



Ministry of  
**JUSTICE**

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

Courts Boards - responses to  
consultation

Published 23 April 2012

## **Courts Boards - responses to consultation**

On-line questionnaire responses:

1. Anonymous
2. Anonymous
3. A Magistrate
4. Chris Bell
5. John Lawrence Carter
6. Edward Clarke
7. Stephen Pope
8. Martyn Weller
9. Brendan Fulham
10. Alex Cosgrove
11. Sheila Carmen Charles
12. Anonymous
13. Ray Palmer
14. Gareth Davies
15. Susan A Khan
16. Nicholas Moss

Other responses:

1. Derek Bacon
2. Mencap
3. Magistrates' Association
4. Kent, Surrey & Sussex Courts Board
5. Law Society
6. Local Government Group
7. Durham Constabulary and Durham Police Authority

These are 16 responses submitted using the online questionnaire that was available on the MoJ website

ID	Courts Boards Question 4. What are your views on the proposed abolition of the Courts Boards?	believe that there are any functions of the Courts Boards that will not be adequately covered following the proposed abolition and suggested future	Please state what these are and your reasons.	Question 6: In your opinion how can local courts and tribunals reinforce the link between them and the local community?	Question 7: Do the proposals have any significant direct impact on you (if so, please explain the impact)?	If so, please explain the impact:	Name	Position	Date of response	Contact Details	Contact Details	Contact Details	Contact Details	Representative of a group?
1	Is rubbish and provides cover for vested interests to do nothing	Yes	listing decision should be made in a cross CJS forum to make them as efficient as possible	via the LCJB	Yes	If properly managed courts might open longer deal with more case and cost the public less money	Public		15-07-11		9 Moon Grove	M14 5HE	johnbmcr@gmail.com	
2	As HMCTS is committed to building and maintaining links with local communities, and local areas I am interested to know what are the other options that have been explored to ensure the link between courts and local communities is not lost.	Yes	It all depends on the alternative approaches that are in place to liaise with magistrates and local communities and gather feedback from users. I believe an Impact Assessment is still needed even if the proposal to abolish does not impact on business, civil society or on regulatory matters. This is because Her Majesty's Courts and Tribunals Service was only created on 1 April 2011 and it is still in the process to develop its own approaches to working with the wider community and to provide more local accountability. It has not been proven effective yet, that it will offer more flexibility to adapt to changing circumstances.	I still believe that citizens need to be advised and to feel that their voice has been heard. Sometimes it depends on how the information is being divulged when considering citizens that come from a diversity of cultures and backgrounds. At times it is the case to simplify the use of technical words in order to reinforce the link to the wider majority. Anyway I think that, if the advisory function provided by the Courts Board has been replaced by alternative approaches in place to liaise with magistrates and local communities and gather feedback from users, like activities such as customer satisfaction surveys, open days and court user meetings there will not be a hindrance to the process.	Yes	The proposal has a slight impact on me because I am not sure which site to go to when I need to get the information I usually use to gain by going on the Juth Justice Board, as I work with a group of young man who are excluded from mainstream education and who come from a very deprived socio-economic background and who are ex-offenders or with high risk of offending.								
3	None						Magistrate		15th July 2011					
4	I have no objection to their abolition.	No		The measures suggested at paragraph 44 are all worthy.	No		CHRIS BELL	POLICY ADVISOR	19 JULY 2011	SHERGROUP	SHERGROUP HOUSE, FREEPORT OFFICE VILLAGE, BRAINTREE, ESSEX	CM77 8YG		

5	I recognise the need for Ministry of Justice to make savings but the Courts Board represent good value for money since they are low cost. They provide a system of external scrutiny to the administration of courts services and have successfully held area directors to account for the management of their role. There is no evidence that such external scrutiny will exist following the abolition of Courts Boards. I believe that external scrutiny is an important aspect of public services in England and Wales. Courts Boards have provided a way for the local community voice to influence the provision of court services. Most court users "go through the system" at a time when they are at a low ebb or in crisis and cannot provide good consumer feedback. The Courts Board can provide a more dispassionate and objective overview of the administration of the courts to ensure users are properly provided for. This is particularly important at a time when facilities are being closed and services streamlined and there is a danger of public confidence being lost in the legal system. There is no evidence that in	Yes	Independent scrutiny of court administration will be lost: almost all public bodies have some form of external scrutiny by public representatives. There is no evidence of this being provided for following the abolition of Courts Boards. Community links: the Courts Board provide an effective way for court administrators to hear "the voice" of the local community. There is no provision for community links following the abolition of Courts Boards. There has been a suggestion that magistrates are volunteers from the community and therefore represent it but by definition they are not representative of the community and become concerned with their own role rather than the wider community view on how justice is administered in a particular area.	By retaining a body similar to Courts Boards where members are appointed from the local area to work and liaise with senior managers. This is more important than ever now that courts administrative areas are becoming so large with senior managers based remotely. In my locality there is a single delivery director for the whole of the South West including Hampshire and the Isle of Wight. They do not have knowledge of the many local communities and their view on administration of court services.	Yes	As a Courts Board Chair I will lose my role. This would not be a major issue if I understood that the key aspects of the role of the Courts Board were being maintained by another body or structure. Unfortunately, there is no evidence that this is the case.	John Lawrence Carter	Courts Board Chair	1st August 2011	Avon & Somerset, Devon & Cornwall and Gloucestershire Courts Board	Laggar Cottage, Westrip, Stroud	GL6 6HA		Avon & Somerset, Devon & Cornwall and Gloucestershire Courts Board: membership comprises three magistrates, three community representatives, three people with knowledge of
	the new HMCTS any attempt at community links is being attempted.													
6	opposed to abolition	Yes	I believe Courts Board 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.	open access user groups, improved access to and publication of reports and information	Yes	I will no longer be able to access publications of the Courts Board; diminishes accountability / confidence in the law	Edward Clarke		19/08/11		12 Beach Road Wolverhampton	WV14 6QF		
7	My concerns will be in regard to efficiency and cost effectiveness. Will they be impacted on negatively	No			No		Stephen Pope	Band 6 Team Leader (healthcare)	23/09/2011	HMYOIRC Glen Parva	Tigers Road, Leicester	LE18 4TN		
8	They have long been a talking shop with few real impacts on the day to day operation of the courts.	No		More events such as inside justice week, unfortunately the funding for such events has been withdrawn. We should be much more open the televising of courts should include all the proceedings and the mag courts as well.	No		Martyn Weller	Trustee		Disability Action	3 Apple Blossom Court	YO24 3HH		I am an employer, a charity trustee and also a magistrate
9	I believe there needs to be an independent knowledgeable body to oversee the running of the Courts/Tribunals. Too often those in Ministerial positions or Civil Service positions do not, or cannot, see the issues arising from day to day running requirements of the system because they are unable to see the small picture and thus fall into the false belief the big picture says all they need to know; however it is frequently those who have a day to day hands on experience who listen to and see the needs of the people operating the system.	Yes	I believe the CB does have a "standing" amongst the Courts/Tribunal Staff who have come to trust the unbiased opinion and assistance of the CB to resolve issues of a local nature which frequently become overlooked or remain unaddressed by the large Government department.	By remaining available to a local community to listen to the issues of concern to the Courts Staff in that locality and possibly peculiar only to that locality which can often be missed or misunderstood by the "City dwellers" in the Civil Service and/or Government department.	Yes	Currently being a CB Chair my position will cease..... .. ..however having been a JP for over 30 yrs before I stepped down I believe I have a good understanding of the system thus enabling me personally to understand what the Courts folk are seeking to improve the system.	Brendan Fulham	Courts Board Chair (CENS)	23 September 2011					

10	<p>The Courts process is long winded and unsatisfactory - Judges do not have any formal training or qualifications as it is. Paperwork is often lost or not read so the abolition of the Courts Boards will, hopefully, at least cut down on ridiculous amounts of administration.</p>	No		<p>Old fashioned communication and transparent process. Trust. The local communities have no faith in the justice system and it needs a radical reform. Many Judges do not bother to look at a case fully and order inappropriate sentences or go to the other extreme and do not punish effectively when punishment is required. A national approach does not work at local level - suggest local PCSO's, Probation and Police work closely with courts and tribunals to re-establish link between community. By asking local people their views instead of relying on people who are out of the front line and not at grass roots level you are not going to get community cohesion.</p>	No		Alex Cosgrove	CEO	23rd Sept 2011	The Grow Organisation	Mow & Grow House, Rotterdam Road, Lowestoft, Suffolk	NR32 2EZ		<p>Cutting crime, cultivating futures... Supporting and delivering innovative partnership work. Providing work experience, skills training and employment to those disadvantaged in the labour market.</p>
11	<p>COURTS BOARD WAS DESIGNED TO IMPROVE AND SPEED-UP ADMINISTRATION OF THE COURT SYSTEM. WHY DID IT TAKE 26 YEARS TO COMPENSATE THE FAMILIES OF "SUNDAY, BLOODY SUNDAY" WHICH OCCURRED IN 1985. (IT TOOK FROM 1985-2011.) THE FAMILIES DO NOT EVEN WANT THE MONEY. THEY WANT THEIR FAMILIES BACK WITH THEM. I AM NOT SURPRISED AT THE ABOLITION OF THE COURTS BOARD.</p>	Yes	<p>FOLLOWING ABOLITION, I SUGGEST THE COURT BOARDS RAISE EMPLOYMENT OF THOSE HUNGRY FOR JUSTICE. NOT THOSE HUNGRY FOR FOOD LIKE THE THIRD WORLD COUNTRIES LIVING IN POOR CONDITIONS AND DRY AND DROUGHT LANDS. AS WE DO NOT UNDERSTAND FOREIGN LANGUAGES, EVERYTHING SHOULD BE IN ENGLISH IN ENGLAND. LET THOSE WHO HAVE A DEEP INTEREST, WITHOUT IMPAIRED JUDGEMENT HANDLE ADMINISTRATION OF THE COURTS.</p>	<p>BY EMPLOYING RELIABLE LOCAL PEOPLE WHO ENJOY A PEACEFUL LIFE. BY HAVING GET-TOGETHERS WHEREBY PEOPLE ARE NOT AFRAID TO TALK TO ONE ANOTHER. BY EVERYONE IN THE COMMUNITY BEING ABLE TO READ (IF NOT - KNOW) THEIR RIGHTS. YOU DO NOT HAVE TO REINFORCE THE LINK BETWEEN LOCAL COURTS AND THE LOCAL COMMUNITY. EVERYONE IS MADE UP OF THE COMMUNITY. EVEN THE METROPOLITAN.</p>										
	<p>NOW THEN, I HAVE ONLY JUST DISCOVERED THAT COURTS BOARDS EXIST. APPARENTLY COURTS BOARD WAS APPROVED TO IMPROVE AND SPEED UP ADMINISTRATION OF THE COURTS. WHY DID IT TAKE (FROM 1985-2011) SUNDAY, BLOODY SUNDAY FAMILIES TO BE TOLD BY SOLICITORS THAT THEY ARE ENTITLED TO COMPENSATION. WHY DID IT TAKE 26 SOLID YEARS? I BELIEVE A LOT OF THIS HAS TO DO WITH EMPLOYMENT. (ESOL) SPEAKERS OF OTHER LANGUAGES NEED INTERPRETERS. THIS IS A BRITISH SYSTEM. THE BRITISH LAWS ARE ALL WRITTEN IN ENGLISH.</p>		<p>ESOL. ENGLISH SPEAKERS OF OTHER LANGUAGES IS A FUNCTION NOT ADEQUATELY COVERED. PLUS IN OUR DAYS, (SEVENTIES AND EIGHTIES) WHEN I WAS EMPLOYED BY BECHTEL AND EUROTUNNEL (BALFOUR BEATTY, COSTAIN, TAYLOR WOODROW, TARMAC AND WIMPEY) WE ALL HAD OUR HEARTS IN OUR JOBS - NOT JUST FOR THE MONEY.</p>	<p>BY SPEAKING THE LOCAL COMMUNITY'S LANGUAGE.</p>			SHEILA CARMEN CHARLES	LEGAL EXECUTIVE SECRETARY	03 OCTOBER 2011	UNEMPLOYED	29 BEVINGTON ROAD (FLATB)	W10 5TL		<p>I WOULD LIKE TO BELIEVE THAT I REPRESENT: SUN (SUN USER NETWORK), K&amp;C FORUM (MIND), CARERS ASSOCIATION, AND PRISONERS FAMILY AND FRIENDS</p>

12		Yes	Courts boards do hold local representation and link to other criminal justice governance arrangements effectively at the local level. Joined up partnership facilitates problem solving and innovation	Brilliant example At St Albans crown Court Open Day 10/9/11, approx 800 member so f the public took part and it involved contributions from across the CJS agencies. Need to do more of this.											
13	I believe that the abolition is a serious mistake, not warranted by the comparatively low level of savings to be achieved. The assertion in the Consultation document that responsibility for the administration of the courts rests with HMCTS is not in question, and this bald assertion as the rationale for abolition is, frankly, feeble. The issue is not that the Boards purport to administer the courts, it is the value that is added to the decision-makers by the Boards. The document further claims that the existence of the Boards duplicates activity - this cannot be so, because without Boards there is no independent guidance and advice. The former Area Directors valued the independence of thought and judgement that Boards were able to bring to the table, and the wide and significant experience that underpinned those qualities. Board members have been able to supplement the inevitable narrow-mindedness (and I do not use the words pejoratively) of court management and staff, the majority of whom have never experienced other working environments, and - in my	Yes	I believe that I have covered these adequately in my response to Q.4.	There will be no meaningful, structured, links post-abolition. Although many court centres - especially those with civil jurisdictions - have some form of "user committees", in truth these have very limited roles and are rarely geared to the interests of witnesses, victims and Litigants in person. These gaps must be filled, so that the community can have some impact on decisions, and can be made aware of proposals for change in areas that will affect them.	Yes	I am a Board Chairman, and I am a member of the community affected by the proposal	Ray Palmer	Courts Board chairman	5 October 2011	Dorset, Hants & Isle of Wight, and Wiltshire LACB					
	experience as a Board Chairman at least - this has improved the quality and breadth of our interactions with them. Since announcing its proposal, the Government has stressed on a number of occasions in correspondence that it is actively looking at ways of strengthening ties with the community. Unfortunately, many months later, we have seen no evidence of this. In communications from the Government there has been an over-concentration on liaison with the magistracy, for which of course other channels already exist. However, there have been no proposals at all that would facilitate the community in general, and court users in particular, having input into the way that the courts are run. A significant example relates to court closure programmes. The communities that are represented on Boards have a right to be consulted and to comment, but other than the magistracy it is difficult to envisage what channels will be available to them. Again, we have seen no proposals as to how is gap will be filled. In similar vein, as the move towards centralisation and														
	"back-office" gathers pace it will be increasingly important to canvass the views of, and assess the impact on, the communities that are currently represented on Courts Boards. Here again, there seem to be no proposals as to how this will be achieved post-abolition. HMCTS is a large and complex organisation, and the absence of any non-executive involvement below the main board (other, presumably, than on the Audit Committee) is significant, and will prove detrimental to effectiveness														
14	Abolition would be a retrograde step: Courts Boards bring much needed external perspective into the running of the Courts service.	Yes	The statutory requirement to involve and respond to court users and the local community will be lost.	They must involve users (such as witnesses, victims, solicitors) and the wider community at a senior level within the local courts and tribunals service. Many Courts Boards have been particularly successful in this regard, and an equivalent mechanism needs to be implemented.			gareth daves	community member	6/10/11		3 firwood cl, eastleigh				

15	In the light of the present economic situation the Cumbria and Lancashire Courts Board agree that it is appropriate to abolish the Courts Boards		The Board members are aware that the public scrutiny of the business plans and performance of the HMCTS was an important Courts Board remit but given the financial constraints feel that HMCTS should be able to manage these issues by way of internal audit, consultation with other stakeholders and where necessary the imposition of performance management measures.	This can be achieved by continuing and enlarging the process of Community Engagement which is already carried out by individual local Courts and LCJB's.	Yes	The abolition of Courts Boards would obviously impact on the Cumbria and Lancashire Board members.	Susan A Khan	Chair	11/10/11	Cumbria and Lancashire Courts Board	Lancaster Road, Preston, Lancashire			Chairperson, Cumbria and Lancashire Courts Board
16	Yes	Engagement with the community will be diminished following the abolition of courts boards. Please see the response to question 6 for a proposal to rectify that defect.	<b>DUE TO THE LENGTH OF THIS RESPONSE, IT IS PROVIDED IN A SEPARATE DOCUMENT ENTITLED 'COURTS BOARDS NICHOLAS MOSS RESPONSE'</b>				NICHOLAS MOSS	CHAIR, BEDS, HERTS AND TRHAMES VALLEY COURTS BOARD	OCTOBER 10TH 2011		105 HIGH STREET, ASHWELL, BALDOCK HERTS	SG7 5NT		

This response reflects the views of the Beds, Herts and Thames Valley Courts Board expressed earlier this year and passed to the MoJ minister responsible for courts. In the past month, the chair of the BHTV Board (Nicholas Moss) has discussed the matter with a justice minister directly and has had a meeting also with the HMCTS chief executive, Peter Handcock, and also with one of his senior colleagues. Mr Handcock has agreed to progress this initiative and I am about to start working on it with that colleague. I have copied immediately below a self-explanatory note, written originally in January 2011 and subsequently amended for this response) proposing a restructure of user groups.

## DEVELOPING COURT USER GROUPS

### A. CONTEXT

1. Courts boards will be abolished following the enactment of the Public Bodies Bill, which is currently going through Parliament. It is unclear at present when abolition will occur; but it is likely to be towards the end of 2011 or early in 2012, depending on the date of Royal Assent and the coming into force of the necessary secondary legislation. 2. In anticipation of abolition, the Board's response to the government's court closure consultation included a proposal that the current court user groups should be reinvigorated, and with an expanded membership, as a means of maintaining contributions to court administration from the wider community. 3. Courts board composition provides specifically (under the Courts Act 2003) for community contributions. When boards cease that source will not, therefore, be provided for, unless there are arrangements to do so; hence the Board's proposal. 4. This note develops, therefore, the proposal, the aim of which is to fill two gaps: widening user groups' membership; and by doing so encouraging a broader view of what may be done to take practical account of the needs of the public as court users. For ease of reference, it includes some material (at section D.) that members have seen already.

### B. BACKGROUND

5. User groups exist in the three jurisdictions whose courts HMCS Areas run, i.e. county, Crown and magistrates' courts. Groups' members include almost exclusively those with a day-to-day involvement in the running of the courts, typically, but variously, defence and prosecution advocates, court ushers, judges, magistrates and legal advisers. 6. Membership does not appear routinely to include, for example, the NHS, the voluntary sector or people from BME or disability groups. Plainly, in the context of the Board's recommendation, such representation is important. 7. There is also a widely held anecdotal view that this is the case. For example, attendance by those with an interest in - and, therefore, a responsibility for - contributing to court improvements varies greatly also. I make the point not as criticism, but simply as evidence of the fact that user groups have evolved over time without a consistent approach to their purpose. I should add that this observation is probably more applicable to the criminal jurisdictions than it is to the civil jurisdiction. 8. As to the effectiveness of the groups as presently constituted, there are examples of active engagement by some user groups with court user topics, perhaps more in the county and Crown courts than in magistrates' courts. Even so, there is not a great deal of evidence of their consistent effectiveness. I have reached this view from an assessment of a number of user group minutes. 9. The tribunal service has user groups also; they are organised locally, according to jurisdiction. I understand from Ian Miller, Area Manager, Greater London and South East, for the Tribunal Service, that that service is also looking at its stakeholder engagement in preparation for the new combined HM Courts and Tribunal Service from April 1st 2011. 10. As courts are for public use, the absence of involvement by individuals from the bodies noted at 6. above, and others, is an omission that the Board's proposal seeks to rectify. Moreover, my experience of an open meeting of the former Bedfordshire, Hertfordshire and Essex Court Boards, and of a more recent meeting about problem-solving courts, persuade me that there is undoubtedly community interest in closer engagement with the courts. 11. I note here, also, that full implementation of the Board's recommendation is likely also to lead to fewer meetings and, therefore, to less expense, because of the opportunity for combining what are now separate meetings within jurisdictions.

### C. CURRENT POSITION

12. (Now former) Area Director, Jonathan Lane, and I have continued our discussions on the subject, including a telephone conference call on December 21st, involving (former) Area



Business Manager, Marie Day, also. We felt that it would be prudent to try out a new arrangement in one part of BHTV only, rather than across the entire area. Hertfordshire has the advantage of size, to allow for a test of sufficient scale, and relative compactness compared with the western parts of BHTV. 13. Next, we considered which jurisdiction might be the focus for this initiative, at least in its early phase. We concluded that there is already an infusion of local authorities in county and family court user groups, so that there appears to be less need for external contributions to that jurisdiction. As noted above, it is probably fair to observe that same cannot be said of the criminal jurisdictions: Crown and magistrates' courts. It seems sensible, therefore, to concentrate efforts on a jurisdiction where there is an apparent gap. 14. Thus, the plan we considered initially would create a single criminal court user group for Hertfordshire to replace three separate groups, i.e. ; two magistrates' court user groups: one combined group for Central and West Herts benches; and one combined group for North and East Hertfordshire benches .; one (St. Albans) Crown Court user group. 15. The purpose of a new unified group would be to offer broadly the same opportunities to regular courts' attenders to raise any concerns that they may have about specific local operational issues. Discussions indicate that this function is valued, although it appears that in many instances it is little more than a chance to air issues, rather than necessarily to resolve them. In future, perhaps there could be greater focus on outcomes. 16. In addition - and importantly for the Board - groups would actively seek the attendance of irregular (or non-) court attenders to offer other perspectives on court services. In this way, community links would be maintained when boards are abolished. 17. However, on further consideration of the proposal at 13. and 14. above, it may be more manageable to focus initial efforts on looking to change the format of user groups within one jurisdiction at a time, starting with Crown Court - St Albans - and seeing how that might work, before tackling magistrates' courts. 18. I tend to that position having spoken to three of the four bench chairs in Hertfordshire and noting a view that as bench amalgamations are being implemented during 2011 attention will be focused on those and not on user groups. 19. On January 14th, I met HH Judge Andrew Bright QC, Resident judge at St Albans to discuss the proposal at 17. above. He supports the idea in principle and is willing to try out the new arrangement at a future St Albans Crown Court user group meeting. 20. He is prepared to include in the meeting a presentation from organisations, such as the witness service, about their work. As members know, that body plays a major role in supporting witnesses, and, therefore, is at the sharp end of contact with the public. He would be pleased also to receive suggestions for agenda items from courts board members, and to welcome them to user meetings.

#### D. SUPPORTING INFORMATION

21. As a further reminder of some of the detail of this proposal, I have set out chronologically below some relevant exchanges. 22. In my letter (October 22nd 2010) to the minister acknowledging his formal confirmation that boards will be abolished I reminded him of our proposal. A consequence of abolition will be the loss of local independent external oversight - particularly from the wider community - that boards bring to the courts through HMCS. However, with the government's emphasis on localism it is plain that local engagement with public services, of which the courts are an important component, is a high priority. Thus, I suggest that the challenge in the period leading to, and after, abolition is to establish a mechanism to bring an outside perspective another way, without creating another body, or any new costs. Or, ideally, at lower cost. A suggestion to meet this necessary objective appears in Bedfordshire, Hertfordshire and Thames Valley (BHTV) Courts Board's response to the closure consultation, a copy of which I forwarded to your office last month... ..To make progress, with, perhaps, Hertfordshire as a model, our Area Director, Dr. Jonathan Lane, and I are now considering how a revamped user group might work in practice, so that the opportunity for local involvement can be assured. I am mindful also of the need to look at user groups in a wider context: how far there may be avoidable overlaps in the existing meeting structures for justice agencies and the judiciary. In short, in parallel with a new configuration, there may be scope also for rationalising the numbers of such groups. Whatever arrangement develops, I believe it is essential that a user perspective includes not only the perspective of practitioners, but also that of the wider community, including, for example, local authorities and the NHS. In addition, bearing in mind the role of the voluntary sector in problem-solving courts, those organisations, too, could make useful contributions. Although the Tribunal Service maybe regarded as a practitioner user, it is clearly important to weave together, as soon as possible, both parts of the new HMCTS. Thus, tribunal engagement with reconfigured

user machinery would be valuable, I suggest....23. Since then also, and consistent with the approach outlined in the Board's consultation response and as developed in my email to you via Support Officer to the Area Director, Louise Ehrenfried, on November 5th, I noted, There is interest in developing it [the proposal] in BHTV and, perhaps, using the approach that we develop as the basis for a national model. So I am now giving thought to how we might make progress. As part of that, it occurs to me that it would be helpful to understand more about the present arrangements in this area by having a board presence at some or all of the current user group meetings. ; I believe that from our attendance should emerge examples of issues or topics where the views of the wider community would contribute to service improvements. It is not possible to identify in advance the sorts of things that might emerge, but they might include: o disabled people's court access/egress; witness and victim support (including accommodation); arrangements for keeping parties separate from each other; information provision, e.g. leaflets; other languages; information by phone; signage; waiting times; refreshment facilities for non-practitioner users; I do not suggest that a Board presence is a complete substitute for individuals from the wider community. Clearly, it is not. I feel, though, that other sets of eyes and ears, sets that are relatively new to user groups, will bring back useful information, thereby helping to shape the new user group strategy that our consultation response proposes. ; As I think I may have mentioned, I see a new strategy as including, for example, local authorities and the NHS. In addition, bearing in mind the role of the voluntary sector in problem-solving courts, those organisations, too, could make useful contributions. Moreover, although the Tribunal Service maybe regarded as a practitioner user, rather than a community user, it is clearly important to weave together, as soon as possible, both parts of the new HMCTS. And a revamped user group arrangement could help with that, too. For all those reasons, a board presence in the coming months will be valuable. 24. Included with that note was a schedule of user groups meetings across the BHTV Area until April 2011. I hope that Board members will be able further to attend at some of the meetings to continue to observe the territory that they cover. 25. In reply to my letter(received Nov 6th 2010) Mr Djanogly said, "...I am pleased to hear about your joint work with the Area Director...whilst I would not wish to be prescriptive as to how local areas are I would suggest that any workable model that you and the Area Director develop be shared with other Area Directors as part of our good practices sharing strategy"...26. One final piece of supporting information: on January 11th 2011, the House of Lords debated the courts board (abolition) component of the Public Bodies Bill. I forwarded to Board members on January 14th an extract from Hansard of that debate. I note below the comments by the minister of state, Lord McNally, about user groups: ...there are other ways to ensure that the needs of the community are met, such as customer surveys, open days and more effective use of court user meetings. Her Majesty's Courts Service is committed to building and maintaining links with local communities, and local areas will be encouraged to explore other options to ensure that links between the courts and local communities is not lost, specifically within the wider context of the current proposals to modernise and improve the use of courts.

## E. CONCLUSION

27. Having discussed the debate with Jonathan Lane and with officials at the MoJ, I can confirm that the minister's reference to court user meetings is not coincidental and should be taken as encouragement to continue to pursue our recommendation. 28. I hope that the Board's continued support for the approach described above, will enable us to leave a practical legacy that will benefit the wider community, once we have ceased to exist. Nicholas Moss, Chair, Bedfordshire, Hertfordshire and Thames Valley Courts Board, January 28th 2011 (updated October 10th 2011 and to be read in conjunction with the reply to Q5)

Consultation Paper CP10/2011  
July 2011

Public Bodies Bill Team  
Ministry of Justice  
Post point 3.18  
102 Petty France  
London SW1H 9AJ  
Tel: 020 3334 6168  
Fax: 020 3334 6452  
Email: [PBB.Consultation@justice.gsi.gov.uk](mailto:PBB.Consultation@justice.gsi.gov.uk)

23<sup>rd</sup> September 2011

Dear Sir/Madam

**Consultation on reforms proposed in the  
Public Bodies Bill - Courts Boards**

I am responding in my capacity as Chair of the Lincolnshire, Leicestershire and Rutland and Northamptonshire Courts Board to MOJ's Consultation Paper 10/2011 on the above matter. This response is the considered view of this Board.

You request that the responses answer a series of questions and I have attempted to keep the comments within this framework. For ease I have copied the questions in the consultation paper and placed my comments directly below each question.

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

Firstly, you state at paragraph 42 of the paper "They [sic Courts Boards] were established in order to ensure that the voice of magistrates could continue to be heard within the unified Her Majesty's Courts Service (then HMCS now HMCTS)". This is incorrect. The Courts Boards were set up as Advisory Bodies under legislation to scrutinize, review and make recommendations about the way in which the Lord Chancellor is discharging his general duty in relation to the courts with which each Courts Board is concerned. Each board consists local community representatives, Courts users, a judge and magistrates. The magistrates continue to have a voice through extant forums that still continue today and after the public bodies reform.

The consideration on the abolition of the Courts Boards is one that has come about by design created by the continued structural changes within MOJ rather than the desire of those appointed to the boards. It is fair to say that these changes has created considerable challenges to our board as the physical area we had to cover and the size of the community that the board represented grew from one county to 4. At the same time we were faced with continuous restructuring in HMCS and the appointment of Area Directors. Concurrent with these changes was the unavailability of Business Plans, that was considered the core basis of our discussion with HMCS staff, and this impacted upon our inability to undertake our role effectively. It is fair to say that within the allotted hours for the Courts Board that the prospect of us

covering every cross-section of a very diverse community was problematic as the size of the area grew. Moreover, it is not fair to argue that the principles behind the establishment of the Courts Boards could not have achieved. What was required is that each Courts Board needed to change as the HMCS restructured, the numbers of Board members and the hours required to meet the requirement being reviewed as the HMCS areas changed.

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

In considering the proposed changes to the work done in the past by Courts Boards no alternative has been put forward. This is considered a missed opportunity of having within the structure an independent voice that can act as a "Critical Friend" to HMCTS staff. This would be particularly important at a time when they need support and constructive comment from outside the organization in which they exist.

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

Although it is hoped that local courts will continue to support and encourage 'courts user' meetings it is difficult to see how HMCTS can reinforce links with the local community; this being one of the justifications for the creation of Courts Boards. It is only by introducing consultation processes with local communities that links will be established and maintained.

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

I will no longer be able to make use of the experience and knowledge gained over the last 6 years as a Courts Board member.

Yours sincerely

*Sent electronically*

Derek Bacon  
Chair of Lincolnshire, Leicestershire and Rutland and Northampton Courts Board

Reply via:

Jennifer Hardy □ Midlands Regional Office □ c/o Nottingham Magistrates' Court □ Carrington Street □ Nottingham □ NG2 1EE

**Mencap consultation response to Ministry of Justice:**

**“Reforms proposed in the Public Bodies Bill”**

From: David Congdon  
Organisation: Mencap  
Role: Head of campaigns and policy  
Address: 123 Golden Lane  
London  
EC1Y 0RT  
Email Address: [david.congdon@mencap.org.uk](mailto:david.congdon@mencap.org.uk)  
Phone Contact: 020 7696 5556  
Date of response: 6<sup>th</sup> September 2011

**About Mencap**

Mencap is the charity for people with a learning disability and retains a long standing interest in the operation of the criminal justice system and the needs of victims with a learning disability.

The ‘Stand by me’ campaign was launched in June 2011 to challenge the police, the criminal justice system and the courts to end hate crime against people with a learning disability and to improve their experiences of reporting crime. The launch featured publication of the report, ‘Don’t stand by.’ This analysed the current police response to disability hate crime and included recommendations to improve.

Mencap also works on early interventions for young people with learning disabilities and communication difficulties who have a history of offending behaviour and those at risk of offending.

Through its “Death by indifference” campaign Mencap has also supported the families of people with a learning disability who have lost loved ones as a result of poor levels of care in the NHS. The inquest system has proven a difficult system to navigate for many of these families, and Mencap remains committed to securing adequate reform of the coronial system.

## **Mencap's chief concerns about the proposed reforms:**

Mencap welcomes the opportunity offered by the Public Bodies Bill to establish an efficient and effective justice system that is better able to respond to the needs of the people who use that system.

However, some of the proposals in the Bill raise serious concerns about the ability of existing and reformed bodies to meet this challenge of delivering a modern justice system. They risk leaving people with a learning disability, their families and other groups isolated; lacking the support they need to engage with a justice system that is able to support them effectively.

The following issues are of most concern and are discussed in greater detail in section 2.

### **Transfer of functions of the Office of the Chief Coroner**

Mencap is concerned that the transfer of powers from the Office of the Chief Coroner fails to address fundamental and long standing deficiencies in the coronial system. Several reports over the last decade have highlighted the fragmented nature of the current system. There is a wide variation across regions which results in a postcode lottery for bereaved families who rely on coroners to provide vital assurance following tragic circumstances. This variation can often leave families with long waits to establish the cause of death, causing unnecessary stress and anxiety which puts at risk their long term mental health and wellbeing.

The transfer of powers to other bodies would do little to repair a fragmented system and Mencap believes that the role of the Office of the Chief Coroner therefore has an important role to play; it offers cohesion, accountability and national leadership to help reform and resolve the current deficiencies in the coroners system.

Furthermore, the proposal to transfer some functions of the office does not pass the test based on the three criteria set out in the introduction to the consultation document. Effective functioning of the coronial system is dependent on the impartiality of the system and the need for establishing facts through independent means. Combined with the specialist nature of the work and the requirement for a senior legal figure to hold the post, it seems evident that this is a technical post and there is therefore a strong argument to reconsider the proposal to transfer functions away from the Office.

Mencap recommends that the Office of the Chief Coroner is maintained with the functions set out in Coroners and Justice Act 2009 and that the full function of the office is implemented accordingly.

### **Inability to respond to users' needs**

Mencap is concerned that changes to the Administrative Justice and Tribunals Council (AJTC), Tribunal procedure Committee (TPC) and Courts Boards will limit the ability of the system to listen to and respond to users' needs. Both the TPC and

the AJTC have focussed “on the experience and perspective of users” seeking to understand how the justice system can be made to work to improve those experiences.

Mencap is concerned that the proposed option of encouraging remaining public bodies to listen to the user perspective will prove ineffective in either understanding or addressing concerns. Customer surveys need to be accessible to all those who use the system and Mencap is concerned that such considerations will not be possible without a body dedicated to understanding the needs of users. As such the bodies provide a specialist and technical function in analysis of customer needs which could not currently be replicated elsewhere. Mencap recommends that the bodies are maintained and that the department increases efforts to understand the needs of all users of the system through accessible consultation and feedback from.

### **Lack of clarity on transitional arrangements**

Mencap is concerned that there are few transitional arrangements being made to manage the changes that will result from the abolition of certain bodies. This is likely to lead to a period where essential functions are effectively not being carried out.

Of particular relevance is the proposed abolition of the 19 remaining Courts Boards. These boards provide an essential advisory function in translating the diverse needs of the community into good practice. The proposals to abolish the Courts Boards is not only misguided in itself, but lacks clarity on how to establish and meet these diverse needs if the proposal were to be implemented.

Mencap recommends that a full transition plan is drawn up for all bodies that are to be abolished to ensure that there is no gap in the ability of the justice system to carry out its full range of essential functions.

### **Lack of long term vision**

Mencap is concerned that the proposals lack a long term vision for how essential functions will be carried out if the changes are implemented. The plans for the Youth Justice Board particularly seem overly reliant on the input of a few key individuals. Whilst the expertise and experience of both John Drew and Dame Sue Street will be invaluable in steering the department through a tricky transitional period, there needs to be full consideration as to how the structures that remain will be able to meet the challenges it may face regardless of any future staff changes.

## Section 2: Specific and detailed concerns

### The Office of the Chief Coroner

#### The need for change

Several reports over the past decade have highlighted the shortcomings of the current coronial system. It is clear from these that there is not only widespread problems with delays to hearings but also significant variation in practice between regions. Mencap believes that the national, independent oversight of the Office of the Chief Coroner is essential to achieving this.

In 2006 the Constitutional Affairs Committee reported:

***“The coronial system lacks national direction, with wide variations in regional practice.”*** Constitutional Affairs Committee (now the Justice Select Committee), 2006<sup>1</sup>

This confirmed what had been previously identified by the fundamental review chaired by Tom Luce, which had stated clearly that:

***“[The coronial system] must undergo radical change if [it is] to become fit for the purposes of a modern society and capable of meeting future challenges”***  
Luce Review, 2003<sup>2</sup>

#### Mencap’s key concerns about the current coroners system:

In 2007 Mencap published its Death by indifference report which exposed the tragic consequences of deep-rooted institutional discrimination against people with a learning disability in the NHS. The report focused on the deaths of six people with a learning disability in NHS care as a result of neglect and comprehensive misunderstanding of what a learning disability is. All of the deaths highlighted in the report could have been avoided if the NHS had not failed in its duty of care and appropriate action had been taken.

As a result of these cases, Mencap was made aware as to the importance of reforming the coroners system, following failings into some of the inquests which took place into these deaths. In light of the testimonies and experiences of the parents and families of those who lost loved ones with a learning disability, Mencap

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<sup>1</sup> Para 90, Constitutional Affairs Committee, Reform of the coroners’ system and death certification, 1 August 2006, HC 902 2005-06

<sup>2</sup> Para 1, the independent review of Coroner Services commissioned by the Home Office and Chaired by Tom Luce, Death Certification and Investigation in England, Wales and Northern Ireland, 2003



is aware that evidence of good practice in the coroners system remains sporadic and geographically inconsistent.

**Case study: An example of bad practice in the coroners system:**

Mark Cannon was a 30 year old man, who had a severe learning disability and epilepsy. He had very little speech, but was able to communicate with his family and sister, Jane, to whom he was very close.

Mark lived at home with his mother and stepfather and attended a day centre, five days a week. He occasionally stayed at a care home run by his local authority.

In June 2003, for reasons unknown, Mark broke his femur while staying at the care home. He was subsequently in and out of hospital. His condition continued to deteriorate and in the middle of August 2003, he had a heart attack while on the High Dependency Unit in Hospital. At the end of August 2003, his life support machine was switched off.

The family believed Mark's death was avoidable and an inquest decided that he died as a consequence of an "accidental death." Mark's family contested this view and made complaints against the local authority concerned, his GP practice and the Healthcare Commission. None of these complaints were upheld.

However, when the Parliamentary and Health Service Ombudsman (PHOS) investigated the family's complaints they were upheld. The report said: "Mr Cannon's parents said they were appalled by what happened to their son. At one point in the complaints process they said:

"All of Mark's 30 years had been a struggle for equal rights to health care, support and the services within the society he lived. We battled continuously with virtually no progress".

If Mark's family had relied entirely upon the coroners service to establish the correct details as to the cause of their son's death, they would still not be aware of the truth.

The Death by indifference report raised some key failings of the coroners system as bereaved people are being let down, made to wait lengthy periods for decisions and denied the answers they require to achieve the causes of a loved one's death.

Mencap believes that the Office of the Chief Coroner is vital in seeking to overcome these failings by ensuring that inquests are of an approved national standard and that accountability for the findings of the inquest is achieved. This will help to bring about a coroners system which meets the needs of the bereaved and learns from the past in order to prevent similar incidents in the future.

A more effective coroners system would be better placed to spread the lessons of failing practice, achieve higher standards and help prevent unnecessary deaths in

the future. Mencap believes that the retention of the Office of the Chief Coroner is a prerequisite to ensure that reform into the coroners system is achieved and recommends that the plan to transfer powers and functions away from the Office be reconsidered with the proposal being removed in its entirety from the Public Bodies Bill.

Death by indifference exposed huge shortcoming in the ability of the NHS to provide adequate support and healthcare services to people with a learning disability. Through supporting bereaved families, it also highlighted fundamental flaws in the coronial system:

- Inquests into NHS deaths often take a significant amount of time - often years - and require huge emotional effort and persistence from the bereaved.
- Reviews of fitness to practice arrangements for healthcare professionals are totally inadequate. To date, no individual health professional has been sanctioned under the fitness to practice arrangements of the respective registering bodies around poor care delivered to people with a learning disability.
- The processes in the present coroners system often fail to place sufficient emphasis on learning the lessons from previous mistakes, meaning more people with a learning disability could die as a result of neglect and poor treatment in the NHS

### **Opposition to the current proposal**

Mencap strongly opposes the removal of the Office of the Chief Coroner and is calling for the proposal to be removed entirely from the Bill. It is widely acknowledged that the current coroners system is in need of urgent reform, with the Office of the Chief Coroner having a vital role to play in helping to achieve this aim.

The strategic oversight that the Office of the Chief Coroner would provide, the leadership it can offer and its ability to disseminate good practice means it is well placed to bring about an overall change to the system and ensure this is implemented across England and Wales. Mencap believes that it is only through a joined up and co-ordinated approach that information can be shared effectively to promote good practice and eradicate systemic failures. A reformed coroners system – with the Office of the Chief Coroner - is a prerequisite to make this happen.

It seems apparent that the proposal to transfer a limited amount of the powers of the Chief Coroner to the Lord Chief Justice and the Lord Chancellor and/or the Secretary of State for Justice, is not comparable to the retention of the Office of the Chief Coroner.

The fundamental purpose of the Chief Coroner is to undertake urgent reform of a largely fragmented and geographically inconsistent coroners system, with a body that would help to introduce more transparency and accountability. Meaningful

reform of the current system is in this way dependent upon thorough judicial oversight and national leadership. Mencap is concerned that by removing the single oversight which the system needs, any reforms will be fractured, lacking in leadership and piecemeal.

It is also widely recognised that the role of the Chief Coroner requires complete impartiality and independence in order to have full confidence from the public when determining appeals and conducting inquests. This can only be achieved through a specifically appointed individual who is proven to have no vested interests and is universally perceived as such.

### **Inability to respond to users' needs**

The proposals to abolish the Administrative Justice and Tribunals Council (AJTC) and Courts Boards are of immediate concern. Whilst these bodies appear to perform a largely administrative function, Mencap maintains that they are essential in order to ensure the user perspective is able to influence the design and operation of the justice system.

The consultation document itself acknowledges the role of the TPC and the AJTC in particular in ensuring that people who use the system are adequately represented. Understanding the needs of users is an important and challenging function that requires a degree of expertise which is currently well represented in these bodies. People with a learning disability may require extra support to communicate, meaning standard feedback and consultation fails to acknowledge their needs. Public bodies such as the AJTC and Courts Boards have established experience in determining those needs and are better placed to translate this understanding into changes that will improve the ability of people with a learning disability to access the justice system.

As such the bodies provide a specialist and technical function in analysis of customer needs which could not currently be replicated elsewhere. Mencap recommends that the bodies are maintained and that the department increases efforts to understand the needs of all users of the system through accessible consultation and feedback from.

### **Lack of clarity on transitional arrangements**

The programme of change proposed by the Public Bodies Bill has the potential for wide ranging and significant impact on the future of the justice system. It is therefore of considerable concern that the consultation document lacks a full consideration of the need for transitional arrangements to be made. There is a high risk that without these arrangements, essential functions of the justice system will either be

overlooked or abandoned altogether. It is therefore recommended that full arrangements are made to ensure that the justice system can maintain its full effectiveness both during and after the transitional period.

The proposals to abolish the 19m remaining Courts Boards shows a particular lack of concern about transitional arrangements. These boards provide an essential advisory function in translating the diverse needs of the community into good practice. The recommendation to abolish the Boards in favour of increased customer surveys is a key area of concern.

In addition to questions already raised about how effective such approaches are in assessing and understanding people's needs (see "inability to respond to users' needs, above), there are also concerns that such approaches will not be deliverable immediately. As such there will be an interim period during which the needs of users are not being effectively addressed and community links.

It is clear that there has been some consideration of the impact of the proposals, for example the understanding of the need to ensure representation of users on the Tribunal Procedure Committee (TPC). However, in that case it remains unclear as to how this will be achieved or the process for change. Despite vague talk of "transitional arrangements" the current proposals lack clarity on that point. Mencap recommends a full and detailed plan of transition is drawn up for all bodies that are to be abolished in consultation with user groups, existing staff and industry experts.

### **Lack of long term vision**

Building on transitional arrangements, there is a need to ensure that the justice system is able to operate effectively well beyond this initial period of change. The aim to produce a streamlined, effective justice system necessarily requires a long term vision. The current proposals to abolish the Youth Justice Board will require careful management and the continuity offered by John Drew's presence during this time of change will no doubt be an invaluable asset. Likewise the experience of Dame Sue Street will ensure there is sufficient focus on the specific requirements of youth justice in the interim period.

However, there is a need for a long term strategy to ensure that there is not an over reliance on individuals. As part of the planning process for the future of the justice system, there should be a full consultative review of the long term priorities with relevant stakeholders to inform a complete strategy for delivering an efficient and effective justice system, fit for the future demands and challenges it will face.

## **APPENDIX 1 - About Mencap**

Mencap is the voice of learning disability. Everything we do is about valuing and supporting people with a learning disability, and their families and carers.

We work in partnership with people with a learning disability, and all our services support people to live life as they choose. Our work includes:

- Providing high-quality, flexible services that allow people to live as independently as possible in a place they choose
- Providing advice through our helplines and websites
- Campaigning for the changes that people with a learning disability want

Mencap is currently campaigning on improving the criminal justice system to end disability hate crime, making it more responsive to the needs of victims and supporting people with a learning disability who are themselves offenders or at risk of offending via the 'Raising your game' project.

### **About Learning Disability**

There are many different types of learning disability and most develop before a baby is born, during birth or because of a serious illness in early childhood. A learning disability is lifelong and usually has a significant impact on a person's life; it is not mental illness or dyslexia.

People with a learning disability find it harder than others to learn, understand and communicate. People with profound and multiple learning disabilities (PMLD) need full-time help with every aspect of their lives - including eating, drinking, washing, dressing and toileting.

There are 1.5 million people with a learning disability in the UK. Like all of us, they are individuals who want different things in life and need different levels of support.

### **Mencap's criminal justice work**

Mencap are working with other organisations to help people understand more about hate crime and how to stop it. We are also working with the police and the courts to make sure real action is taken if people experience hate crime. Mencap first raised this issue in its 'Living in fear' report (2000), showing that 9 in 10 people with a learning disability had experienced abuse, harassment or other hate crimes.

### **Stand by me – to tackle disability hate crime**

Recent cases have helped to show how much needs to change to make sure the police and the courts give equal treatment for disabled people. Mencap launched its 'Stand by me' campaign in June 2011 to tackle hate crime against people with a learning disability. 'Stand by me' will challenge the police, the criminal justice system and the courts to end hate crime against people with a learning disability within a generation. The campaign also calls on the public to 'stand by' people with a learning disability helping them to integrate into communities in which they feel safe, free from fear and able to live fulfilling, independent lives.

### **'Raising your game' – working with young offenders with a learning disability**

'Raising your game' is a Mencap delivered project for young people aged between 14 and 25 with a learning disability or communication difficulty. Some have been in trouble with the police and some are at risk of getting in trouble.

Young people with a learning disability or communication difficulty are at a higher risk of offending because they are not getting the right support in life. With 'Raising your game' we are helping them to get their voices heard by big organisations. We want all young people with a learning disability to get the support they need.

'Raising your game' is funded by the Big Lottery Fund and will be delivered by Mencap in partnership with I CAN and Nacro. The project launched in 2009 with six pilots in Avon and Somerset, East Kent, Greater Manchester, Hertfordshire, Leeds and the West Midlands.

**For more information, please contact:**

**David Congdon, Head of campaigns and policy**

**Telephone: 020 7696 5556**

**email: [david.congdon@mencap.org.uk](mailto:david.congdon@mencap.org.uk)**



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

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## **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).

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**Courts Boards** were first established by the 2003 Courts Act. The intention is the abolition of Courts Boards, which have because of amalgamations, already been reduced from 42 to 19. The justification for their abolition is that there are now alternative systems in place for liaison with magistrates and local communities and there would be duplication if Courts Boards continued. In other words they have outlived their use and been replaced by better structures such as JIGs, AJF, Section 21 of the Courts Act. Liaison with the community is very much in the hands of the Magistracy with MIC, Open days etc. There will be overall estimated savings of £1.4 million.

### ***Current role***

- Use their independent judgement to ensure that the perspective of the local community and those who use the courts is taken into account.
- Scrutinising the Area Business Plan and performance of courts administration
- Encourage effective communication with court users and wider community

### ***Justification for abolition***

- Other ways to ensure that views of magistrates and community can be taken into account
- Magistrates have JIG and AJF
- Courts Act 2003 Section 21 requires the Lord Chancellor to consult magistrates on mater of relevance.

- Strong relationships between HMCTS and Magistrates' Bench Chairs. Also MA regional representatives meet with regional (delivery) directors.
- Community needs met by way of open days, court user meetings and surveys. Also MIC etc.
- Courts Boards are only advisory. There has been very limited liaison with the magistracy at local level to ascertain views. Improved structures are now in place'

***Magistrates' Association comments and concerns***

- JIG and AJF have limited power and magistrate members are regularly overruled by HMCTS
- There is arguably too strong a relationship between HMCTS and Bench Chairs due to HMCTS involvement in NBCF
- MIC/Court Open Days and other community engagement activities are under threat due to withdrawal of funding by HMCTS. These activities do not appear to be high priority to HMCTS and removing the Courts Boards makes it less likely that these activities will be supported in future.
- The Courts Boards were intended to scrutinise the activities of HMCS and make the Area Director accountable for the local business plan. This function is not being replicated anywhere else and will be lost. This is particularly of concern given the proposals also to abolish HM Inspectorate of Court Administration.

Whilst it may be argued that the Courts Boards did not perform their scrutinising function particularly well and support for the magistracy and community engagement activities were not always felt locally, these functions did at least exist. If the Courts Boards are abolished there will be no independent body overseeing HMCTS and ensuring that activities such as liaison with the magistracy and the local community take place. Given the well-publicised reductions in resources it is of great concern that these activities will not be ring-fenced and will simply not take place.

The liaison arrangements between HMCTS and the judiciary need to be reviewed in the light of the major changes being implemented within the HMCTS management structure and it is likely that the current JIG and AJF remits will have to be changed. Until the outcome of that review is known it is not possible to say that the JIG and AJF will safeguard liaison with the magistracy.





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

7th October 2011

Dear Sir/Madam,

This response is made on behalf of the current Kent, Surrey & Sussex Courts Board, to the Consultation on Reforms proposed in the Public Bodies Bill - specifically to the proposal to abolish the Courts Boards.

The response consists of :

1. this letter, which summarises our viewpoint
2. a completed Questionnaire

The Courts Boards were created in 2003 to work in partnership with Her Majesty's Courts Service to achieve effective and efficient administration of the courts. They implement a level of local governance in support of the main national board.

- They are effective - to quote from the 2008 HMCS annual report  
*"Courts Boards play an important role in challenging and supporting local managers and, during the year, met regularly with their Area Director. In October 2008 the HMCS Chief Executive held a conference with the Courts Board Chairs. Courts Board help us to identify potential difficulties, refresh our thinking and advise on the provision of effective and efficient services."*
- They are frugal. The cost of all 19 Courts Boards amounts to less than £500,000 p.a.
- Their local governance function is all the more vital to the enlarged HMCTS organisation. The response to the consultation on the creation of the new service highlighted that its vision does not take adequate account of the needs of users and that it would benefit from a degree of external accountability. Courts Boards can provide exactly this function in support of the National HMCTS Board.

The Government has set out, in Paragraph 1 of the Executive Summary to the



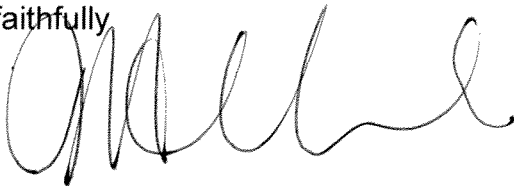
Consultation, three questions to assist in deciding whether or not a body should remain. It is the view of the KSS Courts Board that the answer to each of the questions posed is "yes" and that the Courts Boards therefore satisfy the test for continued existence.

If in spite of meeting these three requirements, abolition proceeds, we have grave concerns that there will be no adequate channel for local requirements and concerns and no local body with sufficient independence and skills to exercise the level of scrutiny required at such a time of major change.

The current suggestions, on how community or local requirements might be met, are deemed flawed and it is our considered opinion that setting up any replacement committee or function will prove more expensive and less skilled than the Courts Board.

We, therefore request that the role of Courts Boards be re-examined and redefined (strengthened), rather than abolished, both in keeping with the policies of cost restraint and 'localism'.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Dennis Clarke', written in a cursive style.

**Dennis Clarke**  
**Chairman of the Kent, Surrey & Sussex Courts Board**

# **Response to Consultation on Reforms Proposed in the Public Bodies Bill by the Kent, Surrey & Sussex Courts Board**

## **Questionnaire**

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

The Government has set out in Paragraph 1 of the Executive Summary to the Consultation three questions to assist when deciding whether or not a body should remain:

#### ***Does the Courts Board perform a technical function?***

The answer is “**Yes**”. At the present time, Courts Boards’ main function is in relation to analysing, discussing and agreeing Business Plans and monitoring performance against a Business Plan or, in its absence, a set of agreed objectives\*.

*\*There appears to be some uncertainty about business plans for local areas. If business plans for areas no longer exist, then this function of the Courts Board would seem to be otiose, but the absence of an agreed business plan for local areas will increase the need for independent local oversight of the service.*

#### ***Do the activities of the Courts Board require political impartiality?***

Again, the answer is “**Yes**”. Whilst the Courts Boards are bound to accept the policies of the government of the day and to assist with delivery of the service within the budgetary constraints advised, it is essential that, in times of such extensive and rapid change, there is a body in place which is politically impartial and willing to challenge both proposals and their method of implementation.

#### ***Does the Courts Board need to act independently to establish facts?***

The answer is “**Yes**”. It says in the consultation document that:

*"Government considers that administration of the courts properly rests with HMCTS which has procedures in place to ensure effective administration. The continued existence of the Courts Boards duplicates activity and this cannot be justified in the current financial climate"*

This statement ignores totally the need for the independent and apolitical scrutiny role Courts Board have been fulfilling, or attempting to fulfil. Members of Courts Boards are encouraged to utilise their own knowledge and to attend meetings of other agencies/groups in order to establish for themselves what is happening with the delivery of the Courts/Tribunals Service. The inclusion of a Judge, Magistrates, Court Users and Community members ensures both a local perspective and a breadth of knowledge and experience which allows meaningful challenges on both performance and financial issues, especially from a Court User/Community perspective. It is our experience that when concerns were raised with Area Directors it led to a focusing of the mind, resolving matters to the benefit of the Service, as well as the local users. One very recent example has been in relation to Court closures where members of the Courts Board relied upon their own local knowledge to inform their recommendations.

It is therefore the view of the members of the Kent, Surrey & Sussex Courts Board that, as Courts Boards satisfy the criteria for each of the three tests, under Section 8 of the Public Bodies Bill, Courts Boards should be retained and that the Minister should not make an Order abolishing the Courts Boards.

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

Courts Boards were created because of the abolition of Magistrates Committees, and a recognised need for an oversight of the delivery of the whole Service, over and above Magistrate Courts. The need for this oversight has increased with the continuing reductions in budgets and manpower. The conflicting calls upon HMCTS may mean that financial matters take precedence over the diverse needs of communities to meet the budgetary constraints.

If the Court Boards are abolished there will be no body to scrutinise and raise matters of accountability within HMCTS, at a local level, or to ensure that local and community issues are given adequate attention. The need for such scrutiny is recognised by the establishment of a national Board, but this has to be reflected at a local level. Paragraph 42 of the consultation appears to use the fact that the number of Courts Boards have reduced from 42 to 19 *"diminishing their ability*

*adequately to represent the whole community "* to justify abolition, but both the reduction and the restrictions on the proscribed role of the Courts Boards have been previous government policy. It seems strange to state that the ability to represent has been diminished and then argue for abolition rather than a strengthening of the role.

In the first sentence of the same paragraph, the diverse needs of the community appears to be confused with the "voice of the Magistrates". These are distinct interest groups and may have different concerns or needs, especially in a period of budget restraint and rationalisation. The Magistracy is only one part of local delivery and it must also be subject to scrutiny. Courts Boards have made recommendations in the past which are consistent with Ministry policy, but at odds with the views of Magistrates. Again Court closure proposals come to mind, where specific Benches adopted positions which were specific to that Bench rather than adopting an area-wide view.

In Paragraph 44, there is consideration of how the needs of local communities can be assessed by HMCTS, but we have a number of concerns about the proposals:

- Customer satisfaction surveys tend to involve a limited group of people and relate to small parts of the Service. They are insufficient to support improvements in relation to any systemic failings.
- Open days tend to attract those people whose expectations are that they will not be caught up in the Courts/Tribunals Service and as such their knowledge of the system tends to be superficial.
- Court User meetings are, by their very nature, only concerned with issues in that particular court. It is believed that only 'professional users' tend to attend these meetings. There is therefore a tendency on the part of attendees to only want to deal with matters that affect them, rather than the delivery system as a whole.

There appears to be no proposal for input from the wider community, which is a major failing. In the recent round of Court closures, our Board was able to look at the 'big picture' and discuss with our Area Director the prospects for moving work across County boundaries to make better use of resources and cut costs.

To set up a system of committees or similar to adequately address the needs of the Community is likely to cost as much as the Courts Boards, if they are abolished. It will also put increased pressure on HMCTS staff to organise, attend and support such meetings. The cost of support staff for the existing Courts Boards has already been assessed in the Impact Statement as negligible. It is also unlikely that such meetings will attract individuals with the sorts of relevant experience and skills and the same degree of independence as the current Courts Boards, certainly not on a consistent basis across the UK. The need for consistency in the application of the law is surely a major consideration.

The argument that HMCTS will have more flexibility with the abolition of Courts Boards is of real concern as Courts Boards always acted to ensure delivery of Service within the policy constraints imposed by the Centre. The removal of a layer of management from Local Areas with many of the functions of management being drawn to the Centre argues against flexibility and is perhaps unique when so many other Government departments are being encouraged to embrace local communities.

Our Board is also concerned by Paragraph 48, which appears to demonstrate lack of understanding by the Ministry of the importance of the Service it is delivering. Not only are local communities heavily dependent upon a delivery that is effective and efficient, but businesses in the areas and nationally are critically affected by the efficiency and effectiveness of Courts and Tribunals.

The Ministry may prefer to work without an independent body overseeing the delivery of the Service, but needs to appreciate that the existence of such a body will help the Ministry ensure that it delivers a relevant and efficient Service free from the charge that local communities needs are being ignored.

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

It is difficult to imagine how HMCTS can reinforce links between it and local communities, when experience teaches that they cannot reach out and involve

sufficient representatives on a voluntary basis to ensure that the correct voices are heard. User Committees have relied to at least some extent on Court staff, Magistrates and Senior Judiciary attending meetings outside normal working hours. With the reductions in workforce, this is unlikely to continue at the same level. Meetings within working hours tend to mean that attendees will only be from professional users of the Courts and will not therefore reflect, even at that local level, the needs of the Community which can often conflict with what the professional users wish to see.

For the reasons given in answer to Question 5, we believe that the most efficient and cost effective system must be to utilise Courts Board, and to redefine their role in this changing world and ensure that their duties and powers are appropriate, bearing in mind the reduced local footprint of HMCTS management.

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

As the current KSS Courts Board the proposals, if implemented will mean that we cease to exist. On a more personal level, as Magistrates, Judge and Legal professionals and as possible Court or Tribunal Users, in the future, anything which potentially reduces the efficiency or accountability of HMCTS, at a local level, is of concern.

## **Courts Boards**

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

The Law Society is increasingly concerned about the state of the court system. That concern pre-dates the significant budget cuts within the Courts and Tribunals Service. The upkeep of buildings has deteriorated. The number of and the service provided by court staff have declined. As a result the users of the court system are confronting deteriorating standards and increasing inconvenience.

It is against that backdrop that the proposed abolition of the Courts Boards has to be assessed. The Courts Boards are advisory. Nonetheless they do provide a mechanism whereby users of the courts can monitor standards in the courts and press for improvements in court administration services. If the Courts Boards are to be abolished there must be an alternative means by which local court users can convey their views and concerns to Area Directors. Insofar as in many places there are local consultative court user groups, the abolition of the Courts Boards may not be of serious concern.

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

For the reasons given in our answer to the previous question, there are valid functions currently performed by the Courts Boards. There must continue to be channels whereby the voice of the users of the courts can be heard by those who run the courts on behalf of the public. Practitioners and the public have noticed and continue to note the deteriorating condition of and service at the courts. The position is only likely to worsen with the public expenditure cuts. The abolition of the Courts Boards could be interpreted as a convenient method of choking off public criticism of those deteriorating conditions.

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

By ensuring that there are local channels for communicating the concerns of court users, listening to and responding to those concerns. Local court user groups would seem to be a reasonable and minimum expectation.

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

They could impact upon the members of the Law Society who are amongst the professional users of the courts.



## **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.

### **Courts Boards**

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

As major users of court services, local authorities will wish to be able to raise issues around the function of the courts with the Courts Service. In particular, local authorities will want to be able to raise issues over the administration of the courts when reduced numbers of courts mean potentially longer waits before cases get before a court. In a similar vein, local authorities will wish to be able to liaise with Local Criminal Justice Boards on court and tribunal related issues as necessary. Councils provide a useful means for courts and tribunals to link with local communities on how the courts are being administered. Therefore we wish to see easy access to local courts and tribunals by local authorities as appropriate locally, e.g. through local courts and tribunal websites or through informal, proactive contact by their staff.

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

## About you

Please use this section to tell us about yourself

<b>Full name</b>	Vicki Goddard
<b>Job title</b> or capacity in which you are responding (e.g. member of the public etc.)	Adviser – Programmes
<b>Date</b>	11th October 2011
<b>Company name/organisation</b> (if applicable):	Local Government Group
<b>Address</b>	Local Government House
	Smith Square, London
<b>Postcode</b>	SW1P 3HZ
If you would like us to acknowledge receipt of your response, please tick this box	Yes (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.

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## 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](mailto:PBB.Consultation@justice.gsi.gov.uk), or fax to: 020 3334 6452.

#### Courts Boards

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

Comments: This seems to be a sensible option based upon the information provided

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

Comments: from a policing perspective not enough is known on the functions of the Court Boards to be able to comment.

Question 3. **In your opinion, how can local courts and tribunals reinforce the link between them and the local community?**

Comments: The courts could work along side the police and feed back into PACT meetings at a community level or they could hold open days in court whereby the public have the opportunity to ask questions etc.

Question 4. <b>Do the proposals have any significant direct impact on you (if so, please explain the impact)?</b>
Comments: N/A

## About you

Please use this section to tell us about yourself

<b>Full name</b>	L. Green L Davies
<b>Job title</b> or capacity in which you are responding (e.g. member of the public etc.)	T/Chief Inspector Crime and Justice Chief Executive
<b>Date</b>	11/10/11
<b>Company name/organisation</b> (if applicable):	Durham Constabulary Durham Police Authority
<b>Address</b>	Aykley Heads, Durham, DH1 5TT Co Hall, Durham,
<b>Postcode</b>	DH1 5TT DH1 5UL
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be	


**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.

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