

<b>Title:</b> Impact Assessment on the proposed transfer of Public Lending Right functions from the existing body and its subsequent abolition <b>IA No:</b> <b>Lead department or agency:</b> Department for Culture, Media & Sport <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 19/01/2012		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
<b>Contact for enquiries:</b> Abigail Smith/Wendy Shales			

**Summary: Intervention and Options** **RPC Opinion:** RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£m	£m	£m	Yes/No	In/Out/zero net cost
<b>What is the problem under consideration? Why is government intervention necessary?</b> The Registrar of the Public Lending Right (PLR) is a small executive NDPB (9 FTE staff, one publicly appointed Chief Executive and an administrative budget in 2010/11 of £0.756 million) which, in accordance with legislation, makes payments to authors in respect of their work loaned from public libraries in the UK amounting to £6.744m in 2010/11. It is proposed to transfer the body's functions and funding into another, larger organisation to increase the efficiency of the PLR Scheme. As a statutory body, any changes to PLR require legislation.				

**What are the policy objectives and the intended effects?**  
 The transfer of functions and funding to another existing body is expected to release greater efficiency savings than are achievable by the current body which already employs the minimum number of staff in a relatively low-cost location (Stockton-on-Tees). This will achieve the objectives of reducing the number of government arm's length bodies and reducing administration costs, thereby maximising the proportion of available funds that can be distributed to authors.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Apart from the 'do nothing' option (option 4) there are no feasible alternatives to legislation. Options considered include transfer to a private company (option 1), transfer to Arts Council England (option 2), absorption of the PLR functions in-house (option 3). The preferred option is to transfer the functions and funding to the British Library (option 5). The BL is a large DCMS-sponsored NDPB with close links to authors and publishers. Initial due diligence has identified no significant barriers to the transfer.

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

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible SELECT SIGNATORY:  Date: 2.2.12

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Transfer of PLR Statutory Functions to the Authors' Licensing and Collecting Society (ALCS)

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
Costs cannot be monetised.					
<b>Other key non-monetised costs by 'main affected groups'</b>					
The Authors' Licensing & Collecting Society (ALCS) must cease to be a private company owned and run by its writer members and become an NDPB. Other activities of ALCS may be compromised.					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
Costs cannot be monetised.					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
Potential saving of some administrative costs. Authors receive a single lending right payment for Europe and the UK.					
Key assumptions/sensitivities/risks N/A					Discount rate (%)

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: £0	Benefits: Unknown	Net:	No	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 2

Description: Transfer of PLR Statutory Functions to Arts Council England

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>
Low	Optional	1	Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
Costs cannot be monetised.					
<b>Other key non-monetised costs by 'main affected groups'</b>					
Must change the charitable objects and the Royal Charter of Arts Council England.					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
Benefits cannot be monetised.					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
Reduction in the number of NDPBs. Potential for reduction in administrative costs.					
Key assumptions/sensitivities/risks N/A					Discount rate (%)

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: Unknown	Net:	No	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 3

Description: Provide PLR Statutory Functions In-House in DCMS

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price)</b>	<b>Years</b>	<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Cost (Present Value)</b>	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	Unquantifiable		Unquantifiable	Unquantifiable	
<b>Description and scale of key monetised costs by 'main affected groups'</b> Costs cannot be monetised.					
<b>Other key non-monetised costs by 'main affected groups'</b> No net change in administrative costs. Independence of Registrar would be undermined.					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price)</b>	<b>Years</b>	<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Benefit (Present Value)</b>	
Low	Optional		Optional	Optional	
High	Optional		Optional	Optional	
Best Estimate	Unquantifiable		Unquantifiable	Unquantifiable	
<b>Description and scale of key monetised benefits by 'main affected groups'</b> No monetised benefits have been identified					
<b>Other key non-monetised benefits by 'main affected groups'</b> Reduced number of NDPBs. Possibility of some savings in administration.					
Key assumptions/sensitivities/risks			Discount rate (%)		
N/A					

### BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: Unknown	Net:	No	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 4

Description: Continue with Administration of PLR in its Current Form.

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised costs by 'main affected groups'</b>					
No monetised costs have been identified.					
<b>Other key non-monetised costs by 'main affected groups'</b>					
Future reduction in administrative costs limited.					
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate	Unquantifiable				Unquantifiable
<b>Description and scale of key monetised benefits by 'main affected groups'</b>					
No monetised benefits have been identified.					
<b>Other key non-monetised benefits by 'main affected groups'</b>					
No non-monetised benefits have been identified.					
Key assumptions/sensitivities/risks N/A					Discount rate (%)

## BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: Unknown	Net:	No	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 5

Description: Transfer of PLR Statutory Functions to British Library (The Preferred Option)

## FULL ECONOMIC ASSESSMENT

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

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	Unquantifiable		Unquantifiable

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

No monetised costs have been identified.

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

No non-monetised costs have been identified.

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	Unquantifiable		Unquantifiable

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

No monetised benefits have been identified.

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

Simple transfer of function compared with other options.  
 Support British Library's relationship with authors.  
 Reduce the number of NDPBs.  
 Saving in some administrative costs.

Key assumptions/sensitivities/risks

N/A

Discount rate (%)

## BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: £0      Benefits: Unknown      Net:	No	Zero net cost

# Evidence Base

## Problem under consideration

The Government believes there is no longer any justification for the Registrar of the Public Lending Right (the Registrar) to exist as a separate legal entity and is consulting on a proposal to transfer the Public Lending Right (PLR) functions, along with its funding, and abolish the existing body. This would create an opportunity to achieve cost savings and would reduce the number of public bodies. As all grant-in-aid would be transferred with the functions no monetised costs or benefits have been identified, though there are some non-monetised benefits of the preferred option (option 5).

The position of Registrar was established by the Public Lending Right Act 1979 which gave British authors a legal right to receive payment for the free lending of their books by public libraries. The Act established PLR as an intellectual property right, entirely separate from copyright. The Registrar is a Corporation Sole and is appointed by the Secretary of State for Culture, Olympics, Media & Sport to maintain a register of eligible authors and books, and to supervise the administration of the NDPB. The Registrar's office is based in Stockton-on-Tees and he is assisted by a team of 9 full-time equivalent staff. The Registrar is advised by a Management Board appointed by the Registrar to advise him on the operation and future development of the NDPB. The Board consists of an author, a librarian, a publishing specialist and a member with experience of managing a government-funded body.

Under the 1979 Act, funding is provided by central government (in 2010/11 PLR received £7.451m from DCMS as grant-in-aid) and payments are made to eligible authors in accordance with how often their books are lent out from a selected sample of UK public libraries (£6,744,601 dispensed in 2010/11).

To qualify for payment authors must apply to the Registrar of PLR. Around 23,000 authors receive a PLR payment each year. To ensure that the most successful authors are not allowed to take all the money the Scheme provides for a maximum payment – currently £6,600. In 2011, 262 authors qualified for the maximum payment.

The PLR Scheme 1982 sets out rules for the operation of PLR in the UK. The rules cover which authors and books are eligible, how many libraries should be included in the sample providing loans data to the Registrar and how the amount payable each year to authors should be calculated. Amendments to the Scheme are made in Parliament by means of a negative statutory instrument.

PLR is now recognised by European Directive 2006/115/EC on rental right and lending right, which repealed and replaced Council Directive 92/100/EEC on rental right and lending right. It is a harmonising measure which requires Member States to implement national legislation to reflect and protect the exclusive lending and rental rights of certain rights holders including an unwaivable right to equitable remuneration. The Directive permits a derogation from the need to obtain consent from rights holders in respect of public lending by libraries (i.e. through a PLR scheme) provided that, at least, authors receive a remuneration for such lending (the value of which is to be fixed by the Member State). In the UK, the rights described by the Directive are conferred by the Copyright, Design and Patents Act 1988 (as amended) (the "1988 Act") and the derogation is expressed nationally by the pre-existing Public Lending Right Act 1979.

In 2010/11 the portion of total grant-in-aid used to administer the Scheme was capped at £0.756 million. As a body of this size, the Registrar experiences difficulties in delivering efficiencies from its small administrative budget without adversely impacting on the fund available to authors.

## Rationale for intervention

The proposal ensures the maximum amount of grant-in-aid will be distributed to authors as PLR payments.

## Policy objective

The Government's proposal to transfer the statutory functions of distributing the PLR fund to authors from the current NDPB to another existing body, effectively abolishing the Registrar of PLR as a separate organisation, supports the government's policies to:

- have fewer public bodies

- review value for money

It also maximises support for authors – a small but significant creative community – by seeking to minimise the costs of administering PLR so that the maximum proportion of available grant-in-aid is allocated to author payments.

## **Description of options considered (including do nothing)**

### **Option 1 - Transferring PLR statutory functions to the Authors Licensing & Collecting Society (ALCS)**

#### Considerations

Impact on NDPB numbers:

ALCS would carry out the statutory PLR functions and the PLR funding could be allocated to ALCS. For this to occur it would be necessary for ALCS to be transformed from a private company into an NDPB. It would create a new NDPB while closing down the current PLR. This approach would not achieve the policy objective of fewer DCMS NDPBs and is, therefore, not preferred.

Financial:

This option may provide some moderate back office savings through access to more competitive contracts for products and services while removing duplication of effort (currently both organisations make separate payments to the same constituency of authors).

Combined with amendments to PLR's legislation and outsourcing of the loans data collection this option is estimated to progressively reduce administrative spend by up to perhaps 25% in real terms over the four year period from 2011/12 to 2014/15.

Stakeholders:

We would need to explore with ALCS whether they are content to become an NDPB (which requires new accountability responsibilities and Government reporting). The wider author community are likely to be content that the PLR is delivered by an authors' organisation but keen to protect the expertise of the current PLR staff. They will also press hard to ring-fence PLR funds.

Legal:

We are advised that, because of the statutory nature of PLR, whichever body is responsible needs to be an NDPB because they will be using public money to deliver a public (statutory) function. ALCS is not an NDPB and in light of the recent Review of public bodies it would not be appropriate to make it an NDPB. Hence, this is not a realistic option.

### **Option 2 - Transferring PLR statutory functions to Arts Council England (ACE)**

#### Considerations

Impact on NDPB numbers:

The statutory PLR functions and the PLR funding could be transferred to ACE – an existing DCMS NDPB. This would achieve reduced numbers of NDPBs overall.

Financial:

This option may release some moderate back office savings similar to those outlined under Option 1. Again, transfer of funding along with the functions would allow implementation to proceed with little financial impact on ACE.

Stakeholders:

We would need to explore with ACE how they would deliver the statutory functions. Authors may be concerned about loss of independence and expertise of the PLR.

Legal:

ACE is a Charter body. It performs the functions in England of its predecessor Arts Council for Great Britain. Equivalent bodies operate in Scotland and Wales. ACE is also a charity. For ACE to administer the PLR it is likely that its Charter will need to be amended with the consent of both ACE and Privy



Council to widen its territorial scope to enable PLR payments to be made to Scottish, Welsh and Northern Irish authors

It will also be necessary to significantly alter its current charitable objects which are felt to be inconsistent with the PLR functions. ACE's mission is to develop and improve knowledge, understanding and practice of the arts and to increase accessibility of the arts to the public. In contrast, PLR rewards all authors for the loan of all books (regardless of their literary/artistic merit) with PLR payments viewed by authors as earned income and not charitable support. It is clear that the PLR functions are inconsistent with ACE's current objectives and there is no appetite in ACE to amend them. Hence, this option may be fraught with several practical difficulties.

### **Option 3: Providing the PLR in house in DCMS**

#### Consideration

##### Financial:

This option may achieve back office savings in some areas through the potential to share contracts for products and services. However, DCMS does not have the resources to handle the procurement issues associated with a contract for services and management of contracts of this type. Neither is it resourced to deliver those statutory functions which could not be contracted out. This option, therefore, is unlikely to reduce overall administration costs to the same extent as other options and so would be unlikely to maximise the grant-in-aid available to authors.

##### Stakeholders:

Authors would lobby hard to ring-fence the PLR fund and protect the independence and expertise of the current PLR arrangements

##### Legal:

As with the other options which involve transferring the PLR functions to another body, the option to bring the functions in house to DCMS would also require amendment of the 1979 Act by an order made under the Public Bodies Bill, once it receives royal assent.

### **Option 4: Continue with the administration of PLR in its current form. This is the Do Minimum Option.**

#### Consideration:

##### Financial:

If the Public Lending Right functions remain with the Registrar and are not transferred to another, larger body, the administrative savings that this would release will not be realised and accordingly will not be available to pass onto the authors' fund.

##### Stakeholders:

Authors have lobbied to protect current arrangements.

##### Legal implications:

There would be no need to make any amendments to the 1979 Act.

#### Impact of taking no action

The Registrar of the PLR faces a 15% reduction in its total grant-in-aid over the next Spending Review period. It is, therefore, important to maximise the efficiency of the Scheme in order to minimise the impact on the payments to authors. However, it is considered that the scope for cost saving under present arrangements is limited.

### **Option 5 - Transferring PLR statutory functions to British Library (BL). This is the Government's preferred option.**

#### Considerations

Impact on NDPB numbers:

The PLR functions and funding could be allocated to BL – an existing DCMS NDPB. This would achieve reduced numbers of NDPBs.

**Financial:**

Allows the moderate back office savings associated with transfer into a larger organisation similar to those outlined above under option 1.

**Stakeholders:**

We would need to explore with BL how they would deliver this statutory function. Authors would be concerned about loss of independence and expertise of the PLR.

**Legal:**

To be achieved through the Public Bodies Bill and subsequent secondary legislation.

The British Library Board considers that administering the PLR functions would further the Library's charitable purposes as set out in the British Library Act 1972 (the advancement of education and/or the advancement of the arts, culture, heritage and science) and that the associated means are not disproportionate to the aims. The Library's charitable objectives would not need to be amended in order to absorb the PLR functions.

The Board considers the effective operation of Public Lending Right as fundamental to enabling the functioning of public libraries in the UK. The provision of this support to public libraries would further the Library's charitable objectives as the UK national library and would be consistent with Section 1(b) of the 1972 Act. Moreover the operation of Public Lending Right would in the Board's view facilitate closer relations with authors with potential benefit in a number of areas of the Library's operation, including not least its collection development and public programmes. Under the terms of the funding arrangements in the CSR settlement period 2011-14, there are no significant net expenditure implications for the Library arising from the transfer.

Impact of transferring the PLR function and abolishing the existing NDPB

We cannot predict whether the rate per loan paid to authors will increase or decrease in future years. However, as a condition of the transfer the Government will impose a cap on administrative spend of £0.756 million per year in each year from 2011/12 until 2014/15 and the PLR author fund will not be used to pay for the transfer of functions. Consequently any future decrease in the rate per loan will not result from the transfer of the PLR functions.

If the transfer goes ahead, libraries will continue to lend books and authors will continue to get paid for those loans. The only difference will be that a different body will monitor the book loans and make the payments to authors. The PLR Scheme requires the Registrar to reimburse library authorities for costs incurred while participating in the PLR library sample. There are consequently no financial burdens on authorities of compliance.

Impact on the labour market

The transfer will be subject to public consultation following Royal Assent of the Public Bodies Bill. No operational decisions have been made yet as to the future of the PLR office in Stockton-on-Tees or the staff employed there. This is a decision for the body that takes over the PLR functions and will depend on how it chooses to fulfil those functions. Until this is resolved we are unable to say what implications, if any, the transfer will have for the 9 FTE PLR staff. Neither are we able to estimate what the monetary impact may be should the body which absorbs the PLR functions choose to relocate PLR staff or make redundancies. These decisions would be subject to the organisation's business planning and financial processes and the potential costs associated with doing so are not explored here.

**Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

The transfer of functions is subject to consultation and the extent of any savings will depend on decisions made by the body that ultimately takes on the functions, depending on the way it chooses to absorb them. It would not be proportionate to consider all options in detail at this stage.

### **Risks and assumptions**

If the transfer of functions does not happen or takes too long, existing arrangements will need to continue. However, under the existing structure the scope for further reductions in administrative costs is limited. As grant-in-aid funding for the existing body has been reduced by 15% in real terms over the 2011-14 spending period this would inevitably result in a reduction in the payments made to authors. DCMS officials will work with the Registrar to maximise efficiencies before and after the transfer of functions.

### **Summary and preferred option with description of implementation plan**

Option 5 emerged as the preferred option because it offers to fulfil the government's aims of maximising the efficiency of the Scheme and reducing the number and cost of arm's length bodies. In addition, it presents no significant legal challenges. It will, of course, be subject to consultation.

Once the transfer has been agreed a detailed project plan can be developed (subject to any timelines imposed by the Public Bodies Bill or Ministers). Broadly this may mean:

- Commence 12 week consultation – ASAP after Royal Assent of PBB (Dec 2011)
- Lay secondary legislation – June/July 2012
- Transfer of functions – Nov/Dec 2012

However, this proposed timetable is subject to the availability of departmental and government resource to deal with the consultation and the transfer of functions, to prepare the secondary legislation, the ability to secure the necessary parliamentary time, and the anticipated pressure on DCMS resulting from the need to prioritise delivery of a successful Olympic Games.

