 2012.

Schedule 5 (power to modify or transfer functions) includes bodies which require legislation in order to transfer functions and complete earlier administrative reforms. It also allows for the transfer of certain functions without the outright abolition of a body. The department's bodies in schedule 5 of the Act are:

- Advisory Council on Public Records
- Her Majesty's Stationery Office
- Keeper of Public Records
- Public Record Office

It is a requirement of section 8 of the Public Bodies Act 2011 that a Minister may only make an order if the Minister considers that it serves to improve the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers; and also that it does not remove necessary protection or prevent the continuing exercise of rights and freedoms which a person might reasonably expect to continue to exercise.

To inform the making of orders that will give effect to our reforms, the consultation paper 'Consultation on reforms proposed in the Public Bodies Bill' was published on 12 July 2011. It invited comments on planned reforms to the Ministry of Justice public bodies in order to remove duplication of services, increase Ministerial accountability and simplify the public bodies landscape.

The consultation period closed on 11 October 2011 and this report summarises the responses, including how the consultation process influenced the final shape and further development of the proposals consulted upon.

## **The Consultation - Summary of responses**

1. The department wishes to thank all those who took the time to respond to the consultation.
2. A total of 2742 responses were received. Of these, 2607 were identical responses regarding the Office of the Chief Coroner sent by members of the public via the Royal British Legion website.
3. Given the breadth of functions carried out by the bodies that were included within the Public Bodies Bill, the remaining 135 responses, many of which covered more than one of the bodies included in the consultation, were from a wide range of groups and individuals. These included members of the public, representative groups, charities, advisory groups, members of the judiciary and legal profession as well as individuals and organisations with particular experience of the youth and administrative justice systems, the courts and the coronial service. Five responses covered every body in the consultation, of which four were from members of the public.
4. The following chapters provide summaries of the responses received on each of the bodies and analysis of both the views expressed in response to the department's proposals and also the answers received to each question that was posed in the consultation paper. This is followed by the department's conclusion and the next steps to be taken for each body.

## **Administrative Justice and Tribunals Council - Summary of responses**

1. A total of 41 responses were received regarding the proposal to abolish the Administrative Justice and Tribunals Council (AJTC). The majority of responses came from individuals (18 responses), some of whom have an academic or professional background in the justice system, and from professional organisations and representative groups (12 responses) with specific involvement in administrative justice. There were four responses from charities. The AJTC itself provided a detailed response to the Government's proposals and responses were also received from the Welsh and Scottish governments and from Sir Robert Carnwath, the Senior President of Tribunals.
2. The responses were analysed for views about: the proposal to abolish the Council; the value placed on the AJTC's current functions including their independent role in providing an overview of the administrative justice system; the capacity and capability of Justice Policy Group (JPG) officials within the department to conduct oversight of administrative justice policy to provide Ministers with impartial and expert advice; whether HM Courts and Tribunals Service (HMCTS) can adequately represent the needs of tribunal users following AJTC closure; and whether there were any functions that might not be adequately covered following the abolition of the AJTC.
3. There is a strand of opinion that the abolition of the AJTC was justified, but the majority of respondents expressed the view that the AJTC should not be abolished. The Scottish Government is content for the AJTC and its Scottish Committee to be abolished and has been considering what arrangements should be made, in Scotland, following abolition. An organisation in the justice field thought that the abolition of the AJTC was a logical step in light of the incorporation of the Tribunal Service into HMCTS. Among those individuals who responded online, one commented that the AJTC should close while another thought that it was preferable that the AJTC should be abolished rather than front line services.
4. However, a majority of respondents, many of whom are organisations active in the administrative justice field, commented that the AJTC's strength is that it is an independent organisation that exercises a UK wide overview of the administrative justice system. They felt that from this perspective it is able to represent the user and exercise a vital role in sharing best practice, mutual learning and collaborative working between courts, tribunals and ombudsmen. Concern was expressed about what arrangements would be made with regard to the oversight of tribunals that lie beyond the remit of HMCTS. Particular anxiety was expressed about what arrangements would be made in respect of the oversight of local authority run school admission and exclusion panels; a role the AJTC currently exercises. One organisation representing those with disabilities, which opposed the abolition of the AJTC, highlighted the AJTC's experience in translating the understanding of the needs of those with learning disabilities into changes that will improve access to the justice system.

5. Doubt was expressed by a number of respondents about the ability of JPG officials to exercise oversight of the administrative justice system and also whether - at a time when resources are scarce - the Group would be adequately resourced for this task and whether it could provide Ministers with independent advice.
  
6. While the Scottish Government are considering what arrangements might be put in place following the proposed abolition of the AJTC, an organisation representing consumers in Scotland felt that the current complex tribunals landscape in Scotland required that the UK and Scottish Governments should work together to ensure that appropriate arrangements are in place following the abolition of the Scottish Committee of the AJTC. The Welsh Government expressed the view that it did not appear that the position in Wales had been properly considered and taken into account. The Welsh Government has embarked on a programme of Tribunal Reform and was hoping that the AJTC would provide support for this programme.

## **Administrative Justice and Tribunals Council - Responses to specific questions**

### **Question 1: What are your views on the proposed abolition of the AJTC?**

Four respondents are not opposed to the abolition of the AJTC, including one respondent who thought that it was a logical step following the establishment of Her Majesty's Courts and Tribunals Service (HMCTS). Two respondents did not express views either for or against abolition.

The other 18 respondents who replied to this question were opposed to the abolition of the AJTC. A common thread of responses to this question was that the AJTC was a valuable body, independent of Government, which was able to provide scrutiny of the administrative justice system, a holistic overview of the end to end process and ensure that the needs of users were considered.

There was also concern voiced by many respondents that the proposed arrangements for the Ministry of Justice to oversee administrative justice policy were inadequate due to perceived lack of resources, lack of independence and insufficient concern for the needs of users.

Other points raised by one or more respondents were:

- With regard to the review of its public bodies, the AJTC met the three tests that all MoJ public bodies were subjected to;
- AJTC provides a forum for stakeholders, including courts, tribunals and Ombudsmen, by which best practice can be shared and by which collaborative working can be developed;
- Concern that the arrangements relating to non-HMCTS tribunals are unclear. This concern was voiced with regard to the Valuation Tribunal and school admission and exclusion panels. The AJTC currently has a supervisory role with regard to school admission and exclusion panels;
- Concern that there are inadequate arrangements to replace the role of the Scottish and Welsh Committees of the AJTC. This concern was articulated by a respondent organisation that represents consumers in Scotland which highlighted the complex and fragmented nature of the tribunals structure in Scotland including the fact that not all tribunals had devolved to the Scottish Government.
- Concern that abolition would mean that the AJTC could not support the Welsh Government in its programme of tribunal reform.
- The AJTC provides for the scrutiny of Ministers particularly in respect of administrative justice policy. A respondent thought that following the abolition of the AJTC, 'the Government will be scrutinising the Government'.

**Question 2: Do you believe that there are any functions of the AJTC that will not be adequately covered following the proposed abolition and suggested future handling of functions as set out above? Please state what these are and your reasons.**

Four respondents did not believe that there were any functions of the AJTC that will not be adequately covered following the proposed abolition. 18 respondents believed that one or more of the functions of the AJTC will not be adequately covered.

A concern was voiced by some respondents, including a number who responded to the consultation but who did not respond to this specific question, that none of the current functions of the AJTC will be adequately covered following the proposed abolition. Many respondents thought that the AJTC's independent oversight of administrative justice and their focus on representing the interests of users could not be properly replicated by a Government Department. Other respondents commented on the expertise and experience of Council members that informed the exercise of the AJTC's current role. As with responses to question one, respondents did not think that a Government department could fulfil the AJTC's current role in providing a forum for stakeholders to share best practice and develop collaborative working.

Respondents identified specific functions that would not be adequately covered. These included concern that there would not be scrutiny of ministerial decisions or policy with the required degree of independence and transparency; that there would need to be consideration as to what will happen to the functions of the Scottish Committee of the AJTC and that the Scottish Government and the UK Government should work together to ensure that appropriate arrangements are in place; and that the Ministry of Justice will not be able to exercise the AJTC's current supervisory role with regard to school admission and exclusion panels as well as its statutory role in responding to Department of Education consultations.

---

**Question 3 Do the proposals have any significant direct impact on you?**

The responses to this question were evenly divided with 11 respondents (27%) indicating that the proposals did not have any significant impact. These respondents included some who, in response to question one, indicated that they were opposed to the abolition of the AJTC.

Of the 11 respondents (27%) who indicated that the proposal to abolish the AJTC would have a significant direct impact on them, the Parliamentary and Health Service Ombudsman (PHSO) commented that the AJTC had provided her, in particular, and ombudsmen and complaint handlers in general with a forum for forging a shared outlook with other parts of the system and for achieving a voice independent of Government that has the ordinary citizen as its focus. The abolition of the AJTC would have the direct impact of denying the PHSO such a forum and such a voice and would deplete the efforts of the PHSO to shape the administrative justice agenda by reference to the empirical experience of handling citizens' complaints.

One practitioner commented that it was useful to have the opportunity to meet with other professions and representatives of different stakeholder groups to listen to their concerns and exchange views.

The Law Society expressed a fear that tribunals will be unable to sustain the progress that has been achieved in recent years and that, as a result, the Law Society will have to monitor tribunals to ensure that standards did not dissipate.

The Welsh Government expressed concern that the abolition of the AJTC will take place at a time when they will be progressing a programme of tribunal reform and considering what monitoring and review arrangements will be required in respect of tribunals in Wales. They are not sure that the gaps left by the abolition of the AJTC can be filled through the legislative powers of the Welsh Government or the National Assembly for Wales. The preference of the Welsh Government would be for the AJTC to continue, in respect of the functions it exercises in Wales, until such time its programme of tribunal reform is at a sufficiently advanced stage.

## **Administrative Justice and Tribunals Council - Conclusion and next steps**

1. The Government welcomes the responses to the consultation. While some respondents support the abolition of the AJTC, the majority favour its retention. In particular, the AJTC consider its proposed abolition is misguided and should not be pursued. The principal reason for this view is the proposition that the AJTC's functions cannot be discharged effectively by a Government department, and which is unlikely to be adequately resourced.
2. Other reasons advanced by the AJTC include that its abolition will result in the loss of independent advice; the financial savings that will accrue from the abolition of the AJTC are overstated in the consultation paper; the timing of the proposed abolition is misguided; and the proposed abolition of the AJTC does not take adequate account of the UK dimension of administrative justice.

### **The Government's conclusion**

3. The Government's decision, after considering the responses to the consultation, is that the AJTC should be abolished.
4. The AJTC is an advisory body whose functions are either no longer required or – in the case of its policy functions – are more properly performed by Government itself. The abolition of the AJTC will have no direct impact on judicial independence or judicial decision-making; the AJTC is not a tribunal or any other form of judicial body. Nor does it have any inspectorate functions.
5. The AJTC's functions are no longer required due to the establishment of a unified tribunal system within HMCTS which is committed to providing timely and effective access to justice to users. The department itself is capable of providing the required oversight of the administrative justice system and its officials can provide Ministers with the impartial, balanced, objective and expert advice necessary to develop effective policy in this area.

Below are key points raised in the consultation, with the Government's responses outlined:

### ***The abolition of the AJTC will result in the loss of a body which represents the needs of users***

The department does, and will continue to, take account of the views of service users including those in protected groups. It is currently considering how best to bring user representatives and other stakeholders together with the intention of establishing a group of administrative justice experts and key stakeholders to test policy ideas, and initially, to help us prioritise the administrative justice work programme. In addition, almost all tribunal jurisdictions have user groups to enable users to discuss issues of concern with the judiciary and HMCTS management. These groups operate at national and local levels, and bring together

representatives of the public who use tribunals services, professional groups (such as the Bar and Law Society), the judiciary and officials.

***The AJTC provides an independent scrutiny and oversight of tribunals which cannot be replicated by a Government Department***

There has been a great deal of change in tribunals in recent years. There is now a well established unified tribunal system within HMCTS supporting the majority of tribunals. There are also strong governance arrangements in place as outlined in the HMCTS Framework Document. In particular the agency's work is overseen by a board, headed by an independent chair working with non-executive and judicial members to ensure Ministerial accountability for the performance of HMCTS, meaning that we no longer need the AJTC's oversight function.

The Public Bodies Review has also resulted in almost all remaining central Government tribunals which are outside of HMCTS being agreed either for transfer-in to HMCTS, or for further consideration of transfer-in. The advantages of the latter approach include an increased perception of independence and impartiality as tribunals are separated from original decision makers and policy owners.

***The arrangements in respect of non-HMCTS Tribunals following the proposed abolition of the AJTC are unclear.***

The department is committed to developing an overview of the whole system, not just HMCTS administered tribunals. This includes those bodies administered by local authorities, like school admission and exclusion appeal panels. It is already working with relevant departments and agencies in some areas, and in discussion with them, the AJTC, and other stakeholders in developing plans about how best to do this in future.

***The proposed abolition of the AJTC does not take account of the UK dimension of administrative justice and the current state of tribunal reform in Scotland and Wales***

The department is committed to developing a strategic, UK-wide approach to the administrative justice system. We have engaged with the devolved administrations in Scotland and Wales about the proposed abolition. It is for the devolved administrations to make whatever arrangements they feel necessary. Officials in the department already work closely with colleagues in the Scottish and Welsh Governments to ensure that there is a proportionate overview, that best practice is shared and that consistency is achieved where desirable. This includes supporting the devolved administrations in their work in reforming tribunals.

***The MoJ Justice Policy Group is not adequately resourced or able to provide independent advice to Ministers about administrative justice policy***

There is a growing team of civil servants in the department that offers Ministers balanced, objective, impartial and expert advice on administrative justice issues, informed by the views and needs of users and other stakeholders. This is what officials do in every other justice policy area and, as in other policy areas; a source of advice which is independent of Government is not a prerequisite. As new priorities emerge on the administrative justice agenda, the team will draw on additional support and resources from the Justice Policy Group, the home of policy expertise in the department.

The department is working closely with the devolved administrations and other stakeholders to ensure it has a UK-wide view of the end-to-end system, from original decision-making to complaint resolution and redress, including ombudsmen. The department is also working closely with the Cabinet Office, which retains responsibility for ombudsman policy.

The MoJ is also working closely with other Government departments to ensure a coherent and consistent approach is taken to developing policy, and to improve decision-making, and in this, it is better placed to influence and effect change than an ALB. For example, the MoJ is working with agencies of the department of Department of Work and Pensions to review end-to-end dispute resolution procedures and feedback arrangements. This work will continue to improve 'getting it right first time' and will spread lessons learned among decision-making bodies to drive up standards.

***The AJTC provides a valuable forum for all in the administrative justice system to share best practice and develop collaborative working***

The department is committed to bringing together stakeholders from across the administrative justice system to share best practice, promote collaborative working and drive up standards. Whilst upholding this commitment the department is considering how best to do this in the future.

***The consultation paper considerably overstates the financial savings to be achieved by abolition***

The published savings estimate was reached after a careful analysis of the costs and savings involved in closing the AJTC. This figure is, however, an estimate and is subject to change. Even if the actual savings accrued, following the closure of the AJTC, do not match exactly the published estimate, the government is confident that significant savings to the public purse will be achieved.

## **Conclusion**

The Government remains committed to abolishing the AJTC by an order under the Public Bodies Bill. It believes that an advisory body is no longer required in the field of administrative justice as robust governance and oversight arrangements now in place with regard to tribunals and the development of administrative justice policy is properly a function of Government.

The Government is committed to ensuring that it exercises effective oversight of the administrative justice system in a way that best serves users. It will seek to develop, maintain and enhance a UK perspective of the system as well as enhancing its links with stakeholders. The Government will ensure that there are channels by which best practice can be shared and collaborative working developed.

## **Next steps**

The Government intends to lay a draft Order in Spring 2012 that will abolish the AJTC. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.

An Impact Assessment of the proposal to abolish the AJTC was produced alongside the consultation paper. The assessment, and the accompanying Equality Impact Assessment, has been updated following consultation and is published alongside this response paper.

## **Courts Boards - Summary of responses**

1. A total of 23 responses were received regarding the proposal to abolish Courts Boards. Eight responses were from Courts Boards Chairs or members, six responses were from business stakeholders, four responses were from members of the public, three responses were from charities and two responses were anonymous.
2. Responses were analysed for general views on the abolition and suggestions for alternative ways to engage with the public if the abolition of Courts Boards goes ahead.
3. Of the 23 responses, 13 respondents were against abolition, seven were in favour and four expressed no opinion. The view of those against abolition was that independent scrutiny of administration of the Courts will be lost. There will be no medium for court administrators to hear the voice of the local community to ensure that local and community issues are given adequate attention and there is no guarantee that Courts Boards functions will be exercised by any alternative means after abolition particularly in the face of financial constraints.
4. Those respondents in favour of the abolition recognised the financial benefit of abolition and thought that HMCTS should be able to reinforce the link with the community by other means such as open days, Inside Justice weeks and customer satisfaction surveys and better use of court user meetings.

## **Courts Boards - Responses to specific questions**

### **Question 4: What are your views on the proposed abolition of Courts Boards?**

13 respondents were against abolition. The main theme of the responses against abolition focussed on the lack of an independent body to provide advice and make constructive recommendations to foster improvement in the administrative services provided by the courts and that there would be no meaningful structured links with the community after abolition of Courts Boards.

Seven respondents were in favour of abolition, two of which were Courts Board Chairs. They supported the abolition due to the current financial constraints and were of the view that independent scrutiny of administrative performance of HMCTS could be managed through internal audits and consultation with stakeholders and that HMCTS should be able to reinforce the link with the community by other means such as open days, Inside Justice weeks and customer satisfaction surveys and better use of court user meetings.

The three remaining respondents did not express a view.

---

### **Question 5: Do you believe that there are any functions of the Courts Boards that will not be adequately covered following the proposed abolition and suggested future handling of functions as set out above? Please state what they are and your reasons.**

10 respondents were of the view that there will be no independent body to provide local external oversight of administrative performance of HMCTS particularly from the wider community to ensure that local issues are given adequate attention. Concern was also expressed that some of the suggested alternative approaches such as better use of court user meetings have limitations due to restricted membership, that is, that they are not necessarily geared to protect the interests of victims and witnesses. Respondents suggested that the gaps identified should be filled so that the community can have some impact on decisions and can be made aware of proposals for change in areas that will affect them

Three respondents, whilst acknowledging the important role of Courts Boards to provide independent scrutiny of the business plans and administrative performance of HMCTS and providing the link with the community, acknowledged that given financial constraints HMCTS should be able to manage these issues by way of internal audit, consultation with other stakeholders and making better use of court user meetings and by exploring the expansion of their membership to reflect all court users.

The 10 remaining respondents did not express a view.

**Question 6: In your opinion how can local courts and tribunals reinforce the link between them and the local community?**

10 respondents wanted reassurance on the alternative ways of reinforcing the link between the local courts, tribunals and the community. They suggested open access to court user meetings, its membership expanded to include other court user groups such as victims and witnesses, improved access to and publication of reports and information. They would also like to see the continued use of open days, Inside Justice weeks and the use of customer satisfaction surveys which should not be cut back in the face of financial constraints.

Two respondents suggested the use of Local Criminal Justice Boards to reinforce the link between the courts and the community. Three respondents would like Courts Boards to be retained to fulfil that function or their roles redefined within the newly formed HMCTS.

Three respondents suggested the use of more consultation with the community but did not provide any further detail. One respondent suggested reviewing the liaison arrangements between HMCTS and the Judiciary such as reviewing the remit of the Judicial Issues Group and Area Judicial Forums due to it being no longer possible to raise the type of issues usually raised by the Judiciary within the medium of Courts Boards after abolition.

The four remaining respondents did not express a view.

---

**Question 7: Do the proposals have any significant direct impact on you (if so, please explain the impact)?**

Five respondents indicated the direct impact on them as being either the loss of membership status as a Court Board member or the loss of experience and knowledge in this area of work provided to them via Courts Boards.

Eight respondents said that abolition of Courts Boards would not have any significant direct impact on them. One respondent felt that abolition of Courts Boards would have an indirect impact on court users.

The nine remaining respondents did not express a view.

## **Courts Boards - Conclusion and next steps**

1. The department is very grateful to all those who replied to the consultation. A high proportion of responses against abolition came from Courts Boards members. Their arguments focussed on the loss of an independent body to provide local external oversight of the administrative performance of HMCTS, particularly from the wider community, resulting in the local voice not being heard and important community issues not being addressed. Those in favour of abolition (including two respondents from Courts Boards) acknowledged the Government's reasons for abolition but felt that HMCTS should be able to manage the gaps left by abolition by internal audit, consultation with other stakeholders, extending the membership and use of court user meetings and the use of customer satisfaction surveys, open days and Inside Justice weeks.
2. The department has noted the views put forward both for and against abolition. There is a small majority against abolition (13 out of 23) and a high proportion of these responses were from Courts Board members. Those in favour of abolition (seven respondents including two from Courts Boards members) have acknowledged the reason for abolition of Courts Boards and suggest that the alternative means put forward by the Government to fill the functional gaps left by their abolition are adequate.

### **Conclusion**

3. The department remains convinced that in the face of financial constraints, abolition is the best way forward. This is consistent with the aim of HMCTS to protect front line services and delivery by stripping out unnecessary management layers, bureaucracy and cost.
4. The Government acknowledges that the voice of the community is important and will ensure that it is heard through other means. HMCTS regions will be encouraged to explore other local options that are suitable for them, such as restructuring court user groups and expanding their membership to maintain the contribution to courts administration from the wider community. This idea is already being developed in one court board area and any workable model developed will be shared among the other regions as part of HMCTS' good practice sharing strategy.

## **Next steps**

5. The Government intends to lay a draft Order early in the New Year that aims to abolish the Courts Boards by the end of this financial year. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.
6. An Impact Assessment was not considered necessary for the abolition of Courts Boards prior to consultation as the proposal does not impact on business, civil society or on regulatory matters. There is no impact on staff and costs/benefits to the public sector will not exceed £5 million per annum.
7. Having taken into account the responses, the position following the consultation remains the same. The main direct impact identified from the responses is the loss of membership status by Courts Boards members as a result of abolition. Courts Boards members have no employee status; they are statutory public appointees.
8. There is no evidence from the responses to support the provision of an Impact Assessment or a full Equality Impact Assessment. However, the initial Equality Impact Assessment screening that was provided alongside the consultation paper has been updated and is published alongside this response paper.

## **Crown Court Rule Committee - Summary of responses**

1. A total of nine responses were received regarding the proposal to abolish the Crown Court Rule Committee. These included six responses from individuals, one from a representative body, one from a charity and a joint response from a police authority and police constabulary.
2. The responses were analysed for any new approaches to the proposal to abolish the Crown Court Rule Committee and any new evidence of the impact.
3. In summary, there was a very limited response with no new evidence received which impacts upon the intention to abolish the Committee. Professional organisations did not oppose abolition, on the basis that its functions can be carried out effectively elsewhere.

## **Crown Court Rule Committee - Responses to specific questions**

### **Question 8: What are your views about the proposal to abolish the Crown Court Rule Committee?**

Eight respondents answered this question. Four respondents either agreed or did not oppose the abolition of the Crown Court Rule Committee. One response was neutral and two were opposed. One respondent thought incorrectly that it was a committee established under the Judicature (Northern Ireland) Act 1978.

The views expressed did not reveal any new concerns. The Law Society commented that:

*Given that rules relating to criminal proceedings have already been transferred to the Criminal Procedure Rules Committee and the residual rules for civil matters in the Crown Court can be transferred to the Civil Procedure Rule Committee and the Family Procedure Rule Committee, we do not object to the proposed abolition of the Crown Court Rule Committee.*

---

### **Question 9: Do you consider that the proposals to abolish the Crown Court Rule Committee and transfer functions to the Lord Chief Justice and the other rule committees will ensure that the Crown Court Rule Committee's existing remit can be taken forward? Please explain your reasons if not.**

Eight respondents answered this question. Five respondents agreed that the proposal would ensure that the Crown Court Rule Committee's existing remit can be taken forward elsewhere, and 3 respondents disagreed. Those opposed did not give detailed reasons about why the remit could not be taken forward as proposed.

## **Crown Court Rule Committee - Conclusion and next steps**

1. The responses relating to the Crown Court Rule Committee did not reveal any new features or unforeseen impacts. No adverse impact was found.
2. A minority of respondents opposed the proposal to abolish the Crown Court Rule Committee, although few reasons were given for opposition, and no common theme emerged from them. A minority of respondents also thought that the proposals to transfer the Crown Court Rule Committee's rule-making function to the Lord Chief Justice would not ensure that the Committee's existing remit could be taken forward. The chief concern in this respect was that abolition would lead to a loss of people with appropriate expertise whom the Lord Chief Justice could consult before making rules.
3. Under the Government's proposals, before making rules the Lord Chief Justice would be able to consult the Criminal Procedure Rule Committee, the Civil Procedure Rule Committee or the Family Procedure Rule Committee (and any other persons or bodies) as he thinks fit. All these committees have rule-making expertise and the Criminal Procedure Rule Committee already makes rules for criminal cases in the Crown Court. Expertise, and indeed a greater range of expertise, will be available to the Lord Chief Justice.

### **Conclusion**

4. Having considered all responses to the consultation and having had regard to the arguments put forward by the minority of respondents opposed to the proposal, the Government confirms its intention to implement the abolition of the Crown Court Rule Committee. The Government is of the view that this statutory advisory body no longer has a remit broad enough to justify its retention and that its functions could be performed effectively by the Lord Chief Justice in the same way as is done under the Constitutional Reform Act 2005 for other infrequently amended rules.
5. Note has been taken of the concerns expressed by some respondents about the transfer of the Committee's functions. Although the Lord Chief Justice would be able to consult the Criminal Procedure Rule Committee, Civil Procedure Rule Committee and Family Procedure Rule Committee, it is not intended that he should be restricted over whom he consults before making Crown Court Rules and, as with other classes of rules, provision will be made for him to consult as he considers appropriate.
6. The Public Bodies Act 2011 confers a power to abolish the Crown Court Rule Committee by Order. The Order will make clear that the legislation is limited to England and Wales and does not have jurisdiction in Northern Ireland.

## **Next steps**

7. The Government intends to lay a draft Order in Spring 2012 that will abolish the Crown Court Rule Committee. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.
  
8. An impact assessment was not required at the time of consultation as the proposal to abolish the Committee does not impact on business, civil society or on regulatory matters. There is no impact on staff and costs/benefits to the public sector will not exceed £5 million per annum. There is no evidence from the responses to support the provision of an Impact Assessment or a full Equality Impact Assessment. However, the initial Equality Impact Assessment screening that was provided alongside the consultation paper has been updated and is published alongside this response paper.

## **Her Majesty's Inspectorate of Court Administration - Summary of responses**

1. 18 responses were received regarding the proposal to abolish HM Inspectorate of Court Administration (HMICA). Of these, seven respondents stated specifically that they are opposed to the abolition of HMICA, three expressed concerns surrounding aspects of the proposal to abolish, six specifically stated that they are in support of abolition and two did not express a specific view either way.
2. A main theme to the responses from those who did not support abolition was that the abolition of HMICA leaves a key government body without independent scrutiny and results in a loss of expertise. There was also doubt expressed as to whether HMCTS has the appropriate processes in place to challenge its own performance. Specific concern was also expressed with regard to specific functions of the Inspectorate including its role in joint inspections of the criminal justice process, the inspection of court custody areas and proposed inspection of the coroners service.
3. The general opinion amongst those that supported the abolition was that there was no need for independent inspection of the courts in the current climate and that its functions could be adequately carried out elsewhere.

## **Her Majesty's Inspectorate of Court Administration - Responses to specific questions**

### **Question 10: What are your views on the proposed abolition of HMICA?**

Several of the respondents who expressed concern about the abolition of HMICA were of the view that the loss of HMICA meant a loss of expertise and lack of independent oversight and scrutiny of the processes within the courts. A further view was added that this came particularly at a time when changes within HMCTS and the current financial climate meant that independent inspection was all the more necessary. A number of respondents expressed the opinion that HMCTS should not rely on its own internal processes to monitor its performance, and that the role of the National Audit Office was not far reaching enough to replace the role of HMICA. One view was also expressed that the work of HMCTS covers more than administrative functions and this therefore increased the need for independent scrutiny.

Concern was expressed by one respondent as to the lack of acknowledgement of the impact of HMICA's abolition on small businesses, given that it undertook inspections on issues in the civil courts such as alternative dispute resolution and money claims. The same respondent felt that HMICA's focus on equalities had been underplayed, given that it engaged directly with service users and representative bodies.

Some respondents also noted the fact that HMICA has already ceased to operate, and expressed concern that closure took place before consultation on the abolition.

Those in support of the abolition were generally of the view that there was no need for an independent Inspectorate in the current climate and its functions could appropriately be carried out elsewhere. One respondent observed that HMICA had been weak in challenging poor practices. A further respondent felt that its functions should be transferred to the Audit Commission.

---

### **Question 11: Do you believe that there are any functions of HMICA that will not be adequately covered following the proposed abolition and suggested future handling as set out in the consultation paper?**

A number of respondents noted HMICA's role in the joint inspection of the criminal justice process, and that the loss of HMICA resulted in a gap in the independent scrutiny of end to end processes. One respondent – a criminal justice inspectorate – observed that there is now no mechanism to compel HMCTS to act upon the findings of joint inspections.

In their response, INQUEST referred to HMICA's proposed role in monitoring the performance of the coroners courts, and expressed disappointment that this has

not been taken on by another organisation. Reference was also made by some respondents to HMICA's role in inspecting court custody areas, under the Optional Protocol to the Convention against Torture, although the new arrangements for this responsibility (that it will be carried out by HM Inspectorate of Prisons) were welcomed.

## **Her Majesty's Inspectorate of Court Administration - Conclusion and next steps**

1. The department welcomes the responses to the questions on the abolition of HMICA. After careful consideration of the consultation responses, it remains of the view that there is not a need for a body to carry out independent inspection of HMCTS and is satisfied that the appropriate mechanisms are in place to provide the necessary scrutiny of court administration.
2. Below are key points raised in the consultation, with the Government's responses outlined:

### ***The abolition of HMICA results in a lack of independent oversight of HMCTS***

The Government does not believe that there is a need for an independent Inspectorate to monitor administrative processes in HMCTS. There are now more sophisticated and robust management systems and audit processes in place within HMCTS which provide an opportunity for HMICA's functions to be achieved through different and more cost effective means.

### ***It is not sufficient to say that HMCTS and the National Audit Office will provide appropriate scrutiny of HMCTS processes***

The Government is firmly of the view that appropriate mechanisms are in place to provide the necessary scrutiny. HMICA's role, as set out in legislation, was clearly to inspect the administrative processes within the Courts and it is not considered necessary or cost effective for an independent body to carry out this role. The National Audit Office has carried out very detailed studies on court business (e.g. the 2008 study on the Crown Court).

### ***The loss of HMICA results in a loss of expertise***

The Government acknowledges that HMICA built up expertise and made a helpful contribution to improving the services provided to court users. However, it does not believe that this means that its abolition will diminish the scrutiny given to administrative processes. The decision to abolish HMICA means that the finite resources are focused on the actual delivery of court business. Where necessary and requested, HMCTS has agreed that it will second experienced court administrators to assist in inspections.

### ***Joint Inspection of criminal justice processes will not be effective***

The Public Bodies Act 2011 allows an order to be made which transfers functions to the other Criminal Justice Inspectorates at the same time as HMICA is abolished, so that they may inspect aspects of court administration for future joint inspections. HMCTS is fully engaged with the criminal justice inspectorates in carrying out this

work. HMCTS will continue to be accountable to Ministers, and ultimately Parliament, on the extent to which they respond to inspection recommendation.

***There is no body placed to take on HMICA's proposed function of monitoring performance in the coroners courts.***

The Coroners and Justice Act 2009 included provision for HMICA to undertake inspection of the coroners courts. However, shortly after the legislation was passed, it was announced that HMICA was to be abolished and this was not therefore taken forward. However, the Government's proposed reforms to the coroner system mean that there will be greater oversight of the system, through the office of the Chief Coroner and also a National Charter, which will set out the minimum standards that those coming into contact with the system can expect.

***The Audit Commission could take on responsibility for HMICA's functions***

The Audit Commission is due to be abolished under plans announced by the Department for Communities and Local Government, and so it would not be appropriate for it to take on any further functions. The Government is satisfied that there are appropriate mechanisms in place to negate the need for independent inspection of HMCTS.

***Inadequate consideration has been given to the impact on court users and representative bodies.***

The Government appreciates the work undertaken by HMICA in engaging with service users, including those from minorities and their representative groups. As stated in the Impact Assessment, due to the nature of HMICA's functions, it is very difficult to reliably assess any direct impact on court users and the impact is likely to be too diffuse to be measurable. However, it is intended that HMCTS will continue to fully engage with court users and stakeholder groups.

***HMICA's closure took place prior to full consultation on the issues***

A decision was taken by the Secretary of State, with the full agreement of the HMICA's senior management team, that it would be preferable to close HMICA administratively prior to legislative closure. Given decreasing staff numbers and previous uncertainty on a closure date, it became increasingly difficult for HMICA to provide any new and meaningful work for staff. It was considered that having a firm closure date provided the best solution for staff, by enabling them to be placed on the redeployment list and providing them with priority consideration for vacancies, as well as enabling HMICA to implement a formal closure plan.

**Next steps**

The Government intends to lay a draft Order in Spring 2012 that will abolish HMICA. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.

An Impact Assessment of the proposal to abolish HMICA was produced alongside the consultation paper. The assessment and the accompanying Equality Impact Assessment have been updated following consultation and are published alongside this response paper.

## **Magistrates' Courts Rule Committee - Summary of responses**

1. A total of 10 responses were received regarding the proposal to abolish the Magistrates' Courts Rule Committee (MCRC). The proposal to abolish the MCRC was supported by five of those who responded. Two respondents were opposed to the proposal with the remainder neither supporting nor opposing but raising some concerns regarding the transfer of the MCRC's functions. Those favouring the proposal argued that the reduced remit of the MCRC justified its abolition and that it would remove duplication of work, whereas there was no common theme among the responses from those opposed to the proposal.
2. The main concern expressed by those who thought the proposals would not ensure the MCRC's remit could be taken forward was the lack of magistrates' expertise that would be available to the Lord Chief Justice before he made rules. One respondent thought a consequence of the loss of expertise would be a reduction in the confidence of the courts. However, this was balanced by the Magistrates' Association who said other existing rule committees were well placed to advise the Lord Chief Justice and had the necessary expertise to be consulted on the limited range of rules made under the Magistrates' Courts Act 1980. The Law Society considered that the remaining civil non-family proceedings in the magistrates' courts were very narrow and rules are rarely made. The Law Society therefore had no objection to the abolition of the Magistrates' Courts Rule Committee.

## **Magistrates' Courts Rule Committee - Responses to specific questions**

### **Question 12: What are your views about the proposal to abolish the MCRC?**

Five respondents supported or did not object to the proposal to abolish the MCRC. Two respondents opposed the proposal and a further three neither supported nor opposed the proposal, a number of whom expressed concerns about the arrangements for the transfer of the MCRC's functions.

Among the reasons given by those who supported the proposal was that many of the MCRC's functions had already passed to the Criminal Procedure Rule Committee and the Family Procedure Rule Committee leaving the MCRC with a very narrow remit. Additionally, one respondent thought it appeared sensible to abolish a committee that duplicates the work of others.

Comments from those respondents opposed to the proposal included a belief that it was purely a cost cutting exercise.

The response on behalf of the Legal Committee of the Council of District Judges (Magistrates' Courts) expressed the view that primary legislation would be needed before the MCRC could be abolished in relation to rules made for the enforcement and variation of orders in family proceedings.

---

### **Question 13: Do you consider that the proposals to abolish the MCRC and transfer its consultative functions to the other rule committees will ensure that the MCRC's existing remit can be taken forward? Please explain your reasons if not.**

Eight responses were received to this question. Five respondents considered that the proposals will ensure that the MCRC's existing remit can be taken forward. Three respondents considered that the proposals will not ensure that the MCRC's existing remit can be taken forward.

Those who did not agree were invited to explain their reasons. Concern was expressed that the MCRC functions would not be properly exercised by any alternative means, particularly in the face of financial restrictions. There would be a loss of expertise and confidence in the courts would be reduced.

The Legal Committee of the Council of District Judges (Magistrates' Courts), while agreeing that the role of the MCRC had been diminished, did not agree that its remaining role could be dealt with by the Lord Chief Justice, in consultation with the Criminal Procedure Rule Committee and the Family Procedure Committee alone, and urged that consultation be required with the Justices' Clerks Society and the Chief Magistrate too. Consultation with those who have specialist experience and expertise relating to magistrates' courts was essential.

## **Magistrates' Courts Rule Committee - Conclusion and next steps**

1. A minority of respondents opposed the proposal to abolish the MCRC but no common theme emerged from the reasons given for opposition. A minority of respondents also thought that the proposals to transfer the MCRC's functions to the other rule committees would not ensure that the MCRC's existing remit could be taken forward. The chief concern in this respect was that abolition would lead to a loss of those with specialist magistrates' courts expertise whom the Lord Chief Justice could consult before making rules.
2. Under the proposals, before making rules the Lord Chief Justice would be able to consult the Criminal Procedure Rule Committee, the Civil Procedure Rule Committee or the Family Procedure Rule Committee as he thinks fit. All these committees have rule-making expertise and the memberships of the Criminal Procedure Rule Committee and the Family Procedure Rule Committee each include a district judge (magistrates' courts), a magistrate and a justices' clerk. These committees already make rules for criminal causes in the magistrates' courts and family proceedings in the magistrates' courts respectively.
3. The Council of District Judges (Magistrates' Courts) helpfully suggested that before making rules the Lord Chief Justice be required to consult the Justices' Clerks' Society and the Chief Magistrate too. The intention is not to restrict whom the Lord Chief Justice might consult and, while it is considered that the said Committees are well placed to advise and be consulted, it will be a matter for the Lord Chief Justice to consult as he considers appropriate depending on the nature of the rules being made.
4. One respondent suggested that the proposal to abolish the MCRC was purely a cost cutting exercise. In fact, although abolition would remove a public body whose retention could not be justified due to its greatly reduced remit, there would be no administrative savings.
5. In response to the view from the Legal Committee of the Council of District Judges (Magistrates' Courts) that primary legislation might be needed before the MCRC could be abolished, as rules relating to the enforcement and variation of orders in family proceedings are made by the MCRC (not by the FPRC), it is correct that such proceedings do not come within the definition of 'family proceedings' for the purposes of the FPRC's rule-making powers. However, as with other rules made under section 144 of the Magistrates' Courts Act 1980, they are made by the Lord Chief Justice on the advice of, or in consultation with, the MCRC. Any order made to abolish the MCRC under the Bill, if enacted, would include the necessary amendments to section 144 of the 1980 Act.

## **Conclusion**

6. Having considered all responses to the consultation and having had regard to the arguments put forward by the minority of respondents opposed to the proposal, the Government confirms its intention to implement the abolition of the MCRC. The Government is of the view that this statutory advisory body established under the Magistrates' Courts Act 1980 no longer has a remit broad enough to justify its retention and that its functions could be performed effectively by other existing rule committees.
7. Note has been taken of the concerns expressed by some respondents about the transfer of the MCRC's functions. Although the Lord Chief Justice would be able to consult the Criminal Procedure Rule Committee, Civil Procedure Rule Committee and Family Procedure Rule Committee, it is not intended that he should be restricted over whom he consults before making rules under section 144 of the Magistrates' Courts Act 1980 and, as with other classes of rules, provision will be made for him to consult as he considers appropriate.

## **Next steps**

8. The Government intends to lay a draft Order in Spring 2012 that will abolish the Committee. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.
9. An Impact Assessment (IA) was not completed prior to consultation as the proposal to abolish the Committee does not impact on business, civil society or on regulatory matters. There is no impact on staff and costs/benefits to the public sector will not exceed £5 million per annum. There is no evidence from the responses to support the provision of a post consultation Impact Assessment.
10. No comments were received in relation to the equality impacts arising from abolition. However, the initial Equality Impact Assessment screening that was provided alongside the consultation paper has been updated and is published alongside this response paper.

## Office of the Chief Coroner - Summary of responses

1. A total of 2,646 responses referred to the office of the Chief Coroner. 2,607 of these were identical responses from members of the public received via the Royal British Legion campaign website. Respondents varied from representatives of those who have used the coronial system such as bereavement organisations and to those who have professional contact with coroners such as the medical profession and the criminal justice and prison systems.
2. Most responses referred to the principle behind the Government's headline proposal to transfer the Chief Coroner's functions to the Lord Chief Justice or Lord Chancellor and whether the office of Chief Coroner was required to achieve meaningful reform. Many provided examples of how a Chief Coroner might meet desired outcomes for reform. The responses were analysed for views on how the principle of transfer of functions from the Chief Coroner to Lord Chief Justice and Lord Chancellor would meet the key objectives for reform as well as how specific transferred functions would meet those objectives. The responses were also analysed for views on the proposed Ministerial Board and supporting Bereaved Organisations Committee as well as whether any functions of the Chief Coroner were not adequately covered by the proposals.
3. Nearly all respondents reinforced the need for reform. The majority expressed the opinion that the existing system is fragmented and that varying practices and standards are applied across the different coroner jurisdictions. Respondents felt that this had an impact on both bereaved persons and those who encounter the system on a professional level, as well as having a potentially detrimental effect on the ability to learn lessons to prevent future deaths. Nearly all respondents felt that consistency across the system was key to driving up standards and felt that greater leadership and oversight would achieve such consistency.
4. The majority of respondents expressed the view that the office of the Chief Coroner would provide transparent, accountable and independent leadership and oversight of the coroner system and that a single figurehead was required in order to achieve such leadership. Many were concerned that the proposal for a Ministerial Board fell short of providing the cohesion and judicial oversight that a Chief Coroner would have provided. Many responses mistakenly referred to the abolition of the office when this was no longer the Government's intention.
5. However, respondents recognised that the new Charter for the Coroner Service would achieve improvements in the level of service provided by coroners, and that greater involvement by bereaved organisations. Some, however, questioned its effectiveness at a time when local authority funding is under pressure.

6. Respondents also questioned whether the Government's proposals would achieve the desired cost savings. Some felt that the costs of implementing Part 1 of the Coroners and Justice Act 2009 as set out in the impact assessment that accompanied the legislation were over-inflated. Others felt that the establishment of the Ministerial Board and Bereaved Organisations Committee, coupled with the fact that transferred functions would have to be carried out by a judicial office holder and civil service staff, could mean that any savings made would be marginal.
7. Some felt that the true costs and benefits of improvements to the coronial system had not been fully established and that both monetary and non-monetary benefits of implementing the office of Chief Coroner had not been fully explored.

## **Office of the Chief Coroner - Responses to specific questions**

### **Question 14: What are your views on the proposed transfer of functions of the Chief Coroner to the Lord Chief Justice and the Lord Chancellor: in principle and/or in relation to the particular functions detailed in Annex A?**

The majority of respondents felt that the current coroner service is fragmented with different approaches and standards being applied across different jurisdictions. Most felt that achieving consistency of standards was vital and that this would be best achieved by a single, independent and accountable figurehead. Many felt that the transfer of functions to separate bodies and the establishment of a Ministerial Board and Bereaved Organisations Committee would not achieve the same cohesive approach to reform as would be achieved by implementing the office of Chief Coroner.

Mencap felt that the wide variation of standards under the current system has resulted in a “postcode lottery” with delays in the inquest system in some areas. They felt that a Chief Coroner would have brought cohesion, accountability and national leadership to resolve these deficiencies. Similarly, the Criminal Justice Alliance felt that the Chief Coroner was intended to bring transparency and accountability to the coronial service by providing judicial oversight and national leadership.

The Brethren Christian Fellowship felt coroners would welcome a central reference point to provide authoritative direction and guidelines.

However, some highlighted the benefits that the Government’s proposals would bring in respect of consistency of standards, such as the Charter for the Coroner Service, which many felt would set out clear expectations as to the services that coroners should provide.

Similarly, many saw merit in the proposal for a Ministerial Board and Bereaved Organisations Committee, with many welcoming greater involvement by bereaved organisations in the reform process.

Some respondents commented directly on the suitability of functions to be carried out by the Lord Chief Justice and Lord Chancellor as they did not feel those position holders would be involved at a detailed enough level on coroner issues.

---

### **Question 15: What are your views on the proposed Ministerial Board and supporting Bereaved Organisations Committee?**

The majority of respondents welcomed the involvement of bereaved organisations in coronial reform. Many supported the proposals in principle, adding that careful thought needed to be given as to membership in order to ensure views were suitably represented.

The Local Government Group, for example, supported the proposal in principle but suggested that the Ministerial Board would need to have sufficient representation and expertise from local authorities managing coroner services themselves.

There was some concern that the Ministerial Board would not provide the necessary independence that would be provided by the office of the Chief Coroner.

Some questioned whether the Bereaved Organisations Committee would be suitably resourced or have sufficient expertise to be able to carry out its functions effectively. Action Against Medical Accidents felt that not all organisations will have experience of working at a national level in this types of role and many voluntary organisations will find their resources increasingly stretched under the current economic environment. Their concern was that no provision was being made to provide additional funding or training to make the imposition of national standards as set out in the Charter possible.

---

**Question 16: Are there any functions of the Chief Coroner not adequately covered by the proposals above, in your opinion? Please explain your reasons.**

Of those that expressed a concern at specific functions not being taken forward, many felt that the Chief Coroner's function in respect of appeals (section 40 of the 2009 Act) should be retained. The key area for concern in this respect was that the current route for appeal of Judicial Review is expensive and complex, and that many bereaved families were therefore discouraged from appealing.

The Local Government Group felt that a lower cost appeals system could reduce the potential cost to local authorities and the likelihood of an increase in judicial reviews.

INQUEST and Disaster Action felt that the requirement in section 36 of the 2009 Act (annual reporting) was a vital part of the Chief Coroner's role, ensuring that issues arising in the coroner service would be properly reported to Parliament via the Lord Chief Justice and therefore acted upon appropriately.

Some, including the Royal British Legion and Cruse, felt that the commitments to continue monitoring and publishing data on service deaths and to provide for training on military matters under section 37 meant that these obligations would be watered down under the Government's proposals. In particular, the Legion noted that the current requirement obliges the Chief Coroner to secure training, whilst the training requirement under section 37 refers to the fact that training regulations may be made.

Many, including the Local Government Group, were keen to ensure that expertise and skills were not lost through the transfer of functions.

## **Office of the Chief Coroner - Conclusion and next steps**

The Government welcomes the responses to the consultation. The majority of respondents favoured the retention of the Chief Coroner, although there was also some support for the proposal to transfer functions of the office, provided that the Chief Coroner was not abolished.

Most welcomed greater involvement of bereaved organisations through the Bereaved Organisations Committee and felt that the Ministerial Board could be a useful forum to take forward improvements to the coronial process.

The Government has considered responses relating to the office of Chief Coroner under the Public Bodies Bill alongside a consultation on the new Charter for the Coroner Service. The Government's response to the Charter consultation can be found on the Ministry of Justice website at <http://www.justice.gov.uk/consultations/index.htm>

### **The Government's conclusion**

The Government has considered carefully the issues raised by respondents to the consultation, alongside further concerns highlighted by bodies such as INQUEST and the Royal British Legion during the Parliamentary passage of the Public Bodies Bill. The message has been clear that a single figure needs to be responsible for the coroner system.

As a result, the Government amended the Public Bodies Bill on 23 November in order to allow the Chief Coroner to be implemented with the range of powers envisaged under Part 1 of the 2009 Act, including delivering immediate reforms such as facilitating easier movement of cases between coroner jurisdictions. The Chief Coroner will also be responsible for the direction of coroners, the monitoring of service personnel inquests, coroner training and an annual report laid before Parliament. These powers will enable the Chief Coroner to drive up standards across the system as well as setting minimum standards of service through the new Charter.

The only exception to this is the appeals functions under section 40 of the 2009 Act, which will not be taken forward and will instead be repealed by the Public Bodies Act 2011. This will leave in place the existing system of redress: whereby decisions can be contested by way of judicial review or a second inquest could be sought, by application by, or under the authority of, the Attorney General to the High Court. The Government's aim then is to raise public awareness of these avenues of redress through the national Charter for coroner services, to be published in early 2012.

The Government believes that this will allow greater focus on raising the standards of coroners' inquiries and inquests to ensure that bereaved families are satisfied with the whole process, without the need for new appeal rights and expensive litigation.

The Government will bring forward plans for the implementation of the office as soon as practicable in 2012. The Impact Assessment produced for the 2009 Act will be updated in due course to reflect the revised proposal for implementation of the office.

## **Public Guardian Board - Summary of responses**

1. There were a total of 12 responses to the consultation regarding the proposal to abolish the Public Guardian Board (PGB). This included six responses from individuals, three from representatives of a charitable organisation, two from members of the PGB and one from the PGB itself.
2. 10 respondents had no objection to the abolition of the PGB providing that robust alternative governance structures for the Office of the Public Guardian (OPG) are put in place. Two respondents are opposed to the abolition due to concern that the PGB's functions will not be adequately carried out by other means.

## Public Guardian Board - Responses to specific questions

### **Question 17: What are your views on the proposed abolition of the PGB?**

The majority of respondents to this question were not opposed to the abolition of the PGB. The consensus is that the PGB could continue to operate as a Board effectively. However, due to the current financial climate and the Government's vision for reform of Arm's Length Bodies, the continuation of an advisory board such as the PGB is not viable. Most responses, including those of the PGB members, agree with abolition provided there are appropriate governance structures in place at the OPG to supersede the Board. This position was also stated in the PGB's 2010 Annual Report to the Lord Chancellor.

The PGB have raised a concern regarding the cumulative nominal administration savings which are estimated to be in the region of £300,000 for the financial years 2012-13 to 2014-15 from a baseline spend in 2010-11. Whilst the figures reflect the estimated cumulative operating costs of the PGB over those three years, this does not allow for the non-executive and support costs of the new governance structure which would reduce the net savings. There were suggestions that the quote should reflect the estimated net annual saving and take into account the costs of the replacement governance structure.

---

### **Question 18: Do you believe that there are any functions of the PGB that will not be adequately covered following the proposed abolition and suggested future handling of functions as set out above? Please state what these are and your reasons.**

The two respondents who objected to the abolition of the Board were of the view that the functions of the PGB will not be adequately covered following abolition. One respondent stated that expertise in this area would be lost with the abolition of the PGB and confidence in the service reduced. A further respondent, whilst accepting that the Board could not continue in the current climate, expressed concern that the needs of users and their relatives would not be adequately represented. There was a general view, amongst those that were supportive in principle of abolition, that it was difficult to comment on the adequacy of the future arrangements without further information on what these arrangements would be.

The PGB themselves urge the Government to mandate a Board with a strong Non-Executive presence including a non-Executive Chair who can support the Public Guardian and Ministers in influencing the landscape surrounding the Mental Capacity Act and championing the legislation. Indeed, the majority view amongst respondents is that the new structure should comprise of Non-Executives with adequate knowledge and experience to enable sufficient scrutiny of the OPG and the Public Guardian. Several respondents expressed the view that a new Board should include members with expertise covering the health, welfare, legal and financial sectors.

## **Public Guardian Board - Conclusion and next steps**

1. The Government welcomes the responses to the consultation and the majority view that the Public Guardian Board should, in the current climate, be abolished. The Government's decision is to proceed with the abolition of the PGB.
2. There were two main points that emerged from the consultation responses and these are responded to below:

### ***Future Governance***

3. The Government acknowledges the need for robust governance arrangements to be put in place to replace the functions of the Public Guardian Board. To this end, the Ministry of Justice has carried out a review to consider the new arrangements for the governance structure to supersede the Board and the overarching governance of the OPG. This review has taken into account the view that a strong Non-Executive presence is required as well as expertise across a number of disciplines.
4. Ministers are currently considering detailed options for future governance arrangements arising from the review and will communicate decisions to stakeholders shortly and in advance of any draft Order to abolish the PGB being laid in Parliament.

### ***Cost/Savings***

5. In their response, the PGB have raised the observation that the consultation paper states that the abolition of the Board will provide cumulative nominal administrative savings in the region of £300,000. Although they agree that this may reflect the cumulative operating costs, over the next three years, they state that it does not make allowances for the cost of the new governance arrangements and would find it more appropriate and transparent to quote the estimated net annual saving taking into account the replacement arrangement costs.
6. The Government acknowledges that there may be further costs arising once the new governance arrangements are agreed. However until the new arrangements are agreed it is not possible to provide figures for these costs with any certainty. It is acknowledged that this may reduce the estimated savings figure of £300,000 provided in the consultation paper. However, the Government is confident that savings to the public purse will be achieved.

## **Next steps**

7. The Government intends to lay a draft Order in Spring 2012 that will abolish the PGB. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.
8. An Impact Assessment (IA) was not completed prior to consultation as the proposal to abolish the PGB does not impact on business, civil society or on regulatory matters. There is no impact on staff and costs/benefits to the public sector will not exceed £5 million per annum. There is no evidence from the responses to support the provision of a post consultation Impact Assessment.
9. No comments were received in relation to any equality impacts arising from the reforms. However, the initial Equality Impact Assessment (EIA) screening that was provided alongside the consultation paper has been updated and is published alongside this response paper.
10. The EIA will be further updated once the new governance arrangements have been confirmed.

## **The National Archives - Summary of responses**

1. A total of 12 responses to the TNA proposals in the consultation paper were received. Nine responses were from individuals, with the other responses made by The Welsh Government, the Durham Police Authority and the National Information Governance Board for Health and Social Care.
2. Respondents were asked whether they felt it was appropriate to reflect in legislative terms the administrative changes already completed, to ensure the appropriate consolidation of functions within TNA. The department was mindful that some respondents may also wish to express views on the need to consolidate the proposed functions in the first place and questions on how this might impact on TNA's work. It was anticipated that the consultation process may provide a platform for more general comment on TNA's services to the public and certain groups and organisations within the archival sector.
3. Of the responses which disagreed with the proposals, reasons included the timing of the changes, the inappropriate use of Parliamentary time, and concerns about how the proposals might impact on TNA's existing service levels.
4. Those in agreement with the proposals broadly agreed with the timing of the changes and took the opportunity to congratulate TNA on the services they provide. Several respondents provided no comments while others neither agreed nor disagreed with the proposals but did comment on TNA's services.

## **The National Archives - Responses to specific questions**

**Question 19: Do you agree that it is now appropriate to reflect in legislative terms the administrative changes already completed, to ensure the appropriate consolidation of functions?**

1. There were 12 responses to this question. Six respondents agreed with the proposals. Four respondents disagreed with the proposals and two respondents neither agreed nor disagreed.
2. Of the 12 responses, five respondents made comments related to the Public Bodies Bill, three respondents commented on the services of the TNA. One comment was received about an archive other than the TNA and three respondents made no comments.
3. Of the comments which related directly to the Public Bodies Bill, the respondents who disagreed with the proposals expressed concerns about the appropriate use of Parliamentary time, questioned why administrative changes had not followed legislative changes, and felt that TNA should not be part of the Public Bodies Bill as it already provided a good service.
4. Respondents who agreed with the proposals either left no comment or reiterated their support for the timing and the nature of the changes. One respondent who agreed with the proposed changes provided a comment which appeared to relate to a London archive which is not part of TNA.

## **The National Archives - Conclusion and next steps**

1. The Government welcomes the responses given in relation to the proposed reforms of TNA through the Public Bodies Bill. Having considered the responses carefully the Government's decision is to continue with the reforms to TNA using the powers provided in the Public Bodies Act 2011. The Government is able to reassure the public that the proposals will not have any negative effects on TNA services or use Parliamentary time inefficiently.
2. We believe that some negative comments may stem from a misunderstanding of the reforms being undertaken. It is important to be clear that the reforms proposed will have no direct effect on TNA's functions and will simply set in legislation the current administrative practices. Such comments may also be a result of underlying concerns about the overall objectives of the Public Bodies Bill, leading respondents to question the impact the changes could have on TNA and Parliamentary time being used to enact those changes.
3. As some of TNA's bodies would otherwise require primary legislation to enact the proposed changes the department and TNA feel that the Public Bodies Act 2011 offers a useful opportunity to place TNA's current administrative situation on a firm legal footing while minimising, through the use of secondary legislation, the amount of parliamentary time it would take to achieve this.
4. The department was pleased that a large proportion of respondents agreed with the proposals, including the Welsh Government and individuals who praised MoJ and TNA for bringing the reforms forward at this time. Inclusion in the Act will not rebrand TNA, but will consolidate in statute TNA's existing position.
5. One comment recommended that TNA make records they hold easier to find. TNA's new online search tool, Discovery, will provide users with a quicker and easier way of finding the documents they need. This service is currently undergoing a trial period and TNA is engaging with its user community for feedback to improve it.
6. Since the consultation process began it was necessary to add Her Majesty's Stationery Office (HMSO) into Schedule 5 of the Bill. This is because a small number of its functions exist in statute and HMSO needed to be added to Schedule 5 to ensure that these functions could be transferred as part of the proposals. The Palace gave consent to HMSO's inclusion in Schedule 5, which will simply add a minor technical element to the proposals set out in the consultation.
7. At an appropriate time the Government intends to lay a draft Order that will transfer functions to The Public Record Office, which it is intended to rename The National Archives. As with all Orders made under the Public Bodies Act 2011, it will be subject to the enhanced affirmative parliamentary procedure set out in section 11 of the Act and must be approved by both Houses of Parliament before it can come into force.

8. An impact assessment was not required at the time of consultation as the proposals do not impact on business, civil society or on regulatory matters. There is no impact on staff and costs/benefits to the public sector will not exceed £5 million per annum.
9. There is no evidence from the responses to support the provision of an Impact Assessment or a full Equality Impact Assessment. However, the initial Equality Impact Assessment screening that was provided alongside the consultation paper has been updated and is published alongside this response paper.

## **Victims' Advisory Panel - Summary of responses**

1. 19 responses were received in relation to the proposed abolition of the Victims' Advisory Panel (VAP). This included 13 from individuals, 3 from representatives of charitable organisations, 2 from representative bodies and 1 from an Arm's Length Body (ALB).
2. Responses were analysed for levels of support for the proposal to abolish the VAP. Evidence was also analysed to determine whether there were any functions of the VAP that could not be filled by the Commissioner for Victims and Witnesses, and whether those responding felt that the proposals would have a significant direct impact on them.
3. In general the views expressed by respondents were equally weighted between support for the proposal/no particular view and objection. Half of those who responded felt that the functions of the VAP could be carried out by the Victims' Commissioner. Those who did not were, in general, primarily concerned about the place of victims in the criminal justice system generally.

## **Victims' Advisory Panel - Responses to specific questions**

### **Question 20: What are your views on the proposed abolition of the VAP?**

Nine respondents were opposed to the proposal. Out of those nine, four cited that the role of victims should be given more consideration or be increased in the criminal justice system.

Seven respondents supported the proposal and three did not offer an opinion either way through not submitting a response to the question.

---

### **Question 21: Do you believe that there are any functions of the VAP that cannot be adequately addressed by the Commissioner for Victims and Witnesses? Please state what these are and your reasons.**

Ten respondents answered 'no' to this question, indicating that the functions can be adequately addressed by the Commissioner for Victims and Witnesses.

Four respondents answered 'yes', expressing various concerns, including loss of expertise, loss of openness and approachability, less local focus and that the VAP brings another voice worth listening to.

Five did not respond to the question.

---

### **Question 22: Do the proposals have any significant direct impact on you (if so, please explain the impact)?**

Eight respondents indicated that the proposal would not have a significant direct impact and seven did not offer an opinion either way through not submitting a response to the question.

Four stated that it would have an impact, but only one provided an explanation, commenting that 'expertise in this area will be lost and confidence in the law reduced.'

## **Victims' Advisory Panel - Conclusion and next steps**

1. Although almost half of responses opposed the abolition of the VAP, those who sought to explain their opposition generally cited a broader concern about the place of victims in the criminal justice system. Indeed, only four of those who responded said that they felt that the functions of the VAP could not adequately be performed by the Commissioner for Victims and Witnesses.
2. The Government shares this general concern, and is determined to listen to victims of crime and respond to their needs. It is committed to supporting victims of crime through the criminal justice system, to ensuring that they get support appropriate to their needs, and to capturing their experiences in policymaking.
3. With a view to this, the Ministry of Justice is currently carrying out a full review of services and support to victims, and a consultation is expected to be launched shortly. A series of workshops with victims' organisations, attended by the Minister responsible for victims, were held earlier this year.
4. There was, however, little in the responses to this consultation to suggest that the VAP needed to be retained in order to strengthen the voice of victims. The Government remains of the view that a more flexible and targeted approach to meeting with and listening to victims is needed, and that the requirement to consult a statutory panel of victims of crime is overly prescriptive.
5. The Government is mindful however that during the consultation period Louise Casey announced her decision to resign as Commissioner for Victims and Witnesses. Given the importance of the role, we believe we should address the future of the Commissioner role before taking a decision on the future of the VAP. Accordingly, no final decision has been made regarding abolition of the VAP at this stage.
6. No comments were received in relation to savings estimated to arise from the reforms. An Impact Assessment (IA) was not completed as part of the consultation as the policy proposal did not impact on business or civil society; was not (de)regulatory; and the estimate of public sector costs was below the public sector benchmark (£5m) for when an IA is required. Consequently, a post consultation IA has not been completed.
7. No comments were received in relation to any equality impacts arising from the reforms. A further Equality Impact Assessment will be published, if necessary, as and when a decision on the future of the VAP is made.

## Youth Justice Board - Summary of responses

1. 70 responses were received in relation to the proposed abolition of the Youth Justice Board (YJB). This included 20 from youth offending teams/services (YOTs) and the secure estate; 13 from professional bodies; 11 from individuals; eight from representatives of the voluntary sector; four from magistrates and the judiciary; two from arm's length bodies (ALB); one from a private sector provider; one from the Mayor of London and one from the Welsh Government. The department also received nine anonymous responses.
2. Responses were analysed for levels of support for the proposal to abolish the YJB. Evidence was also analysed to determine whether there were any functions of the YJB that could not be fulfilled by the Youth Justice Division within the Ministry of Justice, and whether those responding felt that the proposals would have a significant direct impact on them.
3. Overall most respondents were opposed to the abolition of the YJB. These responses emphasised the need for the independent leadership of the youth justice system provided by the board. Respondents felt that the YJB had created a distinct justice system for young people and feared that without the board, youth justice would return to the same position it was before its creation as part of the Crime and Disorder Act 1998, which was in part a response to the 1996 Audit Commission report ('Misspent Youth') which found that there was no integrated youth justice system and that what did exist was inefficient and expensive.
4. Respondents argued that the YJB brought coherence to the youth justice system and that the YJB were well placed to influence Government departments. Respondents felt that its abolition would lead to the loss, not only of crucial leadership but expertise at national level that had resulted in improvements both to the system itself and outcomes for young people who have offended or who are at risk of offending. There was scepticism as to whether the MoJ could take on the leadership role and provide national governance for youth justice and a concern that youth justice would be moved into the National Offender Management Service and that, consequently, youth justice would be merged with, or subordinated to, the adult justice system. In this context there was a clear consensus that a distinct focus on youth justice must be maintained.
5. Those in favour of abolition relied on a variety of points. These included that the functions of the YJB should be brought within the MoJ in order to increase the accountability of ministers for youth justice and create an impetus for improvement; and that the closer integration of the management of adult and youth justice was desirable and inevitable.

## Youth Justice Board - Responses to specific questions

### Question 23: What are your views on the proposed abolition of the YJB?

The majority of respondents were opposed to the proposal. Most argued that it would be unwise and unreasonable to abolish the YJB, since, in their view, it had performed well since it was established in 2000. Many pointed to a lack of evidence in favour of abolition and felt that the YJB had played a key role in reducing the number of young persons in the youth justice system; reducing the rate of youth re-offending, and reducing the number of young persons in youth custody. Many respondents were concerned that the abolition of the YJB would result in the loss of expertise and/ or leadership, which facilitated the co-ordinated operation of all the disparate elements of the youth justice system. These respondents tended to emphasise the skills and expertise of YJB staff and were concerned that this would be lost if the YJB moved into the department. These respondents doubted whether civil servants would have the expertise in youth justice to provide an appropriate level of national governance and felt that innovations such as the introduction of intensive supervision and surveillance programmes, resettlement packages and intensive fostering could not be achieved within a Government department. Respondents were also concerned that relationships that had been created between key professional and stakeholder organisations would be lost if the YJB was abolished, and that this would have a detrimental impact on outcomes for young people in the youth justice system.

Some respondents addressed the Government's point that bringing the functions of the YJB within the department was necessary in order to increase ministerial accountability for youth justice and to create a strong impetus for improvement. These respondents maintained that the current lines of accountability were adequate and that since the YJB was already accountable to Ministers, the proposal was unnecessary. Respondents argued that the YJB, as an NDPB, was better placed to influence the work of other government departments. There was a clear view that maintaining a youth justice system that was separate from adults was critical and this view tended to run as a common thread through all responses to this question. A small number maintained that the YJB undertook a technical role (particularly in relation to placing young people in custody) and therefore they should have passed the Cabinet Office tests for public bodies and should not be abolished.

A small minority of respondents supported the proposal to abolish the YJB. These claimed that the abolition of the YJB was desirable, since it had not been as successful as generally believed. It had failed to meet its remit, in that any changes in the custodial population were the result of changes in the number of first-time entrants; consistently failed to meet its targets in failing to oversee proper standardisation of the case management tool, and had proved ineffectual and indecisive in such instances as being unable to agree to the simplest of matters, such as the definition of the risk of harm with HMI Probation. Other respondents supported the abolition on the grounds that provision had been made for there to be clear leadership on youth justice in the department, and that there would be provision for a reference group on youth justice consisting of key stakeholders to add support and challenge to the Youth Justice Division.

**Question 24: Do you believe that there are any functions of the YJB that will not be adequately covered following the proposed abolition and suggested future handling of functions as set out in the consultation paper? Please state what these are and your reasons.**

In general, the responses to question 23 tended to be the most detailed and given the clear opposition to abolition, many responses to this question simply reiterated the point that the functions should be delivered by the YJB as now established.

Those that addressed this question specifically tended to agree that the functions outlined in the Government's proposal were the right ones. These functions are:

- Oversight of youth justice services;
- Identification and dissemination of effective practice;
- Commissioning of the secure estate for u18s;
- Placing young people in the secure estate.

Many expressed the concern that bringing the functions of the YJB within the department would lead to the objectives of the youth justice system being subordinated to those of the adult one, to the detriment of the former. The fear was conveyed that young offenders would be combined with adult offenders as in the past, and their particular needs neither understood nor addressed. Others stated that the department did not have officials with the requisite experience and expertise of youth justice matters to enable it to fulfil the role of the YJB.

A clear minority of respondents agreed that the functions of the YJB could be adequately performed by the new body within the MoJ. In expressing their view, most emphasised that a variety of priorities should be adopted by the Youth Justice Division for the continued improvement in the youth justice system. These included the oversight of the youth offender teams (YOTs), and the acknowledging of speech, language and communication as a core issue, in order to safeguard the interests of any vulnerable individuals.

---

**Question 25: How do you believe that the Government can best ensure effective governance of youth justice in the future?**

Most respondents stated that the Government could best ensure the effective governance of youth justice by retaining the YJB. Respondents also stressed that youth justice must maintain a separate identity and fears were expressed that the Government proposed to bring youth justice into NOMS. Aside from these issues the most commonly expressed points were the securing of leadership and expertise that were lacking in the department. Others stated that, since the YJB had an impressive record of success in reducing re-offending amongst young persons; their numbers within the youth justice system, and the number of youths in custody, the case for abolishing it had not been established. A few respondents stressed the importance of the YJB's structure in linking regional and local management boards in an effective approach to managing youth offending.

Some of the respondents were of the view that the most important factor in ensuring the effective governance of youth justice in the future was that a central body should be maintained, led by someone with sufficient expertise in the field of youth justice. Others expressed their confidence that the appointment of John Drew, the YJB's Chief Executive to oversee transition into and to lead the proposed Youth Justice Division were methods of ensuring the effective governance of youth justice in the future.

## **Youth Justice Board - Conclusion and next steps**

1. The Government has carefully considered the responses to the consultation in formulating its plans for the future of the youth justice system. We note that the majority of responses are opposed to the abolition of the YJB.
2. On 23 November Lord McNally made a statement during Lords consideration of Commons amendments to the Public Bodies Bill that the Government has decided not to abolish the YJB.
3. We recognise that, during the passage of the Bill, considerable concern was raised about the proposal to abolish this body. The decision not to abolish was a result of the Government having listened to debates in both Houses, as well as the points raised by respondents to this consultation.
4. The Government still believes that there should be more direct ministerial accountability for youth justice, and that there is a strong case for reform of the Youth Justice Board. Ministers are now considering options for achieving reform outside of the Public Bodies Act 2011 and proposals will be announced in due course.

## **Consultation Co-ordinator contact details**

If you have any comments about the way this consultation was conducted you should contact the Ministry of Justice Consultation Co-ordinator at [consultation@justice.gsi.gov.uk](mailto:consultation@justice.gsi.gov.uk).

Alternatively, you may wish to write to the address below:

**Ministry of Justice Consultation Co-ordinator**  
**Better Regulation Unit**  
**Corporate and Access to Justice Analytical Services**  
**7<sup>th</sup> Floor, Pillar 7.02**  
**102 Petty France**  
**London SW1H 9AJ**

## The consultation criteria

The seven consultation criteria are as follows:

1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

**These criteria must be reproduced within all consultation documents.**

## **Annex A – List of respondents**

### ***General***

Kevin Burdekin

Sheila Carmen Charles

Edward Clarke

Stephen Pope

Martyn Weller (Trustee, Disability Action)

### ***Administrative Justice and Tribunals Council***

The Administrative Justice and Tribunals Council

Chris Bell (Policy Advisor, Shergroup)

British and Irish Ombudsmen Association

Tanya Callman (Barrister and Legal Trainer)

Alex Cosgrove (The Grow Organisation)

Consumer Focus Scotland

Brenda Margaret Crisell (Fee Paid Tribunal Judge)

Professor Gavin Drewry

Durham Constabulary and Durham Police Authority

Education Appeals Support Initiative Group

JUSTICE

The Law Society

The Local Government Ombudsman

Londonwide Education Appeals Support Initiative Group

Dr Niall MacKinnon

Mencap

The Parliamentary and Health Service Ombudsman

Roland C Powell

Bernard Quoroll

Professor Colin T Reid

The Scottish Government

The Scottish Tribunals Forum

Senior President of Tribunals

Trading Standards Institute

Angela Truell (Solicitor)

Valuation Tribunal Service Board

The Welsh Government

Robert Wyllie

### ***Courts Boards***

Bedfordshire, Hertfordshire and Thames Valley Courts Board

Chris Bell (Policy Advisor, Shergroup)

John Lawrence Carter, Chair of the Avon & Somerset, Devon & Cornwall and Gloucestershire Courts Board

Alex Cosgrove (The Grow Organisation)

Gareth Davies

Durham Constabulary and Durham Police Authority

Brendan Fulham, Chair of the Cambridgeshire, Essex, Norfolk and Suffolk Courts Board

Kent, Surrey & Sussex Courts Board

Susan Ann Khan, Chair of the Cumbria and Lancashire Courts Board

Lincolnshire, Leicestershire and Rutland and Northampton Courts Board

The Law Society

Local Government Group

The Magistrates' Association

Mencap

Ray Palmer, Chair of the Dorset, Hampshire & Isle of Wight and Wiltshire Courts Board

Victim Support

### ***Crown Court Rule Committee***

Chris Bell (Policy Advisor, Shergroup)

Durham Constabulary and Durham Police Authority

The Law Society

### ***HM Inspectorate of Court Administration***

David Abbott, acting HM Chief Inspector of Court Administration until 31 December 2010

Durham Constabulary and Durham Police Authority

Criminal Justice Chief Inspectors' Group

HM Chief Inspector of Prisons

HM Crown Prosecution Service Inspectorate

INQUEST

The Law Society

JUSTICE

***Magistrates' Courts Rule Committee***

Council of District Judges (Magistrates' Courts)  
Durham Constabulary and Durham Police Authority  
The Law Society  
The Magistrates' Association  
Victim Support

***Office of the Chief Coroner***

Action Against Medical Accidents  
Sue Ainsworth  
Association of Chief Police Officers  
Association of Personal Injury Lawyers  
Chris Bell (Policy Advisor, Shergroup)  
The Brethren Christian Fellowship (UK)  
Cardiac Risk in the Young  
Child Bereavement Charity  
Coroners' Court Support Service  
Criminal Justice Alliance  
Cruse Bereavement Care  
Disaster Action  
Durham Constabulary and Durham Police Authority  
Anthony Heaton-Armstrong (Member of the 'Luce' Review Team, Barrister in independent practice)  
The Human Tissue Authority  
Independent Advisory Panel on Deaths in Custody  
INQUEST  
JUSTICE  
The Law Society  
Local Government Group  
Mencap  
Ramzan Mohayuddin LLB FCMI MIFL PGCE (Chair of the Saad Foundation)  
Alick Moore  
The National Information Governance Board for Health and Social Care  
Roland C Powell  
Prison Reform Trust  
Prisons & Probation Ombudsman  
Beverley Radcliffe (Director, Coroners' Court Support Service)  
RoadPeace  
The Royal British Legion

The Royal College of General Practitioners  
The Royal College of Pathologists  
SADS UK, the Ashley Jolly SAD Trust  
The Scottish Government  
UK Missing Persons Bureau (part of the National Policing Improvement Agency)  
Victim Support  
2607 members of the public in response to campaign by the Royal British Legion

***Public Guardian Board***

Chris Bell (Policy Advisor, Shergroup)  
Lionel Joyce (Public Guardian Board Member)  
The Public Guardian Board  
The Law Society  
Local Government Group  
Solicitors for the Elderly  
Sue Whittaker (Public Guardian Board Member)

***The National Archives***

Chris Bell (Policy Advisor, Shergroup)  
Durham Constabulary and Durham Police Authority  
Dr Judith Mortimore  
The National Information Governance Board for Health and Social Care  
The Welsh Government

***Victims' Advisory Panel***

Chris Bell (Policy Advisor, Shergroup)  
Brake  
Alex Cosgrove (The Grow Organisation)  
Durham Constabulary and Durham Police Authority  
Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP)  
The Law Society  
The Magistrates' Association  
Alick Moore  
Frank Mullane (former member of the VAP)  
Roland C Powell  
RoadPeace  
Victim Support  
Voice UK  
David White JP

### ***Youth Justice Board***

Association of Chief Police Officers (Kevin Wilkins, ACPO Youth Justice Lead)  
Association of Directors of Children's Services  
Elizabeth Banaszak (Youth Offending Service Manager, Newport)  
Chris Bell (Policy Advisor, Shergroup)  
The Children's Society  
Catch-22  
Mick Coleman (Youth Offending Team Manager, Bolton)  
Alex Cosgrove (The Grow Organisation)  
Council of District Judges (Magistrates' Courts)  
Anne-Flore Cuccolo (Student in Supporting Youth Practice at the University of Gloucestershire)  
Durham Constabulary and Durham Police Authority  
Durham County Youth Offending Service  
G4S Care & Justice Services (UK) Ltd  
Ruth Holmes (Head of Youth Offending and Targeted Prevention, London Borough of Redbridge)  
Independent Academic Research Studies  
JUSTICE  
The Law Society  
Leicestershire Youth Offending Service Management Board (endorsed by Leicestershire County Council)  
Leicester City Young Offender Board  
Local Government Association  
A Magistrate  
The Magistrates' Association  
Manchester City Council  
The Mayor of London  
Paul McCormack  
Dr Margaret McGeehan  
Mencap  
Eileen Miles (Regional Administrator, Youth Justice Board)  
Dr Judith Mortimore  
National Council for Independent Monitoring Boards  
Paul Ohaera (Youth Offending Team Manager, Bradford)  
Bill Boyd Pearce  
Dacy Pearson (Youth Offending Team Manager, West Berkshire)  
Roland C Powell  
Royal College of Speech and Language Therapists  
Prison Reform Trust  
Prisons & Probation Ombudsman  
Probation Chiefs Association

Lord Ramsbotham  
Secure Accommodation Network  
Secure Estate for Young People  
Chris Small (Norfolk Youth Offending Team Manager)  
Susan Sheriden (Head of North Lincolnshire Youth Offending Service)  
Standing Committee for Youth Justice (and Association of Youth Offending Team Managers)  
Philip Sutton (Retired Youth Offending Team Manager)  
Lesley Tregear (Youth Offending Team Manager, Warwickshire)  
Voice  
Steve Waters (Youth Offending Service Manager, South Gloucestershire)  
The Welsh Government  
Welsh Local Government Association  
David White JP  
Penny Wilcox  
Jane Willett (Practice and Development Manager, Youth Support Services, Gloucester County Council)  
George Wilson (Prison Senior Officer)  
YOT Managers Cymru  
The Youth Justice Board







Published by TSO (The Stationery Office) and available from:

**Online**

**[www.tsoshop.co.uk](http://www.tsoshop.co.uk)**

**Mail, telephone, fax and email**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/general enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

Email: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square,

London SW1A 2JX

Telephone orders/general enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [bookshop@parliament.uk](mailto:bookshop@parliament.uk)

Internet: <http://www.bookshop.parliament.uk>

**TSO@Blackwell and other accredited agents**

ISBN 978-0-10-182352-4



9 780101 823524