



Ministry of  
**JUSTICE**

# **Law Commission Triennial Review 2013 Call for Evidence**

Published 9 January 2013

# Terms of Reference

## 9 January 2013

### Triennial Review programme

The Government's response to the Public Administration Select Committee report '**Smaller Government: Shrinking the Quango state**' sets out the plans for reforming public bodies. It includes new Triennial Review requirements for Non-Departmental Public Bodies (NDPB).

Triennial Reviews are expected to take between 3 – 6 months and are carried out by the Sponsor Department of the respective bodies. The Ministry of Justice is the sponsor Department for the Law Commission.

### Functions of the Law Commission

The Law Commission was established by the Law Commissions Act 1965, with a mandate to keep the law under review and make recommendations for reform as necessary. Its remit covers England and Wales; Scotland and Northern Ireland have separate, but similar, Commissions.

Read more information on the functions of the [Law Commission](#) and its statutory framework.

### Purpose of the Review

As custodians of the public purse, whether paid by the professions or directly from public funds, it is important that we deliver an efficient and effective service to the public. The periodic review of our NDPBs is one of the ways that the Government intends to ensure that we maintain a lean, but effective public sector. A Triennial Review is a Cabinet Office mandated process for reviewing the functions of Non-Departmental Public Bodies (NDPBs), the appropriateness of the body's delivery mechanism and its governance arrangements.

The Cabinet Office has identified two principal aims for Triennial Reviews:

- To provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and
- Where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

Where the functions should continue and the NDPB should remain, and in light of the review findings, the Government will assess whether appropriate control and governance arrangements are in place to ensure that the body is operating in line with Government policy including good corporate governance, openness, transparency and accountability. However, Triennial Reviews do not consider issues of organisational performance or effectiveness.

## Timeline

The Triennial Review commences on 9 January 2013. It will report by the start of the Summer Recess, and a copy of the report will be published on the Justice website.

## Call for evidence

In order to review the continuing need for the functions and the form of the Law Commission, and its statutory powers to perform these functions, the review team is seeking evidence from a wide range of bodies in response to the two principle aims stated by Cabinet Office (as detailed above). A set of more structured questions is available via the link below (hard copies available on request).

The review would particularly welcome hearing from users of the Law Commission. Submissions can be made in writing using the following contact details:

By post:           Law Commission Triennial Review  
                      Post point 6.25  
                      Ministry of Justice  
                      102 Petty France  
                      London  
                      SW1H 9AJ

By email:         [LawCommissionTriennialReview@justice.gsi.gov.uk](mailto:LawCommissionTriennialReview@justice.gsi.gov.uk)

Alternatively, if you would prefer to submit your views through our online questionnaire, please click on the link below.

All submissions must be received by the latest **5pm on 6 February 2013**. Late submissions will not be considered.

## Useful links

[Law Commissions Act 1965](#)

[Law Commission Act 2009](#)

[Law Commission Annual Reports](#)

[Protocol between the Lord Chancellor \(on behalf of Government\) and the Law Commission](#)

# Triennial Review of the Law Commission 2012 Survey Questions

## Introduction

This survey focuses on the specific, more detailed questions being considered by the Triennial review in the context of its terms of reference. It looks at the functions, form and purpose of the Law Commission, in line with the stage 1 remit for Triennial Reviews mandated by Cabinet Office. While it is primarily aimed at those with some knowledge or experience of the work of the Commission, anyone may choose to use it as the basis for submitting their evidence. We would invite representative bodies to share the survey more widely with their members.

The survey is not designed to be exhaustive and any additional comments you may wish to make will be considered by the Review team.

### **1. Please state whether or not there is a continuing need for the following functions of the Law Commission:**

- (a) (i) The overarching duty to take and keep under review all the law [of England and Wales] with a view to its development and reform.
- (ii) The three particular duties that together form the overarching duty:
- The codification of particular branches of law;
  - The repeal of obsolete and unnecessary statutes; and
  - The general simplification and modernisation of the law.
- (b) **The following specific functions, which are designed to give effect to the overarching duty:**
- (i) Considering proposals for the reform of the law which are submitted to them;
- (ii) Preparing, and submitting to the Minister for approval, lists of projects (programmes) examining different branches of the law with a view to reform;
- (iii) In line with the above, examining particular branches of the law and making proposals for reform (including by means of draft Bills where appropriate);
- (iv) Preparing consolidation and statute law revision/repeal programmes, including preparing draft Bills that would deliver this;
- (v) Providing advice and information as requested to Government departments and other bodies who are undertaking work on the reform or amendment of the law;
- (vi) Information-gathering on the legal systems of other countries to help the Commission perform any of its functions.

### **2. Does the Law Commission require any additional powers or functions in order to discharge its mandate?**

**3. How should the Commission's functions be delivered?**

- (a) Should it be abolished?
- (b) Does it need to be an Arms Length Body? Alternatively, could it be brought in-house or merged with another body?
- (c) Could the function be delivered by a new Executive Agency and what would be the benefits of creating a new Agency?
- (d) If it should remain an Arms Length Body, does the existing model provide the Commission with the right freedoms and flexibilities (e.g. governance, funding approach)?

**4. Do you have any further comment on the functions or form of the Law Commission?**