1. This explanatory document has been prepared by the Department for Culture, Media and Sport (‘the Department’) and is laid before Parliament under section 11(1) of the Public Bodies Act 2011 (‘the PBA 2011’).

2. **Purpose of the Instrument**

2.1 This instrument abolishes the Library Advisory Council for England, known as the Advisory Council on Libraries (‘ACL’), which was established by section 2 of the Public Libraries and Museums Act 1964, and implements the necessary consequential repeals. The abolition forms part of the Government’s public body reform programme.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The Government is proposing to use the powers in the PBA 2011 to abolish the ACL. Section 1 of the PBA 2011 permits a Minister to abolish by order a body or office specified in Schedule 1. ACL is specified in Schedule 1 under its statutory name of the Library Advisory Council for England.

4.2 The ACL is a statutory advisory body established by section 2 of the Public Libraries and Museums Act 1964 (‘the 1964 Act’). The 1964 Act sets out at Section 2 that it is the duty of the Council “to advise the Secretary of State upon such matters connected with the provision or use of library facilities whether under this Act or otherwise as it thinks fit and upon any questions referred to it by him”. Local Authorities have a statutory duty under the 1964 Act to provide a ‘comprehensive and efficient’ library service taking into account local needs and within available resources.

4.3 The 1964 Act also places a duty on the Secretary of State to superintend and promote the improvement of the public library service provided by local authorities in England and Wales, and to secure the proper discharge by local authorities of the functions in relation to libraries conferred on them as library authorities under that Act. The Secretary of State has a statutory power to intervene when a library authority fails (or is suspected of failing) to provide the required service. Library authorities are under a duty to furnish the Secretary of State with such information as he or she may require to meet his or her statutory duties.

4.4 In July 2010 the then Secretary of State announced a number of proposals including abolishing the Advisory Council on Libraries, but the 1964 Act does not provide for...
its abolition. As a result, it was necessary to include it in Schedule 1 to the Public Bodies Act 2011 in order to achieve its legislative dissolution. The Department’s Secretary of State issued a ministerial written statement in July 2010 announcing the intention to abolish the ACL and the proposed abolition was also announced as part of the Cabinet Office’s Public Bodies Review on 14 October 2010.

4.5 The UK Government has carried out a consultation in accordance with section 10 of the PBA 2011. A copy of the consultation was sent to each of the devolved administrations, and they have confirmed that their consent is not required under section 9 of the PBA 2011.

4.6 The Minister for the Cabinet Office announced the outcome of the Public Bodies Bill Review on 14 October 2010, which included the proposal to abolish ACL. The Public Bodies Review examined whether a body’s functions are needed and, if they are, whether the body should continue to operate at arm’s length from Government. This decision was based upon three tests:

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

4.7 The ACL is not a technical or fact gathering body. It is inflexible, with its primary aims and membership being prescribed by a statute. The Government considers that the ACL is no longer a relevant structure, as it is an unnecessary duplication of the knowledge and sector expertise already found amongst other statutory and non-statutory organisations and within DCMS.

The Order

4.8 ACL is already essentially a defunct body, but this Order will serve to abolish it in law, and will make the necessary consequential repeals. These include: the repeal of section 2 of the 1964 Act; the removal of references to the ACL in Schedules to the Parliamentary Commissioner Act 1967 and the Freedom of Information Act 2000; the removal of ACL from Schedule 1 to the PBA 2011; and the repeal of paragraph 2 of Schedule 2 (consequential amendments and repeals) to the Transfer of Functions (Arts, Libraries and National Heritage) Order 1981.

4.9 The Order abolishes ACL from the day after the day on which this order is made. ACL has no property, rights or liabilities, so a transfer scheme under section 23 of the PBA 2011 is not required. The PBA 2011 is considered to be an appropriate and effective vehicle for abolishing the ACL.

5. Territorial Extent and Application

5.1 This instrument applies to the United Kingdom, but abolishes a body that only has functions in England.
6. **European Convention on Human Rights**

6.1 Ed Vaizey, Minister of State for Culture and the Digital Economy has made the following statement regarding human rights:

“In my view the provisions of the Public Bodies (Abolition of the Advisory Council on Libraries) Order 2014 are compatible with the Convention rights”.

7. **Policy background**

7.1 ACL was established by the 1964 Act. The 1964 Act sets out in Section 2 that it is the duty of the Council (i.e. ACL) “to advise the Secretary of State upon such matters connected with the provision or use of library facilities whether under this Act or otherwise as it thinks fit and upon any questions referred to it by him”. That is its sole statutory function.

7.2 The Chair and the members of ACL were appointed by the Secretary of State, and an official from the DCMS provided the secretariat function. It was a requirement in the statute that the ACL include persons who have experience of administering library services operated by both local authorities and other bodies.

7.3 ACL historically comprised eight members - four Heads of Public Library Services plus four members from other related sectors (one of which was the Chair). Appointments for members, other than the Chairman, were for a period of 2 - 4 years with (by mutual agreement) the possibility of a single re-appointment for a further year. These posts were not remunerated.

7.4 ACL’s specific aims and objectives changed over the years. The most recent objects included advising Ministers about:

- how to take forward the vision for public libraries to deliver services fit for the needs of communities in the 21st century
- the work of the Museums, Libraries & Archives Council (MLA)
- government library policy and its compatibility with emerging government frameworks and agendas
- how public libraries can remain relevant to local needs and circumstances
- improving the place of public libraries within government, ensuring that parent authorities and other Whitehall departments are fully aware of libraries contribution to corporate agendas
- establishing libraries as partners of choice for commercial and third sector stakeholders
- maximising the funding available to library authorities and ensuring efficient use of resources
- establishing best practice across the sector

7.5 In July 2010 the Minister for Culture wrote to all ACL members to notify them that the Public Bodies Bill would be used to wind up the ACL. The terms of appointment of the eight members of ACL have expired in the intervening period, with the term of
the appointment of the last remaining member expiring in August 2013. Since July 2010, DCMS has conducted itself on the basis that the ACL is effectively defunct and in its absence DCMS has worked closely with relevant stakeholders to ensure that appropriate intelligence about the library sector is captured.

7.6 ACL had no budget, premises, assets, liabilities, contracts or employees. Costs associated with ACL activity (members expenses and hospitality charges for meetings) were chargeable to the DCMS (approximately £2,500 pa).

7.7 Prior to July 2010 ACL had been meeting three times per year with little contact outside of meetings.

8. Compliance with section 8(1) of the Public Bodies Act 2011

8.1 Section 8 of the Public Bodies Act 2011 states that a Minister may make an order under that Act only where it is considered that the order serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers.

8.2 Ministers have reviewed the proposed legislative abolition of ACL in light of the consultation responses and are satisfied that it would serve the purpose of improving the exercise of public functions having regard to:

8.3 **Efficiency** – ACL is inflexible, with its primary aims and membership being prescribed by a statute. The Government considers that the ACL is no longer a relevant structure and is an unnecessary duplication of the knowledge and sector expertise already found amongst other statutory and non-statutory organisations and within DCMS. Whilst ACL no longer exists as an operating body, the legislation which established ACL does not provide for its abolition.

8.4 **Effectiveness** – ACL no longer exists as a functioning body and has not existed as a functioning body for over four years. Essentially ACL is a defunct body; it has no staff, premises, assets or liabilities. In the absence of the ACL, DCMS has worked closely with relevant stakeholders to ensure that appropriate intelligence about the library sector is captured.

8.5 **Economy** – there is no budget allocated for ACL, but as explained in paragraph 7.6, its abolition will result in savings in the region of £2,500 per annum. In the absence of the ACL, DCMS officials will continue to support the Secretary of State to fulfil his duty to superintend public library services, but will no longer be required to provide a secretariat function, process members expenses of administer the Chair and member’ appointments process. Since ACL stopped meeting, DCMS has worked with relevant bodies, including Arts Council England, Local Government Association, the Society of Chief Librarians and the Chartered Institute for Library and Information Professionals to ensure appropriate intelligence about the library sector is captured, and to ensure that DCMS has mechanisms in place to advise the Secretary of State on the use of the statutory powers.

8.6 **Securing appropriate accountability to Ministers** - the abolition of ACL will not affect accountability for the library sector, because the Secretary of State’s duty to
superintend and promote the library service under Section 1 of the 1964 Act will remain intact. In addition, Local Authorities still have a statutory duty to provide a ‘comprehensive & efficient’ library service under the Public Libraries & Museums Act 1964 in a way which meets the needs of local library users taking into account available resources. DCMS is also committed to working closely with stakeholders with relevant expertise and knowledge in order to supplement the skills and expertise available within the Department and its public bodies; and to enable it to support the Secretary of State to meet his statutory duty.

9. Compliance with section 8 (2) of the Public Bodies Act 2011

9.1 The Minister considers that the conditions in Section 8(2) are met for the following reasons:

a) The Order does not remove any necessary protection

The abolition of ACL will not result in the removal of any protection. There will be no impact on personal protections, rights or freedoms, as the abolition of the ACL will not impact on the ability of the Secretary of State and Library Authorities to meet their statutory duties. The ACL was never consulted by DCMS, and nor did it advise, in relation to any intervention by the Secretary of State.

b) The Order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

The abolition of ACL will not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise, because the library authorities’ duty to provide a comprehensive and efficient library service and the Secretary of State’s duty to superintend remain intact. The ACL was a purely advisory body. The power to take action and intervene rests with the Secretary of State.

10. Parliamentary activity during passage of the Public Bodies Act

10.1 The relevant debates that took place during the passage of the Public Bodies Bill are summarised in the following paragraphs.

10.2 During the legislative passage of the PBA 2011 an amendment (Amendment 41) - http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110111-0002.htm - was tabled to remove the ACL from the list of bodies in Schedule 1, but it was described as a probing amendment. Baroness Whitaker, supported by Viscount Falkland stressed the importance of Public Libraries, and asked where the Government’s expert advice would come from on the subject of libraries in the absence of the ACL. Lord Phillips of Sudbury and Lord McKenzie of Luton also sought assurances over what would replace the ACL, particularly in the context of threatened library closures and cuts.

10.3 Baroness Rawlings responded on behalf of the Government, explaining that the ACL was no longer sufficiently flexible to be relevant to current structures, and that its functions are duplicated elsewhere. She also pointed out the fact that Local
authority have a statutory duty under the Public Libraries and Museums Act 1964 to provide a "comprehensive and efficient" library service and that the Secretary of State has a statutory oversight and promotion of improvement role in respect of such local library services and a statutory duty to intervene when a library authority fails, or is suspected of failing, to provide that service.

10.4 She recognised the importance of making certain that the Secretary of State has sufficient support to fulfil his legal duties, but described how there was duplication in the system with the Museums, Libraries and Archives Council providing information to Ministers about the 151 library authorities in England, and officials within DCMS also providing advice. She recognised that abolishing the ACL would not save the public purse a great deal of money, but also stated that its abolition would not compromise the Secretary of State's ability to fulfil his legal duties. She explained that in its absence, officials would work with relevant bodies in the absence of the Museums, Libraries and Archives Council to ensure that appropriate intelligence about the library sector is captured, and that mechanisms were already in place to communicate it to the DCMS. Officials will also continue to advise the Secretary of State on the use of his statutory powers in the absence of the Advisory Council on Libraries.

10.5 She further explained that people involved with relevant expertise and knowledge would be brought together as required to supplement the skills and expertise available in the DCMS and its NDPBs, as an alternative to an established advisory council. By drawing together experts as and when needed, rather than convening a formal group with limited membership and which meets only three times a year, the quality and depth of the information and advice needed to support the Secretary of State in policy development and oversight will be improved.

10.6 The amendment was withdrawn, but at Report stage another probing amendment (Amendment 21C) was tabled requesting the insertion of the following additional text:

- "Notwithstanding the future of the Library Advisory Council for England, in exercising his responsibility under the Public Libraries and Museums Act 1964, the Secretary of State shall ensure that he has sufficient independent advice for him to enable local authorities to manage their public library duties effectively."

10.7 Baroness Whitaker supported by Viscount Falkland, Lord Newton of Braintree, Baroness Bakewell and Baroness Jones of Whitchurch stressed the importance of independent advice for the Secretary of State to enable local authorities to manage their public library duties effectively; the need for the spreading of good practice and a body to champion the cause of libraries.

10.8 Baroness Rawlings responded on behalf of the Government explaining that the Government was committed to the effective management of library services, that existing legislation provides sufficient protection for library services and that Ministers are committed to fulfilling their statutory duties. She referred to the practical help and advice for libraries being provided through the Future Libraries Programme. She also commented on the Arts Council England (ACE) assuming
responsibility for improving and developing library services following the abolition of
the Museums, Libraries and Archives Council. She further explained that the
Government would work with ACE and Local Government Improvement and
Development to continue to make the best-quality advice available and accessible to
support local authorities and in addition the Government would be discussing a new
programme of projects to drive the improvement of library services. The amendment
was withdrawn.

10.9 ACE has been the development agency for public libraries in England since October
2011. It has introduced a number of projects/initiatives including the Library
Development Initiative with three projects (Books on Prescription, Library 21, and
Digital Skills Sharing) in particular impacting the wider library community; £6
million Grants for Arts funding; a joint research publication with the Local
Government Association: Community libraries - Learning from experience: guiding
principles for local authorities and another major research project, “Envisioning the
Library of the future”.

11. Consultation outcome

11.1 A twelve week consultation on the proposed abolition of ACL was launched on 17
February 2014 and closed on 9 May 2014. The consultation was carried out in
accordance with section 10 of the PBA 2011.

11.2 The consultation document was sent directly to 12 key stakeholders in accordance
with section 10(1) (g) of the PBA 2011, as well as the devolved administrations and
was made available to the wider public on the GOV.UK website. As the ACL is now
defunct, section 10(4) of the PBA 2011 applies in relation to the ACL itself.

11.3 The Department received nine responses to the consultation, four from stakeholder
organisations and 3 library advocacy organisations and 2 individuals. The
consultation asked six questions which required a Yes or No answer but also invited
additional comments.

• Do you agree with the proposal to abolish Advisory Council on Libraries (ACL)?

• Should the advisory function of ACL be transferred to another existing body?

• Should ACL be retained and improved?

• Will the abolition of ACL impact adversely upon the provision or use of library
facilities in England?

• Do you agree that the proposed abolition of ACL will not remove any necessary
protection? If not, please explain what protection you think will be removed.

• Do you agree that the proposed abolition will not prevent any person from
continuing to exercise any rights or freedoms? If you do not agree, please give
details of the rights at risk.
11.4 Seven respondents referred to, or answered all of the questions in their response while the other two respondents did not answer the individual questions. A summary of the responses is shown in the table below.

**Summary of Responses**

<table>
<thead>
<tr>
<th>Do you agree with the proposal to abolish ACL?</th>
<th>Should the advisory function of ACL be transferred to another existing body?</th>
<th>Should ACL be retained and improved?</th>
<th>Will the abolition of the ACL impact adversely upon the provision or use of library facilities in England?</th>
<th>Do you agree that the proposed abolition of ACL will not remove any necessary protection?</th>
<th>Do you agree that the proposed abolition will not prevent any person from continuing to exercise any right or freedoms?</th>
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</thead>
<tbody>
<tr>
<td>Geoffrey Dron</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Society of Chief Librarians</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Arts Council England</td>
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<td>Neither</td>
<td>No</td>
<td>Neither</td>
<td>Yes</td>
</tr>
<tr>
<td>Voices for the Library</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>The Library Campaign</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>CILIP</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Share the Vision</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

11.5 Almost all respondents, six out of seven, do not think the advisory function of ACL should be transferred to another existing body and a small majority, four out of seven, of respondents considered the ACL should be retained and improved.

11.6 The main issues raised in the consultation responses related to:

- Decisions on the future of ACL should not be taken in advance of the publication and consideration of the recommendations of the Independent Library Report – this was commented on by four of the respondents;

- Two respondents commented that there was a need for an independent body. Reasons provided included the need for credibility and transparency and a body
that had sufficient resources. In addition, it should be a body that oversees public libraries, has the power to provide public libraries with leadership and guidance and enforces the statutory duty under the 1964 Act.

- One respondent commented that a refreshed ACL should include members as set out in the 1964 Act together with other representatives from allied stakeholders. Another respondent asserted that this wider dimension was crucial to understanding the full potential of public libraries and that the organisations identified with which DCMS will engage and consult are narrow in their focus and that none of the bodies act as outspoken critics of DCMS.

- Three respondents commented on the statutory duty of local authorities to deliver a comprehensive and efficient library service as required by the 1964 Act and role of the ACL. Comments included that the ACL be given sufficient capabilities to enforce the DCMS to act upon the failing of local authorities to meet their statutory requirements in regards to public libraries. And, ACL should be a body that can effectively support and advise the DCMS and the Secretary of State in undertaking their statutory duties to superintend and improve the public library service in England. In fact the ACL never had any powers to investigate or halt the actions of library authorities. The Secretary of State has these powers, and the abolition of the ACL will not affect them in any way. The Secretary of State never sought the advice of the ACL in connection with the use of those powers.

- One respondent commented that there needs to be a robust process, together with proper and regularly organised meetings with relevant partners / stakeholders to ensure that appropriate advice is available to the Secretary of State to enable him to fulfil his duties under the 1964 Act. The organisations identified in the consultation with which DCMS has and will continue to engage already meet with the Minister and / or Departmental officials on a regular basis.

11.6 The Government’s decision, after considering the responses to the consultation, is that the ACL should be abolished on the basis that the function of advising the Secretary of State does not require a statutory body and that the necessary knowledge and sector expertise can be found amongst other statutory and non-statutory organisations such as Arts Council England, Society of Chief Librarians and the Local Government Association.

11.7 The Government’s formal response to the consultation has been published on the GOV.UK website at: https://www.gov.uk/government/publications/government-response-to-the-public-consultation-on-the-proposed-abolition-of-the-advisory-council-on-libraries

12. Guidance

12.1 Not applicable.

13. Impact

13.1 This Order abolishes the ACL in law, by repealing section 2 of the 1964 Act and making the necessary consequential repeals. The ACL was an advisory body with
volunteer members, which has essentially been defunct for over four years. The impact on business, charities or voluntary bodies is nil.

13.2 There will no longer be a requirement for the Department to provide a secretariat function, process members’ expenses or administer the Chair and members appointment process.

13.3 Abolition of ACL will provide annual savings of approximately £2,500 per annum for the public sector. Costs associated with ACL activity (members expenses and hospitality charges for meetings) were chargeable to the Department.

13.4 An Impact Assessment has been prepared for this instrument.

14. **Regulating small businesses**

14.1 This legislation does not apply to small businesses

15. **Monitoring and review**

15.1 This order abolishes ACL, which was already defunct so there is no tangible outcome to monitor.

16. **Contact**

16.1 Colin Gibson at the Department for Culture Media and Sport Tel: 020 7211 6089 or e-mail: colin.gibson@culture.gsi.gov.uk