

<b>Title:</b> Abolition of Administrative Justice and Tribunals Council (AJTC)  <b>IA No:</b> MoJ120  <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 14/11/2011			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
	<b>Contact for enquiries:</b> Elinor Howard - 0207 334 3284			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£11.7m	NA	NA	No
			NA

**What is the problem under consideration? Why is government intervention necessary?**

In 2010 the government conducted a review of all Arm's Length Bodies (ALBs) to ensure that all ALBs were transparent and accountable, provide essential value for money and effective services that are required to be carried out and funded by the State. In considering whether an ALB should be retained, bodies were assessed against three tests: Does the body perform a technical function? Does the body need to be politically impartial? Does the body act independently and transparently to establish facts? The Administrative Justice Tribunals Council (AJTC) was assessed to not have met any of these tests. Government intervention is required because legislation is needed to formally close the AJTC.

**What are the policy objectives and the intended effects?**

The objective is to provide services that are required and funded by the State in a transparent and accountable way, provide essential value for money, and provide effective services.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0: Do nothing (retain AJTC).

Option 1: Abolish AJTC and their function by an order under the Public Bodies Bill. This is the preferred option because the AJTC does not meet the key criteria set by the Government for retaining Arm's Length Bodies. AJTC's policy role overlaps with the Ministry of Justice's (MoJ) and its oversight role duplicates controls in the Tribunals Service. Even though the quality of its advice has been sound, its cost is not justified by its added value, particularly given the change in the tribunal and policy landscape since its inception.

**Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year**

Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> NQ		<b>Non-traded:</b> NQ		

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Date: 13 December 2011

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £11.7m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		£0.3m	£0.0m

#### Description and scale of key monetised costs by 'main affected groups'

MOJ would incur possible lump sum redundancy costs of up to £0.3m if 3 permanent staff are not redeployed within the civil service. The extent of staff taking redundancy is unclear, compared to staff redeployment or early retirement, and an estimate is based on the assumption of redundancy.

#### Other key non-monetised costs by 'main affected groups'

Possible loss of income for AJTC staff if they are made redundant and unable to find positions elsewhere in the economy, however it is assumed that staff and council members would find positions elsewhere.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	1		
High			
Best Estimate		£0.3m	£1.4m

#### Description and scale of key monetised benefits by 'main affected groups'

On average MOJ would save approximately £1.4m per annum from pay and costs of AJTC operations. Savings from AJTC operations have been uprated with GDP. AJTC staff would receive one-off redundancy payments of up to £0.3m assuming they are not redeployed within the civil service. The extent of staff taking redundancy is unclear, compared to staff redeployment or early retirement, and a best estimate is based on the assumption of redundancy.

#### Other key non-monetised benefits by 'main affected groups'

Tribunal users, and users of administrative justice systems, may incur some loss from no longer being able to voice their concerns through AJTC.

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Assumes staff receive voluntary redundancy. If staff are redeployed within the civil service there would be no additional pay and pension impacts. Alternatively, if staff receive early retirement, staff in total would receive a one-off payment of up to £0.2m and ongoing pension income of up to £0.06m per year. Assumes staff and members find positions elsewhere. Assumes AJTC closes on 30 September 2012. AJTC spending has been adjusted using the GDP deflators.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

## Evidence Base - Notes

### Annual profile of monetised costs and benefits (£m)

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9
<b>Transition costs</b>	0.3									
<b>Annual recurring costs</b>										
<b>Total annual costs</b>	<b>0.3</b>									
<b>Transition benefits</b>	0.3									
<b>Annual recurring benefits</b>	0.6	1.3	1.3	1.4	1.4	1.5	1.5	1.5	1.6	1.6
<b>Total annual benefits</b>	<b>0.9</b>	<b>1.3</b>	<b>1.3</b>	<b>1.4</b>	<b>1.4</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>	<b>1.6</b>	<b>1.6</b>

Base year 2012/13

Annual recurring benefits (AJTC operational savings) uprated with GDP deflators

Totals may not sum because of rounding

For non-monetised costs and benefits please see summary sheets and main evidence section

# Evidence Base

## 1. Introduction

### Background

1. The Administrative Justice Tribunals Council (AJTC) is an Advisory Non Departmental Public Body (NDPB) established under the Tribunals, Courts and Enforcement Act 2007 (TCE 2007), replacing, but with wider functions than, the Council on Tribunals which was established in 1958. It covers England, Wales and Scotland.
2. The AJTC keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. 'Administrative justice' includes the procedures for government making decisions that affect various aspects of peoples everyday lives, the law that regulates such decision-making, and the systems (such as the various tribunals and ombudsmen) that enable people to challenge these decisions. Administrative justice covers a wide range of areas, for example, decisions on benefits, such as disability living allowance; decisions on asylum applications; and decisions on school admissions and exclusions.
3. The AJTC seeks to ensure that the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution providers satisfactorily reflect the needs of users. Its key functions are to keep under review the:
  - overall administrative justice system;
  - constitution and working of the tribunals designated as being under the AJTC's oversight; and
  - constitution and working of statutory inquiries.
4. The AJTC currently operates with nine staff altogether.

### Policy Proposal

5. In 2010 the Cabinet Office led a cross government review of all Arm's Length Bodies (ALBs) in order to increase the transparency and accountability of public bodies and to reduce their number and cost. Cabinet Office worked with departments to agree which ALBs should be abolished, merged, modified or transferred, or whose constitutional arrangements should be reformed.
6. All ALBs have been assessed against three criteria:
  - a. Does the body perform a technical function?
  - b. Does the body need to be politically impartial?
  - c. Does the body act independently and transparently to establish facts?
7. The Secretary of State for Justice assessed that the AJTC does not perform a technical function, has no requirement to be politically impartial and did not exercise an independent role in determining facts. Therefore, he concluded that the AJTC does not meet any of these three tests and decided to consult on the intention that the AJTC should be abolished.
8. The MOJ consulted on the intention to abolish the AJTC and the future oversight of administrative justice policy between July and October 2011 as part of a wider consultation on the proposals in the Public Bodies Bill. After considering the responses to that consultation, the Secretary of State for Justice has decided to abolish the AJTC by an Order under the Public Bodies Act.
9. The Secretary of State has decided that the functions of the AJTC are no longer required as they duplicate existing arrangements or are more properly performed by Government. Therefore the retention of the AJTC can no longer be justified against a background of severe financial constraints. MoJ already exercises oversight of the administrative justice system and the development of administrative justice policy. HMCTS already has oversight of HMCTS tribunals. MoJ and HMCTS will continue to exercise these functions after the closure of AJTC. MoJ will also develop oversight of remaining non-HMCTS tribunals and bodies, and will ensure users are at the heart of policy development.
10. There will be no impact on businesses from the closure of AJTC.

## Economic Rationale

11. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
12. These proposals would be justified on the grounds of productive efficiency. The same functions can be carried out by MoJ directly but with the use of fewer resources.

## 2. Cost and Benefits

13. This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.
14. The MOJ has been able to monetise some of the costs and benefits from closing the AJTC, mainly those associated with staff and operational costs. Some costs are not possible to quantify such as impacts on users and some of the functions that are taken within MoJ, although these are expected to be minor. A quantitative assessment would require specific data and information that is unknown and cannot be estimated with any degree of precision. However, a qualitative assessment of these costs and benefits is provided.

### Affected stakeholder groups, organisations and sectors

15. Groups that are affected by the proposals are:
  - MOJ;
  - AJTC staff, AJTC Chairman, and members of the Council;
  - Tribunal users, and users of administrative justice systems;
  - Legal service providers and the justice system.
16. There will be no impacts on businesses.

### Option 0: Base case (do nothing)

17. Under this option the AJTC would continue to function. Its annual running costs would continue to be at historic levels of around £1.2 million updated for inflation. The £1.2 million annual running cost is based on AJTC's 2010/11 allocation adjusted for the percentage under-spend in 2009/10. Some functions would continue to be carried out by the MOJ, HMCTS, and other government departments and the AJTC. These include oversight of MoJ Tribunals and the ongoing review of administrative justice policy.

### Option 1: Abolish AJTC

#### Description

18. This option would be to abolish AJTC by an order made under the Public Bodies Bill. The AJTC's 'oversight' functions, especially in relation to tribunals and statutory inquiries (in practice inquiries relating to land use), are no longer considered vital to public service delivery. The development of administrative justice policy is a government function so a separate source of advice from an advisory body is no longer necessary. The MOJ will continue to take a clear lead

in government on the development of administrative justice policy and will work proactively with other government departments with responsibilities in this area to ensure a coherent and consistent approach is taken in policy development.

19. There is an existing dedicated policy team within MoJ, with effective links to other government departments, including the Cabinet Office, which leads on ombudsman policy. The team is well placed to influence the development of policy from the outset, to ensure administrative justice is a key part of the wider justice reform agenda, and to have oversight of the wider system.

## **Costs of Option 1**

### ***Costs to Ministry of Justice (MoJ)***

20. AJTC currently operates with nine staff, six of which are permanent MoJ staff. MoJ will incur redundancy or early retirement costs if permanent staff are not redeployed to other posts within the civil service. It is likely that three of the permanent staff will be redeployed within the civil service so it is assumed there will be no exit costs for these staff. The position is less certain for the three remaining permanent staff, and the associated costs would depend on whether they are redeployed, made redundant, or take early retirement. For the purpose of this IA, it is assumed all three staff will be made redundant at a one-off cost to MoJ of £0.3 million in 2012/13. However, if the staff were to receive early retirement, MoJ would incur a one-off cost of £0.2 million in 2012/13 and ongoing pension costs of up to £60,000 per year until early retirees reached 60 years of age. Alternatively, staff may be redeployed, in which case there would be no additional costs to MoJ.
21. MoJ will incur some additional administrative costs from closing the AJTC. The MOJ has not been able to monetise these but they are likely to be minimal.
22. It is assumed that the MOJ will take on a small amount of additional work from AJTC after it is abolished. It is assumed that no additional staff will be hired, and therefore there is no extra financial cost to the MOJ. However, any additional work undertaken by MoJ as a result of the AJTC being abolished will represent a non-monetised economic cost in that resource would be transferred from an alternative MoJ activity of less priority.

### ***Costs to AJTC staff, the Chairman and members of the Council***

23. Assuming AJTC staff are made redundant or take early retirement, they would incur a reduction in income if they are unable to find alternative positions elsewhere in the economy with a similar salary. Assuming three permanent staff will be made redundant and not able to find alternative positions their loss in income would be approximately £0.2 million in total. However, any reduction in income would be at least partly offset by the redundancy or early retirement payments. The net impact on the staff from forgone income would depend on how long they remain unemployed for. For example, it may be that staff would find alternative jobs immediately after termination, in which case, they would continue to receive ongoing income, as well as a redundancy payment, resulting in an overall benefit. It is not possible to quantify the extent of this cost as the duration of unemployment for staff is unknown.
24. Members of AJTC collectively receive remuneration of approximately £0.3 million per annum. They may incur a reduction in their income if they do not find alternative positions with a similar level of remuneration.

### ***Costs to tribunal users, and users of administrative justice systems***

25. It is possible that tribunal users and users of administrative justice systems would lose an outlet to voice their concerns. However, this impact is expected to be mitigated by the existence of tribunal user groups within HMCTS which act as a forum for users to articulate concerns and inform improvements that will meet customer needs. The MoJ Justice Policy Group is well placed to provide oversight of the administrative justice system and work with colleagues within MOJ, and other government departments, to consider users' needs and views during policy development and service delivery. Justice Policy Group officials are able to provide Ministers with balanced and impartial advice, drawing on expert advice as required about the development of administrative justice policy.

## **Legal service providers and the justice system**

26. No impacts on case volumes or outcomes are expected.

## **Benefits of Option 1**

### ***Benefits to Ministry of Justice***

27. The MOJ will benefit from no longer funding AJTC. It is assumed that annual running costs would continue to be at historic levels of around £1.2 million per annum, uprated for inflation. The £1.2 million cost is based on AJTC's 2010/11 allocation, adjusted for the percentage under-spend in 2009/10. It is estimated that over the ten year appraisal period MoJ would save approximately £14.0 million.<sup>1</sup>

28. It is assumed there would be no additional savings to MoJ from reduced building rental costs. However there might be some savings in future and this would depend on lease conditions. MoJ currently rents an entire building where AJTC operates in part of it at a cost of approximately £0.1 million per annum. The lease is expected to expire in September 2013 and no rental savings will be realised before then. The level of savings after September 2013 will depend on whether MoJ would be able to sublet the AJTC's part of the building.

### ***Benefits to AJTC Staff, the Chairman and members of the Council***

29. As set out above, it is assumed that three AJTC staff will be redeployed and no additional benefits will be incurred. As discussed above, another three AJTC staff are assumed to be made redundant and will receive redundancy one-off payments of up to £0.3 million in 2012/13. However, it may be that these staff receive early retirement instead. This would result in a one-off payment of up to £0.2 million, and ongoing pension payments of up to £60,000 per year in total until early retirees reached 60 years of age. Alternatively, it may be that all staff would be redeployed within the civil service. In this case, there would be no additional benefits. As discussed above, the extent to which redundancy payouts raise a benefit would depend on the time taken to find alternative positions.

## **Legal service providers and the justice system**

30. No impacts on case volumes or outcomes are expected.

### ***Benefits to wider economy and society***

31. If AJTC duplicates some functions that MoJ and other government departments carry out with fewer resources, there may be efficiency gains for the wider UK economy.

## **Net Impact of Option 1 & Summary of Options**

32. It is expected that the benefits of Option 1 outweigh the costs as some of the functions carried out by AJTC are replicated by other functions carried out in MoJ and other government departments. Furthermore, any costs to staff arising from redundancy might be offset depending on how long it would take to find alternative positions. It is expected that the overall outcome would increase efficiency within the economy.

33. Option 1 is preferred as it meets government objectives to increase the transparency and accountability of public bodies and to reduce their number and cost. The AJTC does not meet government's criteria for the retention of ALBs.

<sup>1</sup> This is the sum of benefits over the 10 year period, uprated with GDP. This figure has not been discounted.

## Risks and Assumptions

34. For the purposes of quantifying impacts in this Impact Assessment, MoJ has made the following assumptions:
- A closure date of 30 September 2012 for the purposes of costing – this date could change and depends on when the Public Bodies Bill is approved by Parliament;
  - A 2010/11 budget of £1.2 million based on AJTC's 2010/11 allocation adjusted for the percentage under-spend in 2009/10;
  - It is assumed that three staff will be redeployed, and another three staff will be made redundant with a one-off payout of up to £0.3 million in 2012/13. There is a possibility that some of these staff would receive early retirement instead of redundancy. In this case, there would be a one-off payment of up to £0.2 million and an ongoing pension of up to a combined total of £60,000 per year until early retirees reach 60 years of age. There is also a possibility that all staff would be redeployed, in which case there would be no additional costs or benefits;
  - AJTC running costs and voluntary redundancy and early retirement payments have been updated for inflation using HM Treasury's GDP deflators;
  - A ten year appraisal period running from 2012/13 to 2021/22 with 2012/13 as the base year; and
  - The present values of costs and benefits have been calculating using a 3.5% discount factor.
35. Variations in the assumptions above will change the associated costs and benefits but are not expected to significantly change the net impact of the closure of AJTC.
36. It has been assumed that the Public Bodies Bill allows the Secretary of State to abolish certain public bodies through secondary legislation and that the government will abolish the AJTC after Royal Assent via secondary legislation.
37. It has been assumed that a separate advisory body is no longer necessary for the effective and efficient delivery of public services as the Secretary of State decided that the AJTC did not meet the three tests outlined in paragraph 6. It has also been assumed that any functions currently exercised by the AJTC will be carried out within existing MoJ/ Whitehall departments' resources. No additional costs to the Courts, Probation, Prisons, Legal Aid and Crown Prosecution Service are anticipated.

## 3. One-In One-Out

38. Abolishing the AJTC is not a regulatory proposal and there are no business impacts. Therefore it is not within the scope of the One-In One-Out policy.

## 4. Enforcement and Implementation

39. The policy will be implemented by legislation. An order will be made under the Public Bodies Act to abolish the AJTC. Prior to abolition we will work together with the AJTC to effect an orderly closure, MoJ Justice Policy Group officials will discuss, with AJTC colleagues, how best to take forward work currently undertaken by the AJTC.

## 5. Specific Impact Tests

### Equality Impact Assessment

40. The revised Equality Impact Assessment (EIA) is attached in Annex Two.



## **Competition Assessment**

41. The impact is not significant on competition.
42. The proposal does not:
  - Directly limit the number or range of suppliers (or providers);
  - Indirectly limit the number or range of suppliers (e.g. by altering demand);
  - Limit the ability of suppliers to compete;
  - Limit suppliers' incentives to compete vigorously.

## **Small Firms Impact Test**

43. The impact is not significant on small firms as the AJTC is public sector focussed and most office supplies are provided to the AJTC through MoJ central contracts. The proposals do not impose additional costs on small business.

## **Carbon Assessment**

44. The impact on the emission of Greenhouse Gases is negligible. There may be a small reduction in energy use as the office spaces in London and Edinburgh will not be used for AJTC work. People may have to travel more or less if they find alternative work but that is uncertain.

## **Other Environment**

45. This is not broadly applicable as the policy will not:
  - lead to a change in the financial costs or environmental and health impacts of waste management;
  - impact significantly on air quality;
  - involve any material change to the appearance of the landscape or townscape;
  - change the degree of water pollution; levels of abstraction of water; exposure to flood risk;
  - disturb or enhance habitat or wildlife;
  - affect the number of people exposed to noise or the levels of exposure.

## **Health Impact Assessment**

46. The policy will not have a significant impact on human health. In the short term, the policy may affect the health of those staff directly affected by the decision to close the AJTC, and may possibly affect the appointed part time members. Therefore there is unlikely to be a significant demand on health and social care services.

## **Human Rights**

47. The policy is compliant with the Human Rights Act.

## **Justice Impact Test**

48. There is no impact on Legal Aid or on the wider justice system (e.g. courts and tribunals, prisons and offender management).

## **Rural proofing**

49. This policy is unlikely to have a different impact in rural areas, because the AJTC is not a direct provider of services to the public: it provides advice to ministers/ departments and officials.

## **Sustainable Development**

50. The government has committed to five principles of sustainable development:
  - Living within environmental limits;
  - Ensuring a strong, healthy and just society;

- Achieving a sustainable economy;
- Promoting good governance;
- Using sound science responsibly.

51. This proposal supports the principles of ensuring a just society; achieving a sustainable economy and promoting good governance.

# Annexes

## Annex 1: Post Implementation Review (PIR) Plan

<p><b>Basis of the review:</b></p> <p>We do not propose to have a formal review of the abolition of the AJTC. However, the MoJ and HMCTS will consistently keep oversight of the services it provides to users and the Justice Policy Group within MoJ will review the effectiveness of its oversight of the administrative justice system and the development of administrative justice policy.</p>
<p><b>Review objective:</b></p> <p>MoJ will not have a formal review, however in keeping an oversight on users, MoJ will consider the views of users and stakeholders as well as performance information to informally review whether the reform has been effective.</p>
<p><b>Review approach and rationale:</b></p> <p>We will meet regularly with users to ensure that HMCTS are responding to their concerns and with administrative justice stakeholders to ensure that their views inform the development of administrative justice policy.</p>
<p><b>Baseline:</b></p>
<p><b>Success criteria:</b></p> <p>Satisfaction amongst tribunal users and input of stakeholders in the formation of administrative justice policy.</p>
<p><b>Monitoring information arrangements:</b></p> <p>HMCTS has a number of user groups in tribunal jurisdictions and has a good insight into the views of their users gathered through customer surveys.</p>
<p><b>Reasons for not planning a review:</b></p> <p>There are currently no plans for an internal review. The normal process would be for Select Committees to scrutinise the legislation within three to five years.</p>