

<b>Title:</b> <b>Abolition of the Administrative Justice and Tribunals Council (AJTC)</b> <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> MOJ003
	<b>Date:</b> 22/06/2011
	<b>Stage:</b> Consultation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
<b>Contact for enquiries:</b> Elinor Howard - 0207 334 3284	

## Summary: Intervention and Options

### 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 it perform a technical function?; Do its activities require political impartiality?; Does it need to act independently to establish facts? The 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?

To ensure that all ALBs are transparent and accountable, provide essential value for money, and provide effective services that are required to be carried out and funded by the State.

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

0. Do nothing (retain). AJTC does not meet any of the criteria to preclude its inclusion in the Public Bodies Bill for abolition. AJTC's policy overlap with MoJ, its oversight role (which duplicated controls in the Tribunals Service) and therefore value for money could no longer be demonstrated given the advances in the tribunal and policy landscape since its and its predecessor's inception.

1. Abolish body and function in the Public Bodies Bill. This is the preferred option because the AJTC did not meet any of the key criteria set by the Government and because its cost was not seen to be justified by its added value, particularly given the change in tribunal landscape, even though the quality of its advice has been sound.

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

**What is the basis for this review?** Not applicable. **If applicable, set sunset clause date:** Month/Year

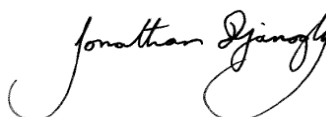
**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Not applicable

**Ministerial Sign-off** For final proposal stage Impact Assessments:

***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) the benefits justify the costs.***

Signed by the responsible Minister:



Date: 29 July 2011

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Abolish AJTC and functions in the Public Bodies Bill

Price Base Year 2011	PV Base Year 2011	Time Period Years 4	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £4m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0.4m	£0.06m	£0.6m

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

MOJ will face possible voluntary early departure costs up to £0.2m and approved early retirement lump sum payments of £0.2m

Possible costs of additional early retirement payments of £0.06m pa.

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

Possible loss of income for AJTC staff if they are made redundant

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0.4m	£1.4M	£4.6m

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

MOJ will save approximately £1.4m pa from pay and other costs of AJTC.

AJTC staff will possibly receive voluntary early departure payments of up to £0.2m and approved early retirement lump sum payments of £0.2m.

Some AJTC staff may receive additional early retirement payments of £0.06m pa

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

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Calculations are based on the years 2011-12 to 2014-15 (years 1 to 4 of the SR 10 period) and use the baseline of AJTC funding (following the June 2010 Budget) of £1,318,000. Budget estimates and the estimates of early retirement payments are adjusted for inflation using the GDP deflators.

Early retirement payments are treated as annual payments in this IA but will cease 8 years after abolition.

Cost and benefits are based on abolition coming into effect on 31 March 2012.

AJTC functions are not necessary for efficient and effective public service delivery.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	IN/OUT

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		Other			
From what date will the policy be implemented?		31/03/2012			
Which organisation(s) will enforce the policy?		N/A			
What is the annual change in enforcement cost (£m)?		N/A			
Does enforcement comply with Hampton principles?		Yes/No			
Does implementation go beyond minimum EU requirements?		Yes/No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		Traded: N/Q		Non-traded: N/Q	
Does the proposal have an impact on competition?		No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs:		Benefits:	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	8
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	8
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	8
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	8
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	8
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	8
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	8
Justice system <a href="#">Justice Impact Test guidance</a>	No	9
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	9
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	9

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	<u>Public Bodies Bill</u>
2	Tribunals, Courts and Enforcement Act 2007
3	'Transforming Public Services: Complaints, Redress and Tribunals', published by the (then) Department for Constitutional Affairs, July 2004
4	

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0.4									
<b>Annual recurring cost</b>		0.06	0.07	0.07						
<b>Total annual costs</b>	0.4	0.06	0.07	0.07						
<b>Transition benefits</b>	0.4									
<b>Annual recurring benefits</b>		1.5	1.5	1.5						
<b>Total annual benefits</b>	0.4	1.5	1.5	1.5						

Totals may not sum because of rounding

For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base (for summary sheets)

## 1. Introduction

In 2010 the Cabinet Office led a cross Government review of all Public Bodies (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.

All ALBs have been assessed against three criteria (whether the function needs to be carried out [by the Government] at all, and if so whether it needs to perform a technical function, act independently to establish facts or be politically impartial). The Secretary of State for Justice assessed that the AJTC does not meet any of these tests.

The AJTC was established by the Tribunal Courts and Enforcement Act 1997. The Administrative Justice and Tribunals Council keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. It seeks to ensure that the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution providers satisfactorily reflect the needs of users.

The department will consult on the proposals contained in the Public Bodies Bill including the closure of the AJTC and how the oversight of administrative justice policy will be exercised in the future.

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).

In this case Government has intervened for efficiency reasons. The functions of the AJTC are no longer necessary. Therefore the resources used by the AJTC could be re-distributed to other projects or to reduce the budget deficit.

Groups that are affected by the proposals are:

- tribunal users (indirectly);
- users of administrative justice systems (indirectly);
- the staff of the Council (directly);
- the Chairmen and members of the Council (directly).

## 2. Cost and Benefits

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.

### Base Case / Option 0

The Government regulates various aspects of people's everyday lives, making decisions in relation to individuals. These decisions cover 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. 'Administrative justice' includes the procedures for making such decisions, the law that regulates decision-making, and the systems (such as the various tribunals and ombudsmen) that enable people to challenge these decisions.

The AJTC is an Advisory Non Departmental Public Body, established under the Tribunals, Courts and Enforcement Act 2007, replacing, but with wider functions than, the Council on Tribunals which was established in 1958. It covers England, Wales and Scotland.

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.

It has 12 staff (10 in London and 2 in Edinburgh).

## **Option 0**

### **Do-nothing –**

Under this option the AJTC would continue to function. It would continue to have a yearly budget of approximately £1.3m. Some functions would continue to be carried out by both the Ministry of Justice/ HMCTS and the AJTC. These include oversight of MoJ Tribunals and the ongoing review of administrative justice policy.

## **Option 1**

### **Abolition of the AJTC.**

This option would be achieved by the AJTC being abolished 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 Ministry of Justice will take a clear lead in Government on the further 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.

There is a 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**

#### **Ministry of Justice**

We plan to offer MoJ permanent staff at the AJTC re-deployment into other posts, wherever possible. However, if suitable posts can not be found it is possible that some staff may be made redundant or take early retirement. In this case the MOJ would make redundancy/approved early retirement (AER) payments, as appropriate. We have estimated the exit costs, in respect of eight MoJ staff, at approximately £600,000 over 2011-15. This includes approximately £200,000 of voluntary redundancy payments, £200,000 of early retirement lump sum payments and £60,000 pa in additional pension payments. These additional pension payments will continue beyond 2014-15 until all retirees have reached 60 years of age. We have assumed these payments will increase with inflation over the appraisal period.

The MOJ will incur some additional administrative costs from closing the AJTC. These are likely to be minimal.

It is assumed that the MOJ will not save rent as the (London) building lease does not expire until September 2013; there is no break available. Rent and service costs of approximately £100,000pa are borne by the MoJ centrally, these will be saved only if the office space can be sublet, or if the building is vacated when the lease expires.

It is possible that the MOJ will take on a small amount of additional work after AJTC is abolished. No extra staff will be hired. This represents a non-monetised cost.

### **AJTC staff**

If staff are made redundant they could suffer a reduction in income. We have not quantified this because we do not know how many staff (if any) will be made redundant and how long they will be unemployed

Appointed members: no compensation or similar involved. They will receive remuneration until the AJTC is wound up. Appointments are not pensionable.

### **Government**

If staff are made redundant they would be eligible to claim unemployment benefits and may be able to claim other benefits. For the reasons mentioned above we have not quantified this.

### **The Chairman and members of the Council**

Closure of the AJTC will mean bringing their public appointments to an end when the AJTC closes.

### **Tribunal Users**

It is possible that tribunal users will lose an outlet to voice their concerns but that the impact will be mitigated by the work of MOJ and other government departments to consider users' needs and views during policy development and service delivery.

### Assumptions

That:

- The Public Bodies Bill allows the Secretary of State to abolish certain public bodies through secondary legislation.
- The Government abolishes the AJTC after Royal Assent via secondary legislation.
- The functions of the AJTC are not necessary for the effective and efficient delivery of public services.

No additional costs to the Courts, Probation, Prisons, Legal Aid and Crown Prosecution Service are anticipated. Any functions that should continue will be carried out within existing MoJ/ Whitehall departments' resources.

## **Benefits of Option 1**

### **Ministry of Justice**

The MOJ will no longer provide the budget for the AJTC. The budget was approximately £1.3m in 2010-11 and we have assumed this would have increased in line with inflation. Over the appraisal period we estimate a saving of approximately £4.6m.

### **AJTC Staff**

IF AJTC staff are made redundant or take early retirement they will receive redundancy and early retirement payments. We have estimated these payments, in respect of eight MoJ staff, at approximately £600,000 over 2011-15. This includes approximately £200,000 of voluntary redundancy payments, £200,000 of early retirement lump sum payments and £60,000 pa in additional pension payments. These additional pension payments will continue beyond 2014-15 until all retirees have reached 60 years of age. We have assumed these payments will increase with inflation over the appraisal period.

### Assumptions/Comments

1. A closure date of 31 March 2012 is assumed for the purposes of this costing.
2. The baseline budget for each year is the AJTC's 2010-11 'post-emergency' budget, i.e £1,318,000.

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

We believe that the benefits of option 1 outweigh the costs.

Option one 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 doesn't meet any of the criteria set out for the retention of ALBs.

### **3. Specific Impact Tests**

The Equality Impact Assessment (EIA) is attached as an annex.

#### **Competition Assessment**

The impact is not significant on competition.

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**

The impact is not significant on small firms as the AJTC is public sector focussed. A small number of small-scale suppliers to the AJTC may be affected by a loss in revenue (although most office supplies will be provided through MoJ central contracts). The proposals do not impose additional costs on small business.

#### **Carbon Assessment**

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 (accommodating ten people) and Edinburgh (accommodating two people) 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**

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**

The policy will not have a significant impact on human health. In the short term, the policy may affect in the health of those 12 staff directly affected by the decision to close the AJTC, and may possibly affect the 21 appointed part time members. Therefore there is unlikely to be a significant demand on health and social care services.

#### **Human Rights**

The policy is compliant with the Human Rights Act.

#### **Justice Impact Test**



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

### **Rural proofing**

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**

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.

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

# Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

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

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</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>

## Annex 2: Equality Impact Assessment Initial Screening – Relevance to Equality Duties

The EIA should be used to identify likely impacts on:

- disability
- race
- sex
- gender reassignment
- age
- religion or belief
- sexual orientation
- pregnancy and maternity
- caring responsibilities (usually only for HR polices and change management processes such as back offices)

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

Abolition of the Administrative Justice and Tribunals Council (AJTC) as provided for in the Public Bodies Bill.

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Elinor Howard, Head of Sponsorship, ALB Governance Division

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
<p>The abolition of the AJTC and the reallocation of its resources. The Government's reforms of public bodies will increase accountability, remove duplication and streamline the public bodies landscape. The Public Bodies Bill provides the legislative basis for reform but does not itself enact any changes. These will be made through secondary legislation.</p>	<p>Increased ministerial accountability relating to functions carried out on behalf of the state; elimination of duplication and reduced waste; fewer public bodies and reduced costs</p>

4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

The AJTC currently has a complement of 12 staff (8 departmental employees, 2 Scottish Government employees and 2 staff on fixed term contracts). Due to the small number of staff the department is not providing a breakdown in terms of protected characteristics but will ensure that all staff will be treated in accordance with departmental internal equality and diversity principles including the departmental organisational change framework. The department will ensure that support is given to staff in order to achieve redeployment and avoid, where possible, redundancy.

The department considers that there will be minimal impact on the 21 members of the AJTC who are public appointees not employees. They are aware of the AJTC's impending abolition and hold fixed term non-permanent posts. Due to the small number of members no breakdown in terms of protected characteristics is provided.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people. If so what are the gaps in the information and how and when do you plan to collect additional information?

The AJTC keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. It seeks to ensure that the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution providers satisfactorily reflect the needs of users.

The AJTC membership comprises experts who represent users and there are a number of user groups. The department considers that there will be minimal impact as Her Majesty's Courts and Tribunals Service already undertakes much work to improve the user experience of those who engage with the the system of administrative justice, including tribunals. There may be some indirect impact on tribunal users who have protected characteristics and who are users of Immigration, Mental Health Tribunals etc. The department will, in future, work to ensure that the interests of users, particularly the most vulnerable, are protected. All future policy initiatives with regard to administrative justice and to the Tribunal system will be subect to an Equality Impact Assessment to ensure than any impact on people with protected characteristics will be fully considered.

6. Name of Senior Manager and date approved

Name (must be grade 5 or above): Pat Lloyd

Department: ALB Governance Division

Date: 23 June 2011