



Ministry of
JUSTICE

Public Bodies Bill: reforming the public bodies of the Ministry of Justice

HMICA and PGB consultation
responses

May 10 2012

HMICA - responses to consultation

On-line questionnaire responses:

1. Anonymous
2. Anonymous
3. A Magistrate
4. Chris Bell
5. Edward Clarke
6. Martyn Weller
7. Brendan Fulham
8. Alex Cosgrove
9. Sheila Carmen Charles
10. Anonymous
11. Kevin Burdekin

Other responses:

12. Nick Hardwick CBE
13. David Abbott - acting HM Chief Inspector of Court Administration
14. Michael Fuller – HMCPSI
15. INQUEST
16. Law Society
17. Magistrates Association
18. JUSTICE

PGB – responses to consultation

On-line questionnaire responses:

1. Anonymous
2. A Magistrate
3. Caroline Bielanska
4. Chris Bell
5. Lionel Joyce
6. Edward Clarke
7. Sheila Carmen Charles
8. Anonymous
9. Kevin Burdekin

Other responses:

10. Michael Fuller - HMCPSI
11. Law Society
12. Local Government Group

Stakeholders notified of the publication of the consultation document (excluding agencies of the Ministry of Justice and other government departments)

These stakeholders were identified as having a specific interest in one or more of the department's bodies in the Public Bodies Bill. Responses were not limited to those listed here and views from others with an interest in one or more of the bodies were welcomed.

Statutory consultees

The body or holder of the office to which the proposal relates

Such other persons appearing to the minister to be representative of interests substantially affected by the proposal (see other consultees below)

Scottish Ministers if the proposal relates to any matter, so far as applying in or as regards Scotland in relation to which the Scottish Ministers exercise functions

A Northern Ireland Department if the proposal relates to any matter, so far as applying in or as regards Northern Ireland, in relation to which the department exercises functions

Welsh Ministers, if the proposal relates to any matter so far as applying in or as regards Wales, in relation to which the Welsh Ministers exercise functions

The Lord Chief Justice where the functions affected by the proposal relate to the administration of Justice

Such other persons as the ministers considers appropriate (see other consultees below)

Other consultees

General

Departmental Trade Union Side

Administrative Justice and Tribunals Council

British and Irish Ombudsmen Association

Senior President of Tribunals

Courts Boards

Justices' Clerks' Society

The Bar Council

The Law Society

The Magistrates' Association

Crown Court Rule Committee

The Bar Council

The Law Society

Magistrates' Courts Rule Committee

Council of District Judges (Magistrates' Courts)

Justices' Clerks' Society

The Bar Council

The Law Society
The Magistrates' Association

Office of the Chief Coroner
Action against Medical Accidents
Association of Chief Police Officers
British Lung Foundation
Cardiac Risk in the Young
Coroners' Court Support Service
Coroner Officers Association
Coroners' Society
Cruse Bereavement Care
INQUEST
Local Government Association
The Royal British Legion
Victim Support

Public Guardian Board
Action for Advocacy
Age UK
Alzheimer's Society
Council for Healthcare Regulatory Excellence
Mental Health Lawyers' Association
Mental Health Media Alliance
Mental Health Provider Forum
Nursing and Midwifery Council
Social Care Institute for Excellence
Solicitors for the Elderly Association
Solicitors' Regulation Authority
The Law Society

Victims' Advisory Panel
Advocacy After Fatal Domestic Abuse
Assist Trauma Care
Brake
Eaves Housing
Escaping Victimhood
Justice After Acquittal
Mothers Against Murder and Aggression UK
National Victims' Association
Rape Crisis (England and Wales)
Support After Murder and Manslaughter
The Survivors' Trust

Victim Support

Victims' Voice

Voice UK

Youth Justice Board

Action for Children

Association of Chief Police Officers

Association of Directors of Children's Services

Association of Panel Members

Association of Welsh YOT Managers

Barnado's

Care Quality Commission

Howard League for Penal Reform

INQUEST

Local Government Association

NACRO

National Society for the Prevention of Cruelty to Children

OFSTED

Prison Reform Trust

Restraint Accreditation Board

Secure Estate for Young People

Standing Committee for Youth Justice (and Association of Youth Offending Team Managers)

The Children's Commissioner

The Children's Society

The Magistrates' Association

Welsh Local Government Association

Youth Offending Teams

10: What are your views on the proposed abolition of HMICA?	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 of functions as set out above?	Please state what these are and your reasons:	17: What are your views on the proposed abolition of the PGB?	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.	Contact	Contact	Contact	Contact
Is been a waste fo tiem I sued to be an inspector and did joint worj with them they were pretty weak in challengign poor proactice and to be frank ho whard can it be to runa court it does not need its own inspectorae None	No		good idea	No		Public		15-07-11	
			None			Magistrate		15th July 2011	
			We accept that it is not viable in the current economic climate for the PGB to continue to exist. However the PGB played a significant role when the MCA was passed, in bringing about change. Solicitors for the Elderly compiled two dossiers of problems, which the then Public Guardian, Richard Brook failed to address, despite efforts to talk with him. His approach was defensive and obstructive. A letter was written to Jack Straw, but we received no response. It was our involvement with the PGB which brought about change.	Yes	Without setting out the alterative structure how can we comment on whether the PGB's role will be adequately covered. The only suggestion in the consultation document is that they will include independent non-executive input from individuals, with appropriate knowledge and expertise, who can provide the necessary challenge and assurance as part of a new governance framework. We are keen that whoever these individuals are they represent not just people from the health and welfare sector but also from those in the legal/ financial sector. A significant part of the OPG's functions relates to financial decision makers; in overseeing deputies appointed by the Court of Protection and intervening in financial attorneyships.		Chief Executive	18.7.11	Solicitors for the Elderly
On balance I believe its abolition is probably acceptable but I remain to be convinced that HMCTS will take their new roles and responsibilities in this area and treat them with the respect and importance they deserve.	Yes	As the proposals have been laid out in the consultation paper I don't see any undue problems but the proof of the pudding will be in the eating !!	I have no objection to the abolition of the PGB.	No			POLICY ADVISOR	19 JULY 2011	
			the relevant paragraphs are badly drafted and inaccurate and will mislead parliament if uncorrected The PGB has, itself, recognised that such scrutiny by an independent advisory board could not continue into the future, particularly in an environment of financial constraint and with Government: - is obligation to concentrate public expenditure on essential functions. This statement is inaccurate it claims the PGB's view is that it could not continue - the PGB could continue and do an excellent job but it does understand that in an environment of financial constraint etc there are good arguments for it not continuing - that is not the same thing The MOJ's drafting has been very shoddy recently - this is not difficult to get right! also applies to para 82 para 81 says The department has lead policy responsibility for the Mental Capacity Act 2005 and the Government remains committed to the important principles of the Act, which puts individuals who may lack capacity at the centre of any decisions which affect them. I don't think this is true or no one has told the DH - although policy has now moved	Yes	yes the needs of users and their relatives will not be adequately represented to a small and self serving bureaucracy The OPG has extended the waiting times repeatedly and still claims its service is excellent - it is not. the scrutiny of this small department will fail in a large ministry like the MOJ until there is a serious failure - any savings in the short term will be wiped out by a major failure in the medium term engagemetn with stakeholders is weak in the OPG and the MOJ is unable to mange this		Member of the PGB	40757	
opposed to abolition	Yes	I believe the Inspectorate's functions will not be properly exercised by any alternative means particularly in the face of financial restrictions. Expertise in this area will be lost and confidence in the courts reduced. I have no confidence in the consultation paper.	opposed to abolition	Yes	I believe the PGB functions will not be properly exercised by any alternative means. Expertise in this area will be lost and confidence in the service reduced. I have no confidence in the consultation paper.			19/08/11	
Move it to the audit commission and get rid of some cost.	Yes		not sufficient knowledge to comment	Yes			Trustee		Disability Action
I think every Government body requires inspection.	Yes	I think the direct and immediate issues will not be addressed or corrected without inspections regularly undertaken.	No Opinion		No Opinion		Courts Board Chair	23 September 2011	
No issues whatsoever	No			No			CEO	23rd Sept 2011	The Grow Organisation

HER MAJESTY'S INSPECTORATE OF COURT ADMINISTRATION CLOSED 31 DECEMBER 2010. IT WAS ASSESSED AS TO NOT HAVE MET ANY OF ITS TESTS. DOES NOT ASSESS AS TO WHERE FUNDS HAVE BEEN SPENT.		FEWER PUBLIC BODIES AND REDUCED COSTS.	TO BE HONEST WITH YOU, I NEVER EVEN KNEW PUBLIC GUARDIAN BOARD (PGB) EXISTED UNTIL NOW. APPARENTLY THE INTERNET STATES THAT: "PGB CONTROLS MONEY AND PROPERTY ON BEHALF OF PEOPLE WHO ARE NOT MENTALLY CAPABLE". "WEBSITE NO LONGER ACTIVE" IS WHAT APPEARED ON THE SCREEN THIS A.M. AT 11:30A.M., 03/04/2011		I SUGGEST THAT ANY FUTURE HANDLING OF PGB MUST INVOLVE "FAMILIES" BEFORE THE PUBLIC TRY AND TAKE CONTROL. A TRUE-LIFE DRAMA CASE WAS WHEN I ATTENDED A 'CARER'S MEETING' THAT TOOK PLACE AT 'BEETHOVEN CENTRE', LONDON W9 WHEREBY AN IRISH FAMILY WAS DEEPLY UPSET THAT WHEN THEIR MENTALLY-DISTURBED SON DIED, THEY PUT ALL HIS BELONGINGS INTO THE BINS. THEY WERE UPSET AT THE DOMESTIC KITCHENWARE AND FURNITURE AND STEREO AND T.V. BEING THROWN AWAY. BUT THE FAMILY HIERLOOMS AND IRREPLACEABLE PHOTOS TAKEN OF GRANMA AND GRANDAD DURING THE WAR DEEPLY HURT THEM. SOCIAL SERVICES THREW AWAY HIS PAST WITHOUT THEIR CONSULTATION.	LEGAL EXECUTIVE SECRETARY	03 OCTOBER 2011	UNEMPLOYE D
Victim Support is neither opposed to or in support of the abolition of this body.			Victim Support is neither opposed to or in support of the abolition of this body.					
Do not abolish the HMCA	No	Unsure	PGB should be retained.	No	Abolition will not guarantee all functions will be covered	Member of the public	11/10/201 1	

NAME & DATE	CAPACITY	ORGANISATION	COMMENT
Nick Hardwick CBE 27/07/2011	HM Chief Inspector of Prisons	HMICA	<p>Firstly, in view of the government's intention to abolish HM Inspectorate of Court Administration, I welcome the transfer of some of its powers to my own Inspectorate so that we might have a statutory power to assess the treatment of and conditions for those detained in court custody facilities. By granting the power to inspect court custody facilities to an independent inspectorate, the government will be, as noted in the consultation paper at paragraph 57, further implementing its obligations under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). It will also address in part the recommendation made by the UK's National Preventive Mechanism – of which my Inspectorate is the coordinating body – in its first annual report published in February 2010. In that report, the NPM noted that not all places of detention are the subject of independent monitoring by an NPM as required by OPCAT. The NPM therefore recommended that the government explore gaps in the coverage of the NPM and ensure they are addressed so that the UK complies with its international obligations. I look forward to my Inspectorate being given the necessary powers to carry out OPCAT-compliant monitoring of court custody and to beginning a programme of inspections.</p>



Ministry of
JUSTICE

Consultation on reforms proposed in the Public Bodies Bill

Reforming the public bodies' landscape of the Ministry of Justice.

List of questions for response

We would welcome responses to the following questions set out in this consultation paper. Please feel free to answer only those in which you have a specific interest. Please email your completed form to: PBB.Consultation@justice.gsi.gov.uk, or fax to: 020 3334 6452.

Her Majesty's Inspectorate of Court Administration (HMICA)

Question 1. What are your views on the proposed abolition of HMICA?

Comments: I do not support the formal abolition of HMICA as proposed in the consultation document. I would advocate that HMICA should be re-established as an operational inspectorate, albeit with a reduced budget and staffing complement in line with the budget constraints faced by all public bodies. I acknowledge the right of the government and parliament to agree the scrutiny regime for public bodies. However I believe that the decision to abolish dedicated and comprehensive independent inspection of the court system would expose the court system to greater risk and remove a key tool for delivering greater efficiency and effectiveness of the courts.

In the Review of the Criminal Courts of England & Wales 2001 Auld LJ recommended extension of inspection to a unified court system as a civil service agency. The Courts Act 2003 implemented this thinking. It was therefore always envisaged that HMICA would operate in this context.

It is correct that the context has changed significantly since HMICA was created, but only in ways that increase the need for external scrutiny. The resourcing and staffing of HMCTS have been significantly reduced, rationalising structures and removing management capacity at HQ and service delivery levels. HMICA inspections identified that management and assurance capacity was stretched even before the most recent reductions. This limited the

extent to which officials could be sure that policies were followed, and their ability to offer the best service to the public. Assurance processes were not effective even when supported by greater capability, as identified in the comprehensive inspection of HMCS's core criminal business in 2009¹. With less capability it is unlikely that such processes will be more effective.

Without an independent inspectorate there will still be accountability in the sense of civil servant and ministerial responsibility for the actions of HMCTS. However scrutiny will not be full, with associated risk for ministers. The National Audit Office retains the right to scrutinise HMCTS, but, due to its extensive remit is unlikely to be able to focus on HMCTS very frequently. In the period of HMICA's active existence (April 2005 – December 2010) the NAO conducted two value for money scrutinies of HMCS and relied on HMICA on both occasions for support in scoping its activities and understanding the context of HMCS's work. In the same period HMICA took part in over 60 inspections of HMCS, together with post inspection reviews for many of those inspections. The other external scrutiny of the court system was provided by Courts Boards. However this consultation also recommends the abolition of that scrutiny.

I note that although the NAO has a remit to scrutinise all other civil service organisations that has not been used as an argument for the abolition of any other inspectorate. I also note that when Public Bodies Reform – Proposals For Change was published on 16 March 2011 the review of the two other MoJ sponsored inspectorates concluded that they should be retained on the grounds of transparency and on the grounds of independently establishing facts. I also note that Proposals for Change does not include a reference to HM Inspectorate of Constabulary or HM Crown Prosecution Service Inspectorate. I do not see a distinction between the functions of those inspectorates and the function of HMICA.

The consultation proposals make the point that purely administrative processes do not require independent inspection. However, HMCTS does not operate purely administrative systems. For example, HMCTS staff or contractors:

- exercise powers of search, seizure and exclusion at courthouses and have to physically protect often vulnerable or intimidated court users from harm.
- exercise the power of arrest or the seizure of goods when serving warrants.
- implement judicial decisions around the management of court cases often exercising considerable discretion within a judicial framework
- provide court users and potential court users with written and verbal information about court processes and facilities, ensuring that the whole community has access to justice

¹ Thematic inspection of Criminal Case Administration and Resulting 2009

- make decisions about issues such as juror selection and the remission of court fees, which can potentially have an impact on the quality of justice
- accompany vulnerable witnesses giving evidence away from the courtroom, potentially giving them child protection responsibilities

These examples demonstrate the range of significant responsibilities, powers and influences exercised over justice by HMCTS.

That said, HMCTS *is* responsible for one of the most important administrative systems in the public sector – the proper commencement of court cases and the prompt and accurate recording of judicial decisions in each case. HMICA identified serious and widespread failures of this system, bringing these to Ministerial and public attention and oversaw efforts to rectify the most serious of them at the request of the Lord Chancellor. The courts have always been concerned with the timeliness of the communication of court results to other agencies such as the police. But it was independent inspection that gave equal focus to assuring the accuracy of court records, finding that such assurance was inadequate and judgements were not always accurately recorded.

In line with government policy HMICA was focussed on improving outcomes for service users, and not on auditing compliance with administrative rules. Where necessary HMICA worked in partnership with Ministry of Justice Internal Audit so that the skills and focus of each agency were complementary. HMCTS's current plans focus on cost, and efficiency in terms of the timely completion of court cases. Whilst these are important priorities there are many other issues of importance to court users. In the absence of even straightforward initiatives such as court customer charter commitments and in times of such stress on the courts it will be essential for there to be an effective voice for the experiences and priorities of court users. Independent inspection provides that voice.

Therefore it is not correct to say that the work of HMCTS is purely administrative and there are many aspects of its work that are entirely appropriate for independent oversight. But the administrative systems that HMCTS does operate are so significant in terms of impact on individuals and public safety that independent external scrutiny is also an important safeguard.

So in my submission HMCTS undertakes such vital functions that proper scrutiny should be provided by a dedicated and informed independent organisation, that can provide Ministers with accurate insight into risk and performance and report robustly in public.

HMICA has not been operational since 31 December 2010. As the consultation document records this was due to the uncertainty created for existing staff by the announcement,

without consultation, on 7 December 2009 that HMICA was to be abolished. With staff leaving and the inability to recruit replacements due to the uncertain future it was not tenable to continue with an inspection programme. This does not mean that the need for independent inspection had ended. If sufficient staff had remained the inspectorate's risk model would have been used to identify a number of key risks to HMCTS that were suitable for inspection.

The current context for the justice system presents the greatest risks to its users for many years. All agencies involved in the civil, criminal and family justice systems face significant resource reductions, including HMCTS. Society is under greater stress which, as was demonstrated in the recent riots, is likely to increase the need for the courts. At the same time access to legal support is reducing. HMICA inspections up until 2010 demonstrated that the service provided by HMCS (as it was then) was often good but variable. This was often due to the commitment of individuals rather than something that was systematically delivered by an effective organisation. With fewer HMCTS staff and more limited headquarters capability to identify local practices Ministers and the public can have less confidence that courts will maintain or improve services.

The impact assessment under-plays the impact of the abolition of HMICA on small businesses and on equalities. In terms of impact on small businesses HMICA's remit covered the civil courts and it undertook a number of inspections of issues such as money claims and alternative dispute resolution. Inspection recommendations improved the efficiency and effectiveness of services, including the use of Money Claims Online and Possession Claims Online, meeting the needs of small businesses. The impact assessment does not reflect the impact on businesses of the loss of an independent body that could use its power to make recommendations to sponsor system improvements. This is an example of where regulation can support business interests.

The impact assessment does not reflect HMICA's focus on equalities issues, which were identified and addressed in inspection reports. Inspectors engaged directly with services users and representative bodies. For example the report on the Youth Court identified that the needs of young people with learning difficulties or disabilities were not being met. As a result HMCS improved its information to court users and staff training. Other inspection reports highlighted, for example, unacceptable treatment of disabled people and victims of domestic violence. Again the abolition of HMICA removes a powerful voice for a range of groups with special needs from the justice system. In the light of changes in eligibility for Legal Aid a further rise in unrepresented defendants and litigants has been anticipated.

HMICA would examine such issues and make recommendations for how best the courts could meet their needs whilst maintaining overall efficiency and effectiveness.

HMICA was recognised as a source of expert knowledge and experience on all types of court issues. For example it was commissioned by the Ministry of Defence to conduct the first inspection of the Military Court Service, providing accountability under the terms of the Deepcut Review and making recommendations to promote future improvement. HMICA undertook several important inspections by invitation of the Northern Ireland Courts and Tribunals Service. These were acknowledged as springboards to the further development of the Northern Ireland courts. Latterly HMICA supported the UK government in advising the government of the Republic of Croatia on how to improve its judicial system through high quality independent inspection. As a recognition of the power of inspection to bring about improvement, shortly before the announcement of HMICA's abolition it had been given the additional remit of inspecting the Coroners' Service in England & Wales, although the power had not been implemented. The existence of a repository of expertise will be lost if the decision to abolish HMICA is confirmed.

Question 2. 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? Please state what these are and your reasons?

Comments: Please see my response to question 10.

If the decision to abolish HMICA is confirmed the proposal to transfer functions to enable joint criminal justice inspection to continue is welcome. To be meaningful there would need to be a transfer of formal powers to give one or more of the other Chief Inspectors the right to inspect relevant functions of HMCTS. The transfer of powers would only be effective if accompanied by an increase in resources.

HMCTS is a large and complex organisation running services from over 400 court and other buildings. HMICA inspectors developed knowledge of topics including victim & witness care, jurors, defendants, young people, court security, court custody and escort, the scheduling of cases, the provision of appropriate information to all court users, supporting users on the day, the administration behind accurate and prompt court results and the enforcement of financial and community penalties, in addition to the generic knowledge about effectiveness and efficiency, strategy, HR etc that all inspectors need to cover. The only specific area that

will be covered by existing plans is the inspection of court custody, which is to be taken over by HMI Prisons. Maintaining some knowledge of the particular issues and organisation of HMCTS would require additional resources for any of the other inspectorates. The risk of not resourcing this activity is that the other inspectorates will require extensive briefing on each inspection and/or make inaccurate or unhelpful findings due to a lack of understanding. There is always a need to maintain liaison with any inspected body, which requires time and effort. In addition covering the physical inspection of a national organisation with a large estate has an obvious resource impact. Without additional resources any inspectorate receiving new obligations will have less ability to offer assurance about its existing responsibilities.

It is, however, worth reiterating that a transfer of functions to enable joint criminal justice inspection would not cover the loss of HMICA's scrutiny of the civil and family justice systems.

Public Guardian Board (PGB)

Question 3. **What are your views on the proposed abolition of the PGB?**

Comments:

Question 4. **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 in the consultation paper? Please state what these are and your reasons.**

Comments:

Please complete the section overleaf to tell us more about you.

About you

Please use this section to tell us about yourself

Full name	David Abbott
Job title or capacity in which you are responding (e.g. member of the public etc.)	Acting HM Chief Inspector of Court Administration during 2010 and former HM Deputy Chief Inspector and HM Inspector of Court Administration
Date	10 October 2011
Company name/organisation (if applicable):	
Address	134 Dinting Road
	Glossop
Postcode	SK13 7UU
If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.



Consultation on reforms proposed in the Public Bodies Bill

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Her Majesty's Inspectorate of Court Administration (HMICA)

What are your views on the proposed abolition of HMICA?

Comments:

The abolition of HMICA leaves a key criminal justice agency, the efficiency of which is crucial to the efficiency of the criminal justice system as a whole, without independent scrutiny. Inspection of the other criminal justice agencies by their independent inspectorates has shown that performance is not always viewed objectively by managers who are responsible for the service, nor is performance always interpreted accurately to give the appropriate level of assurance to Ministers. This independent scrutiny is now missing from HMCTS. The abolition of HMICA was unfortunate at a time when ensuring efficiency in all parts of the criminal justice system is vital to delivering justice during a period of reduced expenditure. It is our understanding that no new scrutiny arrangements within HMCTS have been established.

HMICA has not been operational since the end of 2010. The comments below indicate the effects the loss of liaison has had on the functions of HMCPSI.

HMICA provided a direct point of contact for HMCPSI with regard to data sharing and knowledge about the personnel working within the court system and in respect of joint inspection (see question 11). It significantly eased the way for visits to various courts in England and Wales. HMICA was able to use its statutory powers to enter court buildings and examine court records and HMICA inspectors developed in depth knowledge of issues relating to witness care, jurors, listing and enforcement that could be lost within the broader remit for HMCTS. HMCPSI is concerned that this level of expertise and knowledge about HMCTS will be lost to it and other inspectorates following the abolition of HMICA.

The effect of the abolition on the arrangements for joint inspection (i.e. inspection across the criminal justice system by all the criminal justice inspectorates jointly) is set out in answer to 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? Please state what these are and your reasons?

Comments:

The consultation paper makes it clear that the Government remains committed to joint inspection of the criminal justice system and that functions once performed by HMICA will be transferred to other criminal justice inspectorates. However, it is our understanding that the only specific area covered by existing plans is the inspection of court cells which will be taken over by HMI Prisons.

Arrangements for the independent inspection of HMCTS will need to be in place to enable it to be included in inspections of the effectiveness of the criminal justice system, currently carried out by HMCPSP, HMIC, HMI Probation and HMI Prisons. Efforts now being made to improve and streamline the criminal justice process involve all criminal justice agencies working together, for example to introduce electronic and digital working across the piece. The CPS will need to work closely with the MoJ and HMCTS in this regard. By the same token, therefore, criminal justice inspection needs to be able to examine the performance of HMCTS in this and other related matters.

The criminal justice inspectorates have a statutory duty to carry out joint inspections. The Police and Justice Act 2006 placed the previously voluntary collaboration between the (then five) criminal justice inspectorates within a legislative framework, by establishing a statutory responsibility on each of the inspectorates to:

- co-operate with each other, and other named inspectorates;
- draw up a joint inspection programme and associated framework;
- consult the Secretary of State, other inspectorates and named stakeholders in the formulation of the plan;
- delegate authority to inspect such organisations to each other, or other public authorities, as appropriate.

Since HMICA ceased to function HMCPSP has sought to continue to include HMCTS within the remit of relevant joint inspections. The joint inspection of the experience of young victims and witnesses was the first test of inspection of the courts without the statutory remit of HMICA. HMCTS fully co-operated with the fieldwork. The report makes some recommendations that impact on HMCTS but there is no formal authority for the Chief Inspectors of HMCPSP or HMIC (who collaborated in the joint inspection) to do so, nor are

there any formal reporting lines. Therefore whilst the other criminal justice agencies will be required to respond to the findings, and be held to account publicly for their performance and response, there is no statutory remit to compel HMCTS to co-operate or respond to inspection findings, or to be publicly accountable in the same way. This is a clear anomaly which needs addressing, to ensure HMCTS is properly held to account as part of the wider system.

Whilst any inspection regime of HMCTS could not interfere with the discretion of the judiciary, inefficiencies in administration, systems and processes can cause delays in justice and add significantly to costs for the courts and other CJS agencies. Independent inspection of what might be termed the 'administrative functions' of HMCTS does therefore have a proper and relevant place.

The consultation paper indicates that the NAO can carry out inspection of administrative functions. HMCPSI has worked with the NAO on studies of aspects of the criminal justice system. Experience has shown, however, that their focus is mainly fiscal and technical knowledge of criminal justice issues is not sufficient enough to deal with criminal justice procedures, and they have needed considerable support from the criminal justice inspectorates whose staff have formed part of their teams.

Public Guardian Board (PGB)

What are your views on the proposed abolition of the PGB?

Comments: The work of the PGB has no direct impact on the core function of HMCPSI.

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 in the consultation paper? Please state what these are and your reasons.

Comments: -

Please complete the section overleaf to tell us more about you.

About you

Please use this section to tell us about yourself

Full name	Michael Fuller
Job title or capacity in which you are responding (e.g. member of the public etc.)	HM Chief Inspector
Date	11-10-2011
Company name/organisation (if applicable):	Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI)
Address	4 th Floor
	One Kemble Street
	London
Postcode	WC2B 4TS
If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a



Ministry of JUSTICE

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Her Majesty's Inspectorate of Court Administration (HMICA)

Question 1. **What are your views on the proposed abolition of HMICA?**

Comments:

See our answer to Question 2 below.

Question 2. **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? Please state what these are and your reasons?**

Comments:

In the context of the Ministry of Justice proposals on the role of the Chief Coroner and reform of the coronial system (see below for INQUEST's comments on that), we are concerned the role HMICA was to play in monitoring the performance of coroners' courts will not be taken on by any other body.

The implementation of the reforms contained in the Coroners and Justice Act 2009 and as envisaged in the draft Charter for Bereaved People produced by the Ministry of Justice in 2009, envisaged that "*independent inspections of the service will be carried out and will include consultation with bereaved people*" (paragraph 53). As Lord Ramsbotham, in the House of Lords' debates on the Public Bodies Bill, has explained "*in order to make the coroners service work, there has to be someone to ensure that the courts in which that service functions are working*". (*Hansard*, HL Deb, 11 January 2011, Col 1295)

We note that HMICA carried out thorough inspections of the Coroners Service for Northern

Ireland in both 2007 and 2009 which focussed specifically on the administrative systems supporting bereaved families and reported on key issues such as: information and communication; progression of cases; operational communication with partner agencies and leadership. This is a good model and one which should have adopted in relation to the coronial system in England and Wales. It is highly regrettable that the government has abolished the HMICA and is not proposing to transfer the inspection of a reformed coroners' system to an alternative body.

Office of the Chief Coroner

Question 3. 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?

Comments:

We oppose the dismantling of the Chief Coroner's office and the proposals to transfer functions as outlined in the WMS of June 2011 and in the consultation paper.

If implemented, the proposals would result in the dismantling of the Chief Coroner's office and would have a similar effect to abolishing the role. The consultation paper proposes to transfer a limited number of the statutory functions of the Chief Coroner to the Lord Chancellor and some to the Lord Chief Justice.

The Secretary of State has himself acknowledges the limited nature of the proposed changes: *"as the functions to be transferred are limited, and the Office of Chief Coroner not filled, neither the judge nor any other individual will be responsible for the leadership, culture or behaviour of coroners."* In contrast, the Coroners and Justice Act created a single senior judicial post with the statutory powers to lead legal and cultural reform to make the system more effective, responsive and transparent. Instead, the consultation paper proposals add yet another layer to the current fragmented structure where lines of accountability are opaque and clear leadership is absent.

INQUEST's detailed comments on the government's plans have been set out in our policy briefings which can be found via: <http://inquest.org.uk/website/policy/reform-of-the-inquest-system/the-coroners-justice-act-2009/faqs-on-coronial-reform>.

Question 4. What are your views on the proposed Ministerial Board and supporting Bereaved Organisations Committee?

Comments:

INQUEST sits on, and supports, the valuable work of the current Ministerial Board on Deaths in Custody. Based on this experience we think that a Ministerial Board on coroner issues is potentially a useful forum to raise specific issues. However, we do not think the proposed Ministerial Board on coroner issues which would meet a few times a year is a substitute for the single, dedicated judicial post-holder empowered to implement changes in the form of the Chief Coroner.

The Written Ministerial Statement announcing the proposals explained the Board would look at specific issues which “*may*” exist and “*consider whether there may be appropriate action to address these*”. The deep-seated problems that do exist in the current system have already been identified in the numerous previous independent reviews, parliamentary inquiries and other reports. Many of these reports also made recommendations for change and action and helped to shape the structure laid out in the Coroners and Justice Act 2009. What is now needed is action and implementation of the reforms already extensively debated and agreed by Parliament.

We are also concerned that the government’s proposals do not include a proper support structure for the Ministerial Board on coronial policy – to mirror the successful model of the Independent Advisory Panel on Deaths in Custody whose work feeds into and informs the Ministerial Board on Deaths in Custody discussions and decisions¹. The IAP consists of six independently appointed members with expertise in key areas who lead a number of funded work-streams to facilitate research and learning. It is supported by a small, full-time secretariat.

Instead, the WMS and consultation anticipate that a Bereaved Organisations Committee would monitor the Charter for the Coroner Service that the Ministry of Justice recently consulted on. A committee made up of charities and non-profit organisations inputting their views and experience on a voluntary basis is in no way comparable to either the enforcement, monitoring and oversight that would be provided by the Chief Coroner (alongside independent inspection of the system by a specialist body such as HMICA).

The government’s current proposals are also strange in the context of the Ministry of Justice’s decision, in January 2011, to abolish a similar body – the Coroners Service Stakeholders Forum (CSSF). INQUEST was a member of this high-level body whose purpose was “*to provide a forum for all key stakeholders of the system to participate in identifying, considering and resolving significant **current** and future issues affecting the Coroners Service.*” Other members included: senior civil servants from the Ministry of Justice and the Department of Health; the Coroners Society; the Coroners Officers Association; the Royal College of Pathologists; the Local Government Association; the General Register Office; the Office of National Statistics; the Association of Chief Police Officers; the Welsh Assembly; the Coroners Court Support Service; and Cruse Bereavement Care. The Minister with responsibility for coroners’ issues was kept informed of CSSF discussions.

However, in January 2011 members of the CSSF received an email newsletter from the Ministry of Justice informing them that the Forum had been abolished. At the same time they were informed that the Voluntary Sector Forum (VSF) was also being abolished. This was a regular meeting, attended by the Minister, where voluntary sector bereavement organisations (including charities such as INQUEST, Cruse, Action against Medical Accidents, Cardiac Risk in the Young, RoadPeace, Survivors of Bereavement by Suicide [SOBS] and The Compassionate Friends) were able to provide direct feedback to the Minister on the operation and reform of the coroners system. INQUEST questions the Ministry of Justice’s logic in abolishing one forum on the coroners service because it is apparently no longer needed and then, four months later, proposing the creation of a similar body and seeking to present this as part of a “reform” initiative.

¹ <http://iapdeathsincustody.independent.gov.uk/work-of-the-iap/>

Question 5. Are there any functions of the Chief Coroner not adequately covered by the proposals set out in the consultation paper, in your opinion? Please explain your reasons.

Comments:

The Coroners and Justice Act 2009 is a tightly crafted piece of legislation of inter-linked changes which would address the problems of the current system. It contains fifty-two sections relating to coronial reform including or involving the Chief Coroner. The consultation paper lists only ten of the powers or duties of the Chief Coroner in their entirety and to partially implement a further two. The government has remained silent on what it intends to do in relation to all of the other clauses in Part 1 of the Act. This equates to taking forward no more than 23% of the provisions in the 2009 Act and is a long way short of taking forward “all” or “the majority” of the Act.

One notable omission is the s.36 provision for the Chief Coroner to make an annual report on the coroner’s system addressing levels of consistency between coroner areas, length of delays and other issues which would have been laid before Parliament. INQUEST can not understand why, if these proposals are designed to improve accountability and transparency, there are no plans to transfer the s.36 requirement.

Some of the other provisions of the Act not adequately covered by the proposals include:

- ss.6 to 9 inclusive relating to the conduct of inquests; and
- the re-organisation of the current system including the appointment of senior coroners, area coroners and assistant coroners (s.23) who: must satisfy the judicial-appointment eligibility condition on a 5-year basis (s.3 of Schedule 3); must retire by the age of 70 (s.10 of Schedule 3); could be removed from office for incapacity or misbehaviour (s.13 of Schedule 3); and would be subject to the discipline procedures that apply to other judicial office holders as set out in the Constitutional Reform Act 2005.

Please complete the section overleaf to tell us more about you.

About you

Date	10 th October 2011
Company name/organisation (if applicable):	INQUEST
Address	89-93 Fonthill Road
	London
Postcode	N4 3JH
If you would like us to acknowledge receipt of your response, please tick this box	X (please tick box)

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

INQUEST is the only organisation in England and Wales that provides a specialist, comprehensive advice service on contentious deaths and their investigation to bereaved people, lawyers, other advice and support agencies, the media, parliamentarians and the wider public. It has a proven track record in delivering an award-winning free in depth complex casework service on deaths in state detention or involving state agents. It works on other cases that also engage article 2, the right to life, of the European Convention on Human Rights and/or raise wider issues of state and corporate accountability. It monitors public interest inquests and inquiries into contentious deaths to ensure the issues arising inform our strategic policy and legal work.

INQUEST undertakes research and develops policy proposals to campaign for changes to the inquest and investigation process. Its overall aim is to secure an investigative process that treats bereaved families with dignity and respect; holds those responsible to account and disseminates the lessons learned from the investigation process in order to prevent further deaths occurring. INQUEST is represented on the Ministerial Council on Deaths in Custody and sat on the Ministry of Justice Coroner Service Stakeholder Forum until it was abolished in January 2011.

INQUEST publications include: briefings on individual cases and on thematic issues arising; *Inquest Law*, the journal of the INQUEST Lawyers Group; specialist leaflets on deaths in prison and in police custody; a regular e-newsletter; and three groundbreaking books: *In the Care of the State? Child Deaths in Penal Custody in England and Wales* (2005); *Unlocking the Truth – Families’ Experience of the Investigation of Deaths in Custody* (2007) and *Dying on the Inside – Examining Women’s Deaths in Prison* (2008).

Public Bodies Bill Team
Ministry of Justice
Post point 3.18
102 Petty France
London
SW1H 9AJ



10 October 2011

Dear Sirs

Re: Consultation on reforms proposed in the Public Bodies Bill

The Law Society is the representative body of over 140,000 solicitors qualified in England and Wales. The Society negotiates on behalf of the profession and makes representations to regulators, governments and others.

We are grateful for the opportunity to comment. We have focussed on areas of particular concern to solicitors in their daily practices.

Her Majesty's Inspectorate of Court Administration (HMICA)

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

There is little point in expressing a view on the abolition of HMICA as it ceased to function on 31 December 2010. As with our response to the proposed abolition of the Courts Board, we are concerned that yet another means of monitoring the conduct of business in the courts is being removed at a time of deteriorating standards and services within the courts. HMICA was tasked with keeping under review the end to end justice process and improving the experience of court users.

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 of functions as set out above? Please state what these are and your reasons.

We reiterate our recommendation for local court user groups to enable their concerns about the courts to be communicated to the Courts and Tribunals Service.

Public Guardian Board (PGB)

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

The Public Guardian Board acting as the independent watchdog for the Public Guardian has provided a valuable safeguard, particularly in relation to the rolling out of legislative changes. If the Board is abolished, it will be even more important for the Government to be alive to the need to have strong mechanisms for the oversight of the Public Guardian's functions.

We are encouraged by the confirmation that, if the Public Guardian Board is abolished, it will not in any way alter the Public Guardian's duties or statutory functions themselves.

We recognise that it makes sense economically to abolish the Public Guardian Board, however it is vital to ensure that vulnerable people continue to have proper protection.

The Law Society believes that the Public Guardian Board has undertaken valuable work, particularly when the Mental Capacity Act 2005 was first implemented and has carried out its important functions under often challenging conditions.

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.

We are unable to answer this question without greater detail about how it is intended to scrutinise the Public Guardian's functions if the Board is abolished.

The consultation paper only generically refers to "alternative robust governance arrangements" which will include "independent non-executive input" from individuals with appropriate knowledge and expertise.

We would, however, make the point that input from individuals with legal and financial services expertise should be sought as well as from individuals with medical or welfare expertise.

We hope that these comments will be useful.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Steven Durno', with a long horizontal flourish extending to the right.

Steven Durno, Policy Officer



Date or paper number	11/44 (October 2011)
Committee	Judicial Policy and Youth Courts Committees
Document title	The Public Bodies Bill
Document type	Response to consultation
Link to consultation	www.justice.gov.uk/consultations/reform-public-bodies.htm

The Public Bodies Bill

The public bodies of specific interest to magistrates are Courts Boards; Magistrates' Courts Rule Committee (MCRC); Youth Justice Board (YJB); Her Majesty's Inspectorate of Court Administration (HMICA); and Victims' Advisory Panel (VAP).

Her Majesty's Inspectorate of Court Administration (HMICA) The government proposes to abolish HMICA on the grounds that it is no longer appropriate for an independent body to provide oversight of purely administrative functions and because there are other arrangements in place to ensure effective administration. HMCTS has robust management and audit processes in place designed to make sure that there are appropriate checks and safeguards to ensure effective court administration processes. There will still be full and proper accountability – HMCTS is accountable to ministers, and ultimately, Parliament. It is subject to external scrutiny by the National Audit Office and, by extension, the Public Accounts Committee.

Current role

- Set up in 2005 as a result of the Courts Act 2003.
- Remit was to inspect and report on the system that supports the carrying on of the business of the Crown Court, county courts and magistrate's courts.
- Also required to work with the other Criminal Justice Inspectorates to look at the end to end justice process and improve the experience of all people who use or work within the justice system.

Justification for abolition

- HMCTS has a robust management and audit processes in place and is subject to scrutiny by the NAO and PAC.
- Functions of the HMICA to be transferred to other criminal justice inspectorates.

- HMICA closed administratively on 31 December 2010.

Magistrates' Association comments and concerns

- No details have been given about where HMICA functions will be transferred.
- Organisations should not rely on their own internal audit processes.

We are concerned that the abolition of HMICA will leave no independent body to inspect the workings of HMCTS. We hope that other inspectorates will take over the independent monitoring role as it is not appropriate for this organisation to be self regulating.



Response to
Ministry of Justice Consultation on reforms
proposed in the Public Bodies Bill
Reforming the public bodies of the Ministry of
Justice

September 2011

For further information contact:
Sally Ireland, Director of Criminal Justice Policy
Tel: (020) 7762 6414 Email: sireland@justice.org.uk

Introduction

1. JUSTICE is an independent all-party legal and human rights organisation, which aims to improve British justice through law reform and policy work, publications and training. Its mission is to advance access to justice, human rights and the rule of law. It is the UK section of the International Commission of Jurists.
2. JUSTICE has briefed on the Public Bodies Bill during its passage through Parliament and suggested relevant amendments. Our briefings are available from the JUSTICE website. In them we express our serious concerns at the Bill's use of secondary legislation (in the form of 'Henry VIII clauses') to allow the abolition and amendment of public bodies established by primary legislation. We therefore oppose the Bill in its entirety. Our concerns are even stronger in relation to those public bodies in the Bill with functions relating to the administration of justice and/or the promotion and protection of human rights. While some such bodies have been removed from the Bill following widespread opposition, others – including the Equality and Human Rights Commission, amongst others – remain.
3. However, in this response we will address only our concerns regarding the maintenance, abolition or reform of the bodies in question, leaving aside our views of the mechanism by which this is to take place. We comment only in relation to bodies whose abolition or amendment gives rise to serious concerns. Failure to comment on a proposal should not be taken for approval. None of the proposals in the consultation have any significant direct impact on JUSTICE.

Summary

4. **We do not oppose the abolition of the Administrative Justice and Tribunals Council since it is logical following the incorporation of the tribunals into HM Courts and Tribunals Service.**
 - **We oppose the abolition of HMICA and believe it is contrary to the consultation criteria to have consulted upon its abolition now when it closed in 2010;**
 - **We believe that the Chief Coroner should be appointed to carry out important functions under the Coroners and Justice Act 2009;**
 - **We believe that reforms to the governance of the youth justice system are necessary to ensure that children's rights are protected, whether or not the Youth Justice Board is abolished.**

Administrative Justice and Tribunals Council (AJTC)

Q1. What are your views on the proposed abolition of the AJTC?

Q2. 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.

5. We believe that the abolition of the AJTC is logical in the light of the incorporation of the Tribunals Service into HM Courts and Tribunals Service.

Her Majesty's Inspectorate of Court Administration (HMICA)

Q10. What are your views on the proposed abolition of HMICA?

Q11. Do you believe that there are any functions of HMICA 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.

6. Following the abolition of HMICA, it is essential in order to comply with the UK's international legal obligations that the inspection of places of custody and detention within the courts estate is undertaken by HM Inspectorate of Prisons as part of the national preventative mechanism envisaged by, and in accordance with the requirements of, the Optional Protocol to the UN Convention against Torture. This is our primary concern in relation to the abolition of HMICA. We welcome confirmation in para 57 of the consultation that this will be the case, in addition to the proposal in para 56 to enable future joint criminal justice inspections by transfer of functions to the other criminal justice inspectorates. However, we have two other concerns regarding HMICA's abolition.

7. First, it is contrary to the consultation criteria printed on p37 of the consultation paper to be consulting on the closure of HMICA when it is already closed as of December 2010. The criteria state that '[f]ormal consultations should take place at a stage where there is scope to influence the policy outcome'. There is no realistic chance of so doing at this stage in relation to HMICA.

8. Secondly and substantively, we disagree with the notion that since HMTCS is an executive agency of the Ministry of Justice, no external independent oversight of its functions is needed. The independence, integrity and effective functioning of courts and tribunals is essential to guarantee substantive and procedural human rights and it is in our view insufficient that the body responsible for their management should only be accountable to ministers. We note the roles of Parliament (including the Public Accounts Committee) and the National Audit Office (NAO); however, the NAO is responsible for the inspection of public spending rather than of effective practice more generally, and in addition we understand that the NAO is to be abolished.¹ Parliamentary scrutiny cannot provide an effective alternative to a dedicated inspectorate. In these circumstances we oppose (retrospectively) the abolition of HMICA and believe that it should be reinstated.

The Office of the Chief Coroner

- Q14. 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?**
- Q15. What are your views on the proposed Ministerial Board and supporting Bereaved Organisations Committee?**
- Q16. Are there any functions of the Chief Coroner not adequately covered by the proposals above, in your opinion? Please explain your reasons.**

9. JUSTICE supported the establishment of the Chief Coroner and believes that a powerful and visible voice is necessary to drive up standards in the inquest system and to ensure that action is taken by government where necessary to avoid future deaths. We believe that important constitutional concerns are raised by the government's attempt to abolish an independent judicial office by means of secondary legislation under the Public Bodies Bill. We understand that the Bill will not now seek to abolish the office of Chief Coroner; however, it will instead transfer many of its functions to the Lord Chancellor and the Lord Chief Justice, and others will remain unfulfilled through failure to bring into force relevant provisions of the Coroners and Justice Act 2009.

¹ Press release from Department for Communities and Local Government, 13 August 2010.

10. We are particularly concerned that sections 36 and 40 of the Coroners and Justice Act 2009 will not be implemented under the government's plans. The implementation of s36 would have resulted the publication and laying before Parliament of an annual report in which the Chief Coroner could bring matters of importance to the attention of the Lord Chancellor, Parliament and the public. These would include an assessment of the consistency of standards between coroner areas (thus helping to establish consistency and allowing remedial measures to be taken in under-performing areas) and reports from senior coroners of actions necessary to prevent or reduce the risk of future deaths made to people who have the power to take such action (and the required responses to such reports). While senior coroners can continue to make such reports under Sched 5, para 7, and responses continue to be required to them, these will under the government's proposals be sent on to the Lord Chancellor rather than the Chief Coroner and, crucially, will not be made public nor laid before Parliament.
11. In our view publicity is crucial to provide an incentive for action on the part of those who can prevent/reduce the risk of future deaths and it is also essential that Parliament is aware of senior coroners' reports so that legislation can be proposed if it is necessary to prevent/reduce the risk of such deaths. There is a very strong public interest in such information being in the public domain. Indeed, it is a component of the duty to investigate deaths under Article 2 European Convention on Human Rights that there be a sufficient element of public scrutiny of the investigation.²
12. We are further concerned at the failure to implement the system of appeals to the Chief Coroner created by s40 Coroners and Justice Act 2009. While, as the consultation states, judicial review will continue to be available, this is a permissive remedy and not available as of right (unlike the s40 appeals). We believe that the creation of an appeal system as of right for interested persons would greatly enhance the integrity and quality of the coronial system and therefore believe that the Chief Coroner should be appointed to hear such appeals, as well as making reports under s36. If savings are required, they can perhaps be made through efficiencies rather than by failing to implement the central element of the structure envisaged by the 2009 Act. There will, of course, be great savings in human and monetary cost if unnecessary deaths are prevented and unnecessary judicial reviews do not take place as a result of the Chief Coroner's appointment.

² See *Isayeva v Russia* (ECtHR, App 57950/00, judgment of 24 February 2005)

The Youth Justice Board

- Q23. What are your views on the proposed abolition of the Youth Justice Board (YJB)?**
- Q24. 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 above? Please state what these are and your reasons.**
- Q25. How do you believe that the Government can best ensure effective governance of youth justice in the future?**

13. We preface our comments on the future of the YJB by stating our view that the youth justice system in England and Wales is not compliant with the UK's international obligations in relation to children's human rights, including the UN Convention on the Rights of the Child. While many of the reforms necessary to ensure compliance need to take place in primary legislation, others can be accomplished executively and we believe that the YJB's record is mixed in this regard.
14. The YJB is, however, child-specific and this goes some way towards compliance with the requirement that there be a distinct and separate system for children in trouble with the law³. However, in order that the youth justice system fulfil its other obligation to treat each child 'in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society',⁴ we believe that the body responsible for youth justice within central government should involve officials of those departments responsible for children's health, development and welfare (in particular, the Departments for Education and Health) in addition to the Ministry of Justice. In this context, we regret the demise of the Joint Youth Justice Unit.
15. A further advantage of the YJB is the involvement of the Board itself, which is multi-disciplinary; we believe that the body responsible for youth justice should be advised

³ UNCRC, Art 40(3); UN Standard Minimum Rules for the Administration of Juvenile Justice, r2.3.

⁴ UNCRC, Art 40(1).

Public Bodies Bill: reforming the public bodies of the Ministry of Justice consultation Response of the Local Government Group (LG Group)

Introduction

This is the LG Group's response to the consultation issued on 12 July 2011 on the Public Bodies Bill: reforming the public bodies of the Ministry of Justice. Our response to this consultation only includes answers to those questions we have particular views on.

The LG Group supports, promotes and improves local government. We fight local government's corner and support councils through challenging times by focusing on our top two priorities:

- representing and advocating for local government and making the case for greater devolution
- helping councils tackle their challenges and take advantage of new opportunities to deliver better value for money services.

The LG Group is an organisation that is run by its members. We are a political organisation because it is our elected representatives from all different political parties that direct the organisation through our boards and panels. However, we always strive to agree a common cross-party position on issues and to speak with one voice on behalf of local government.

We aim to set the political agenda and speak in the national media on the issues that matter to council members.

The LG Group covers every part of England and Wales and includes county and district councils, metropolitan and unitary councils, London boroughs, Welsh unitary councils, fire, police, national park and passenger transport authorities.

We work with the individual political parties through the Political Group Offices.

Public Guardian Board (PGB)

**Question 17: What are your views on the proposed abolition of the PGB? and
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 consultation document states that the Department is "developing alternative, robust governance arrangements," and that, "It is planned that these arrangements will include independent non-executive input from individuals, with appropriate knowledge and expertise, who can provide the necessary challenge and assurance as part of a new governance framework". The arrangements are not fully described however and therefore without knowing what the alternative arrangements, it is difficult for us to fully comment on how adequate they will be. Whilst the Local Government Group does not object in principle to the abolition, we are concerned to understand the alternative arrangements and their adequacy as they are developed, and look forward to having sight of and discussing these at the earliest opportunity.

Please complete the section overleaf to tell us more about you.

About you

Please use this section to tell us about yourself

Full name	Vicki Goddard
Job title or capacity in which you are responding (e.g. member of the public etc.)	Adviser – Programmes
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Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

by a range of experts, including academics, practitioners and representatives of the voluntary sector, to ensure evidence-based policy, and that, in accordance with Article 12 UN Convention on the Rights of the Child, the views of children should be sought.

16. The YJB's functions are limited and it may be an advantage of integration into central government that youth justice policy decisions are taken within the same organisation as is responsible for the commissioning of services. This will only be the case, however, if a decision is taken at a high level to realise children's rights within the youth justice system, including by fulfilling the government's obligations to make custody a genuine last resort⁵ and to ensure that the small number of children who need to be in custody are in accommodation that is safe, compliant with international standards and that meets their needs.⁶

Sally Ireland
Director of Criminal Justice Policy, JUSTICE
September 2011

⁵ UNCRC, Art 37.

⁶ ECHR, Arts 2, 3, etc; UNCRC, Art 37(a) and (c); UN Standard Minimum Rules for the Administration of Juvenile Justice, rr26 and 27.