

<b>Title:</b> Abolition of Administrative Justice and Tribunals Council (AJTC)  <b>IA No:</b> MoJ120  <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 21/01/2013		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
<b>Contact for enquiries:</b> Ed Bowie (0203 334 4018)			
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> 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?
£5.0m	NA	NA	No
			NA

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

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

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

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

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

Option 0: Do nothing (retain AJTC).

Option 1: Abolish the AJTC and their function by an order under the Public Bodies Act 2011. This is the preferred option because the AJTC does not meet the key criteria set by the Government for retaining Arm's Length Bodies. The AJTC's policy advisory role overlaps with the Ministry of Justice's (MoJ) and its oversight role duplicates controls in Her Majesty's Courts and Tribunals Service (HMCTS). Even though the quality of the AJTC's advice has been sound, its cost is not justified by its added value, particularly given the change in the tribunal and policy landscape since its inception. This option included provisions for the Ministry to provide financial support, for two years, to the devolved administrations in Scotland and in Wales to provide continuity to the reform of their tribunal systems through non-statutory oversight bodies. This reflects the differing stages of development in tribunals across the different administrations in the UK.

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

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

Signed by the responsible Minister: \_\_\_\_\_ Date: 28/01/2013

Helen Grant

# Summary: Analysis & Evidence

# Policy Option 1

Description: Abolish AJTC

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £5.0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2		
High			
Best Estimate		£0.6m	£0.0m

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

MoJ would incur possible lump sum redundancy costs of up to £0.3m in total if 3 permanent staff are not redeployed within the civil service. The extent of staff taking redundancy is unclear, compared to redeployment or early retirement, and this estimate is based on the assumption of redundancy. MoJ will also incur costs of £0.15m in both 13/14 and 14/15 to fund the Scottish and Welsh governments for the creation of interim non-statutory bodies to replace the AJTC in Scotland and Wales.

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

Possible loss of income for AJTC staff if they are made redundant and unable to find equivalent employment soon enough elsewhere in the economy; however it is assumed that staff and council members would find employment elsewhere. If staff do not find alternative employment there may be costs to the state through unemployment benefits.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	1		
High			
Best Estimate		£0.3m	£0.7m

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

MoJ would save approximately £0.7m per annum from pay and costs of AJTC operations in real terms (in 12/13 prices). AJTC staff would receive one-off redundancy payments of up to £0.3m in total assuming they are not redeployed within the civil service. The extent of staff taking redundancy is unclear, compared to staff redeployment or early retirement, and the estimate used in this assessment is based on the assumption of three staff taking redundancy.

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

Staff that are made redundant may benefit if they are able to find better employment elsewhere soon enough.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Assumes staff receive voluntary redundancy. If staff are redeployed within the civil service there would be no additional pay and pension impacts. If staff receive early retirement, staff in total would receive a one-off payment of up to £0.2m and ongoing pension income of up to £0.06m per year. Assumes staff and members find employment elsewhere. Assumes AJTC closes on 31 March 2013. There will be no loss in administrative justice system case outcomes, system efficiency, or user experience.

## BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base - Notes

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

	<i>£m, in nominal terms and rounded to the nearest £0.1m unless otherwise stated</i>									
	0	1	2	3	4	5	6	7	8	9
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
<b>OPTION 0 - DO NOTHING (BASELINE)</b>										
AJTC budget	0.7	0.7	0.7	0.7	0.8	0.8	0.8	0.8	0.8	0.8
<b>OPTION 1 - ABOLISH AJTC</b>										
<b>Costs</b>										
Redundancy costs for MoJ	0.0	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Funding for Scotland and Wales	0.0	0.2	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total costs</b>	<b>0.0</b>	<b>0.5</b>	<b>0.2</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Benefits</b>										
Redundancy benefit for staff	0.0	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Saving from abolition (AJTC budget)	0.0	0.7	0.7	0.7	0.8	0.8	0.8	0.8	0.8	0.8
<b>Total benefits</b>	<b>0.0</b>	<b>1.0</b>	<b>0.7</b>	<b>0.7</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
<b>Net benefits</b>	<b>0.0</b>	<b>0.6</b>	<b>0.6</b>	<b>0.7</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
Net benefits (real terms, 12/13 prices)	0.0	0.6	0.6	0.7	0.7	0.7	0.7	0.7	0.7	0.7
Discounted net benefits	0.0	0.5	0.5	0.6	0.6	0.6	0.6	0.6	0.5	0.5
<b>10 year NPV</b>	<b>5.0</b>									

AJTC budget uprated with GDP deflator measure of inflation

Totals may not sum because of rounding

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

# Evidence Base

## 1. Introduction

### Background

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

### Policy Proposal

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

Government and the Welsh Government in order to assist these devolved administrations in the development of their tribunal systems.

10. There will be no direct impact on businesses from the closure of the AJTC.

## **Economic Rationale**

11. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).

12. These proposals would be justified on the grounds of productive efficiency. The same administrative justice outcomes can be achieved by MoJ directly but with the use of fewer resources.

## **2. Cost and Benefits**

13. This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.

14. The MoJ has been able to monetise the costs and benefits from closing the AJTC under the assumptions stated. There are some risks that are not possible to quantify although these are expected to be minor.

## **Affected stakeholder groups, organisations and sectors**

15. Groups that are affected by the proposals are:

- MoJ
- AJTC staff, AJTC Chairman, and members of the Council;
- Tribunal users, and users of administrative justice systems;
- Legal services providers and the administrative justice system (e.g. Tribunals);
- Scottish Government;
- Welsh Government;
- Wider government

16. There will be no direct impacts on businesses.

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

17. Under this option the AJTC would continue to function as it currently does. In a previous impact assessment for the abolition of the AJTC (published in 2011) an annual running cost of £1.2m was used to estimate potential savings. However, as with other public bodies, the AJTC's budget allocation has recently been reduced and in 2012/13 the cost of operating the AJTC is expected to be around £0.7m. Part of this reduction in the AJTC's cost is due to the decision to abolish the body which has led to a reduced level of activity and a reduction in the number of serving Council Members.

18. If the AJTC were to be retained and operate fully, it is possible that it may cost more than £0.7m to operate, however, for the purposes of this Impact Assessment the cost of operating the body in 2012/13 (£0.7m) has been used to measure the savings from abolition.

## Option 1: Abolish AJTC

### Description

19. This option would be to abolish AJTC by an order made under the Public Bodies Act 2011. It is no longer considered vital to public service delivery for an arm's length body (i.e. the AJTC) to hold 'oversight' functions, especially in relation to tribunals and statutory inquiries (in practice inquiries relating to land use). The development of administrative justice policy is properly a government function and one that can be delivered more effectively and efficiently from within the Ministry of Justice. Funding a standing body to provide advice is unnecessary, particularly given the imminent completion of major structural reform of the tribunal system into a unified, two-tier structure. The MoJ will continue to take a clear lead in government on the development of administrative justice policy and will work proactively with other government departments with responsibilities in this area to ensure that a coherent and consistent approach is adopted in policy development.
20. As part of this, there is an existing dedicated policy team within MoJ, with effective links to other government departments, including the Cabinet Office, which leads on ombudsman policy. The team is well placed to influence the development of policy from the outset, to ensure administrative justice is a key part of the wider justice reform agenda, and to have oversight of the wider system. This is illustrated by the recent publication, on 18 December, of the Administrative Justice and Tribunals: A Strategic Work Programme 2013-16:

<http://www.justice.gov.uk/publications/policy/moj/administrative-justice-and-tribunals-a-strategic-work-programme-2013-16>

### Costs of Option 1

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

21. The AJTC currently operates with eight staff; six of which are permanent MoJ staff. MoJ will incur redundancy or early retirement costs if permanent staff are not redeployed to other posts within the civil service. It is likely that three of the permanent staff will be redeployed within the civil service so it is assumed there will be no exit costs for these staff. The position is less certain for the three remaining permanent staff, and the associated costs would depend on whether they are redeployed, made redundant, or take early retirement. For the purpose of this Impact Assessment, it is assumed all three staff will be made redundant at a one-off total cost to MoJ of £0.3m in 2013/14. However, if the staff were to receive early retirement, MoJ would incur a one-off cost of £0.2 million in 2013/14 and ongoing pension costs of up to £60,000 per year in total for all three staff until early retirees reached 60 years of age. Alternatively, staff may be redeployed, in which case there would be no additional costs to MoJ.
22. Of the two non-permanent members of staff, one is on secondment from another government department and will return to their home department at no additional cost. The other is on a fixed term contract which will be terminated at no cost to MoJ.
23. MoJ will incur some short term costs associated with administrative justice oversight in Scotland and Wales following the AJTC's closure. These costs will total £0.15m in each of 2013/14 and 2014/15 and are for reimbursements to the Scottish and Welsh governments for the creation of interim non-statutory bodies to replace the AJTC in Scotland and Wales.
24. MoJ will also incur some additional administrative costs from closing the AJTC. The MoJ has not been able to monetise these but they are likely to be minimal.
25. It is assumed that the MoJ undertake a small amount of additional work after the AJTC is abolished and this will include operating the Advisory Group mentioned previously. It is assumed that no additional staff will be hired, and therefore there is no extra financial cost to the MoJ. However, any additional work undertaken by MoJ as a result of the AJTC being abolished will represent a non-monetised economic cost in that resource would be transferred from an alternative MoJ activity of less priority.

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

26. Assuming AJTC staff are made redundant or take early retirement, they would incur a reduction in income if they are unable to find equivalent employment elsewhere with a similar salary soon enough. Assuming three permanent staff are made redundant and not able to find equivalent employment soon enough their loss in income would be approximately £0.2 million in total. However, any reduction in income would be at least partly offset by the redundancy or early retirement payments. The net impact on the staff from forgone income would depend on how long they remain unemployed. For example, it may be that staff will find alternative employment immediately after termination, in which case, they will continue to receive ongoing income, as well as a redundancy payment, resulting in an overall benefit. It is not possible to quantify the extent of this cost as the duration of unemployment for staff is unknown.
27. There may also be a cost to the fixed term contractor as their contract will be terminated earlier than anticipated. This will arise if they are unable to find equivalent employment for the remainder of the anticipated contract period.
28. Members of the AJTC collectively receive remuneration of approximately £0.3m per annum on an annual retainer basis. They may incur a reduction in their income if they do not find alternative employment with a similar level of remuneration soon enough.

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

29. Tribunal user groups within HMCTS act as fora for users to articulate concerns and suggest improvements that will meet customer needs. The MoJ Justice Policy Group is well placed to provide oversight of the administrative justice system and work with colleagues within MoJ, and other government departments, to consider users' needs and views during policy development and service delivery. Justice Policy Group officials are able to provide Ministers with balanced and impartial advice, drawing on expert advice as required about the development of administrative justice policy. Such advice can be sought from the Advisory Group described in paragraph 9 *supra*.

#### ***Legal service providers and the administrative justice system (e.g. Tribunals)***

30. No impacts on case volumes or outcomes are expected. It is assumed that there is no loss of efficiency in the administrative justice system and no adverse impacts on case outcomes and on the user experience.

#### ***Wider government***

31. It is possible that there is a cost to wider government if staff that are made redundant are unable to find alternative employment soon enough and claim unemployment benefits.

#### **Benefits of Option 1**

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

32. The MoJ will benefit from no longer funding the AJTC. For the purposes of this Impact Assessment it is assumed that annual running costs would continue to be at the current level of around £0.7m per annum uprated for inflation, based on the AJTC's 2012/13 projected expenditure. It is estimated that over the ten year appraisal period (from 2012/13) MoJ would save approximately £6.4m in nominal terms (this figure is net of the costs mentioned in paragraphs 21 to 23).
33. It is assumed there would be no additional savings to MoJ from reduced building rental costs. MoJ currently rents an entire building where the AJTC operates in a small part of it at a cost of approximately £0.1 million per annum. The lease is expected to expire in September 2013 and any savings from this will depend on MoJ's overall estates plans.

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

34. As set out above, it is assumed that three permanent AJTC staff and one secondee from another government department will be redeployed and no additional benefits will be incurred. Another three AJTC staff are assumed to be made redundant and will receive redundancy one-off payments of up to £0.3 million in total in 2013/14. However, these three staff receive might take early retirement instead. This would result in a one-off payment of up to £0.2 million in 2013/14, and ongoing pension payments of up to £60,000 per year in total for all three staff until early retirees reached 60 years of age. Alternatively, it may be that all staff would be redeployed within the civil service. In this case, there would be no additional benefits. As discussed above, the

extent to which redundancy payouts raise a benefit would depend on the time taken to find alternative employment.

35. If staff are able to find alternative jobs quickly after termination (i.e. before the time implied by the redundancy payments) they would continue to receive ongoing income, as well as a redundancy payments, resulting in an overall benefit. Similarly, the fixed term contractor may benefit if they are able to find alternative employment that is better remunerated for the remainder of their anticipated contract period.

### **Legal service providers and the administrative justice system (e.g. Tribunals)**

36. No impacts on case volumes or outcomes are expected. It is assumed that there is no loss of efficiency in the administrative justice system and no adverse impacts on case outcomes and on the user experience.

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

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

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

38. It is expected that the benefits of Option 1 outweigh the costs as some of the functions carried out by the AJTC are replicated by other functions carried out in MoJ and other government departments. Furthermore, any costs to staff arising from redundancy or contract termination might be offset depending on how long it would take to find alternative employment. This would depend on how much these staff are paid in new jobs relative to their posts at the AJTC. It is expected that the overall outcome would increased efficiency within the economy.
39. Option 1 is preferred as it meets government objectives to increase the transparency and accountability of public bodies and to reduce their number and cost. The AJTC does not meet government's criteria for the retention of ALBs.

### **Risks and Assumptions**

40. For the purposes of quantifying impacts in this Impact Assessment, MoJ has made the following assumptions:
- A closure date of 31<sup>st</sup> March 2013;
  - A 2012/13 budget of £0.7m. AJTC running costs have been updated for inflation using HM Treasury's GDP deflators to estimate savings in future years;
  - It is assumed that three permanent staff and one secondee will be redeployed, and another three staff will be made redundant with a one-off payout of up to £0.3 million in 2013/14. This redundancy figure is an estimate based on long serving staff exiting the AJTC and the actual cost may potentially be lower than this level depending on the staff involved. There is a possibility that some of these staff would receive early retirement instead of redundancy. In this case, there would be a one-off payment of up to £0.2 million and an ongoing pension of up to a combined total of £60,000 per year until early retirees reach 60 years of age. There is also a possibility that all staff would be redeployed, in which case there would be no additional costs or benefits;
  - It is assumed that the fixed term contract is terminated at no cost to MoJ.
  - NPV calculations assume that the three redundant staff, the fixed term contractor and AJTC members are able to find equivalent employment soon enough.
  - A ten year appraisal period running from 2012/13 to 2021/22 with 2012/13 as the base year; and;
  - The present values of costs and benefits have been calculating using a 3.5% discount factor.
41. Variations in the assumptions above will change the associated costs and benefits but are not expected to significantly change the net impact of the closure of the AJTC.
42. The Public Bodies Act allows the Secretary of State to abolish certain public bodies through secondary legislation.



43. It has been assumed that a separate advisory body is no longer necessary for the effective and efficient delivery of public services as the Secretary of State decided that the AJTC did not meet the three tests outlined in paragraph 6. It has also been assumed that any functions currently exercised by the AJTC will be carried out within existing MoJ/ Whitehall departments' resources. No additional costs to the Courts, Probation, Prisons, Legal Aid and Crown Prosecution Service are anticipated.

### **3. One-In One-Out**

44. Abolishing the AJTC is not a regulatory proposal and there are no direct impacts on business or voluntary organisation. Therefore it is not within the scope of the One-In One-Out policy.

### **4. Enforcement and Implementation**

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