

Title: Abolition of HM Inspectorate of Court Administration IA No: MoJ118 Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)		
	Date: 15/11/2011		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Elinor Howard 020 3334 3284			
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?
NQ	N/A	N/A	No NA

What is the problem under consideration? Why is government intervention necessary?
 In December 2009, the previous administration announced their intention to abolish HMICA. This decision was confirmed by the current Government as part of the review of Arm's Length Bodies (ALBs) in 2010. All ALBs were reviewed against criteria set by the Cabinet Office - whether the organisation needs to perform a technical function, act independently to establish facts, or be politically impartial. HMICA was assessed not to meet any of these tests. Following this decision, HMICA closed administratively in December 2010. Government intervention is required as the Inspectorate remains on statute, but is not operational. It is therefore necessary to legally close HMICA.

What are the policy objectives and the intended effects?
 The objective is to legally abolish HMICA, following its administrative closure in December 2010.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 0: Do Nothing - HMICA is left on statute but does not in practice operate, as it closed administratively in December 2010.

 Option 1: Legally abolish HMICA - this is the preferred option. It would result in HMICA being removed from statute - ensuring that the statutory position reflected the administrative situation. The landscape in which HMICA operates has changed considerably since its inception, and HMCTS have sufficient processes in place to negate the need for an independent inspectorate.

 In the consultation stage Impact Assessment, the option of not legislating and reinstating HMICA was also considered. It is not considered in this Impact Assessment because it is not a feasible option.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: 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.		Micro No	< 20 No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	
				Non-traded:	

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: 11 December 2011
Jonathan Djanogly

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

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

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

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

There are no monetised costs associated with the formal closure of HMICA as HMICA has already closed administratively. The costs and benefits of the administrative closure are set out in Annex 1.

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

Some administrative costs associated with drafting the legislation. These are expected to be minimal.

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

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

None.

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

Legally closing HMCA will ensure that the statutory position reflects the administrative situation.

Key assumptions/sensitivities/risks

HMICA closed administratively in December 2010. Therefore the costs and benefits above relate only to the formal closure. Costs and benefits of the administrative closure are set out in Annex 1.

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

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

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			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		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ 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: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Evidence Base

A. Introduction and Policy Proposal

1. HMICA has been in existence since 2005. HMICA's predecessor was HM Magistrates' Courts Service Inspectorate, which was set up to inspect administration in the Magistrates' Courts, before Magistrates' Courts became part of the national courts service.
2. HMICA has statutory responsibility under the Courts Act 2003 'to inspect and report to the Lord Chancellor on the system that supports the carrying on of the business of the courts (Crown, County and Magistrates'). It also has a statutory duty to carry out joint inspection (with the other criminal justice inspectorates) of the criminal justice system (Police & Justice Act 2006) and a new statutory responsibility under the Coroners and Justice Act 2009 for inspection of the Coroners Service.
3. On 7 December 2009, the then Prime Minister announced the government's intention to abolish HMICA. The announcement was made as part of the Putting the Frontline First: Smarter Government paper.
4. In 2010, the Cabinet Office led a review of all Arm's Length Bodies across government in order to increase the transparency and accountability of public bodies and to reduce their number and cost. All bodies were tested under three criteria: whether it needs to perform a technical function, act independently to establish facts or be politically impartial. HMICA was tested under these criteria and was not deemed to meet any of these tests, which reaffirmed the decision made by the former administration.
5. The landscape in which HMICA operated has changed considerably since its inception in 2005. HMCTS now has robust audit methods and management information processes in place, which negates the need for independent inspection. HMCTS is also subject to external audit by the NAO, which can duplicate the work of HMICA.
6. It was concluded that whilst it is important to provide assurance that the systems within HMCTS are robust and effective, it is not necessary for purely administrative systems to be subject to inspection by an independent body. We need to focus resources on delivering frontline services.
7. The Government remains committed to joint inspection of the criminal justice system. It is intended that secondary legislation will enable the other Criminal Justice Inspectorates to inspect HMCTS for the purposes of joint inspection. This will be for the purposes of joint inspection only (for example, tracking categories of cases from initial arrest to charge, court appearance, court result and rehabilitation or custody). HMCTS continues to support the cross criminal justice system inspection work and the CJS inspectors have committed to consulting HMCTS on its future inspection programme to ensure that the right links can be made.
8. In August 2010, the Lord Chancellor decided, with the full agreement of the Inspectorate's senior management team, that HMICA should close administratively at the end of December 2010. A number of staff had already left the Inspectorate at that stage and it was becoming increasingly difficult to plan meaningful work for the remaining staff. It was considered that having a firm date for closure provided the best solution for staff by enabling them to be formally placed on the redeployment list, providing them with priority consideration for vacancies, and enabling the Inspectorate to implement a formal closure plan. The Inspectorate closed down fully on 31 December 2010, and is no longer operational. However, its functions remain on statute.
9. The MoJ consulted on the abolition of HMICA as part of the wider consultation on the Public Bodies Bill. After considering the responses to the consultation, the Lord Chancellor remained of the view that there was no need for a body to carry out independent inspection of HMCTS. The Inspectorate was closed on 31 December 2010 and is no longer operational. It is now intended that HMICA will be legally abolished by Order under the Public Bodies Act.
10. An Impact Assessment on the abolition of HMICA was prepared in May 2011 as part of the wider consultation on the Public Bodies Bill. It covered the impacts of the formal abolition of HMICA and also included some information on the costs and benefits of the administrative closure of HMICA.

B. 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. In its original decision to close HMICA, the Government intervened for efficiency reasons. The functions of HMICA were no longer necessary. Therefore the resources used by the Inspectorate were able to be re-distributed to other projects or to reduce the budget deficit.
13. In this case intervention is required to reflect administrative closure of HMICA in the legal framework for simplicity and clarity.

C. Costs and Benefits

14. 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.
15. This section only sets out the costs and benefits of formal closure of HMICA through amending legislation to reflect administrative closure. The most recent information on the costs and benefits of administrative closure of HMICA is included in Annex 1 for information.
16. A qualitative assessment of the costs and benefits of formal closure is provided below as the aggregate impacts could not be quantified. A quantitative assessment would require specific data and estimates that are unknown and cannot be estimated with any degree of precision. For example, quantifying the benefits from greater clarity and transparency would require knowledge of how much society values clarity and transparency and what impact removing unnecessary legislation might have.

Affected Groups

17. Groups that are affected by the proposal to formally close HMICA are:
 - MoJ; and
 - Society.

Option 0: Base Case (Do Nothing)

18. If we do not legislate, HMICA will be left on statute, but would not be operational. It would be preferable for the statutory position to be amended to reflect the administrative practicalities. The legislative provisions are superfluous and for clarity ought to be repealed.

Option 1: Formally abolish HMICA

Description

19. The proposal is to formally abolish HMICA. HMICA has already closed administratively i.e. it no longer carries out inspections, all operations have ceased and it has no remaining staff. The Public Bodies Bill is therefore simply formalising a decision that has already been made. The majority of the costs and benefits associated with the closure have already been incurred. As such there are minimal costs associated with formally closing HMICA. Annex 1 details the costs and benefits that have been incurred in administratively closing HMICA.

Costs of Option 1

Costs to the Ministry of Justice (MoJ)

20. There will be some administrative costs associated with drafting the legislation. These are expected to be minimal.

Costs to Society

21. There are no expected additional costs to society of formally closing HMICA.

Benefits of Option 1

Benefits to the Ministry of Justice (MoJ)

22. There are no expected additional benefits to MoJ beyond those realised with the administrative closure of HMICA.

Benefits to Society

23. Legally closing HMICA will enable the statutory position to reflect that HMICA is currently not operational. This may provide society with greater clarity and transparency.

Net Impact of Option 1

24. Legally closing HMICA will enable the statutory position to reflect that HMICA is currently not operational and will incur only minor administrative costs.

Costs and Benefits of Administrative Closure of HMICA

25. For information, in Annex 1 we have set out the costs and benefits associated with the administrative closure, which have either already been incurred (or are likely to occur in the future) as a result of HMICA's administrative closure. These costs and benefits will be incurred under both Option 0 and Option 1.

D. One in One Out

26. Formal closure of the HMICA is not a regulatory proposal. Therefore it is not within the scope of the One-In One-Out policy.

E. Enforcement and Implementation

27. The policy will be implemented by legislation. An order will be made under the Public Bodies Act to abolish HMICA. HMICA ceased to operate on 31 December 2010.

F. Specific Impact Tests

Equality Impact Assessment

28. Equality Impact Assessment (EIA) attached as an Annex.

Competition Assessment

29. Formal abolition of HMICA will have no impact on competition.

30. This 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

31. Formal abolition will have no affect on small firms. As HMICA is public sector focused, the administrative closure had limited affect on small firms and small scale suppliers. The proposals do not impose additional costs on small businesses.

Carbon Assessment

32. There is no impact on the emission of greenhouse gases arising from formal abolition of HMICA. Administrative closure may have resulted in a reduction in energy use as the office spaces in London and Leeds are no longer used for HMICA work. HMICA Inspectors also no longer travel to location around England and Wales carrying out their inspection work.

Other Environment

33. 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; or
- affect the number of people exposed to noise or the levels or exposure.

Health Impact Assessment

34. The policy will not have an impact on human health.

Human Rights

35. The administrative closure of HMICA resulted in an alternative proposal being required for compliance with the Optional Protocol to the UN Convention against Torture (OPCAT). HMI Inspectorate of Prisons are now taking on this responsibility.

Justice Impact Test

36. There is no impact on Legal Aid or on the wider justice system (e.g. courts and tribunals, prisons and offender management). As detailed above it was concluded that HMICA's role in carrying out

independent inspection was not needed, given the robust systems for assurance that now exist within HMCTS.

Rural Proofing

37. This policy will not have an different impact in rural areas.

Sustainable Development

38. 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; and
- using sound science responsibly.

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

Annex 1: Costs and Benefits of Administrative Closure of HMICA

40. This Annex assesses the costs and benefits of the administrative closure of HMICA which happened in December 2010. The Impact Assessment published in May 2011¹ covered the impacts of the formal abolition of HMICA and also included some information on the costs and benefits of the administrative closure of HMICA. The costs and benefits in that Impact Assessment has been updated to reflect the most recent information.

Description

41. HM Inspectorate of Court Administration carried out independent inspections of HM Court Service (now known as HM Courts and Tribunals Service). These included both thematic inspections across the courts system and inspections focusing on specific geographic areas or individual courts. HMICA also contributed to the Criminal Justice Joint Inspection programme (which involves inspections on a thematic basis, looking at end to end processes in the criminal justice system). The Coroners and Justice Act 2009 also includes a statutory duty for HMICA to carry out inspections of the coroners service, although this duty did not commence. The Inspectorate's full complement of staff was 36 and its yearly budget was in the region of £2 million.
42. The intention to abolish HMICA was announced in December 2009. During 2010, a number of staff left and were not replaced and the Inspectorate gradually wound down its inspection programme. HMICA closed administratively on 31 December 2010.
43. Functions will be transferred to HM Inspectorate of Prisons to enable it to take on responsibility for ensuring that inspections of court custody areas are inspected in accordance with the Optional Protocol to the Prevention Against Torture. It is intended that secondary legislation will enable the other Criminal Justice Inspectorates to inspect HMCTS for the purposes of joint inspection.

Affected Groups

44. Groups that were affected by the administrative closure of HMICA were:

- Ministry of Justice (MoJ)
- HMICA staff
- HMCTS
- Small businesses
- Leaseholder
- Other parts of Government
- Court users

Costs of the administrative closure

Costs to Ministry of Justice (MoJ)

45. All HMICA staff were redeployed within MoJ or the wider Civil Service, or left the MoJ on a voluntary exit scheme. The final costs of exits was just under £0.5 million.
46. No additional staff were hired to work on the administrative closure and there were no additional monetised costs.
47. HM Inspectorate of Prisons has taken on responsibility for ensuring that inspections of court custody areas are inspected in accordance with the Optional Protocol to the Prevention Against Torture. MoJ has provided additional funds to HMI Prisons of approximately £0.2 million per annum.

¹ See <http://www.justice.gov.uk/downloads/consultations/ia-hmica.pdf>

Costs to HMICA Staff

48. Those staff who chose to leave the Civil Service may have incurred some reduction in income if they remained unemployed or took lower-paid jobs. Any reduction in income will be at least partly offset by the voluntary redundancy or voluntary exit payments. It is not possible to quantify the extent of any reduction in income, as the duration of any unemployment and/or reduction in income is unknown.

Costs to HMCTS

49. HMCTS will no longer be subject to independent inspection. Instead it will rely on its own internal systems to ensure there are checks on administrative processes and appropriate risk management is in place. Joint inspections of the criminal justice system will continue to be carried out, with the remaining Inspectorates liaising with HM Courts and Tribunal Service on inspecting aspects of the courts for the purpose of joint thematic inspections. HMCTS do not anticipate that additional costs will be incurred.

Costs to small businesses

50. A number of small scale suppliers to HMICA may be affected by a loss in revenue (although these only occur on an ad hoc basis and most office supplies are provided through central MoJ contracts).

Costs to Lease Holder

51. The lease of accommodation in Leeds will come to an end in 2012, thereby potentially reducing the long-term rental income to the owner, if MoJ does not renew the lease for another area of the business and the lease holder is unable to find a new tenant. The current lease payments are £0.2 million per annum. As it is not known what will happen we have not monetised the impact on the lease holder.

Other costs to Government

52. No additional costs to the Courts, Probation, Prisons, Legal Aid and Crown Prosecution Service are anticipated.

Costs to court users

53. HMICA did not directly provide a service to court users but did have an indirect impact through its independent assurance role. Due to the nature of HMICA's functions, it is very difficult to reliably assess any indirect impact on court users and the impact is likely to be too diffuse to measure. However, the Government is satisfied that alternative arrangements for scrutiny of administration within the courts are in place and so it is not considered that there will be adverse impact.

Benefits associated with the administrative closure

Benefits to MoJ

54. Based on the original annual budget for 2010-11, the annual cost of running HMICA was approximately £2 million a year. As a result of closure MoJ will no longer incur these costs.

55. In 2010-11 MoJ's outturn was £1.2m, as a result of early closure, with £0.8 million realised in savings.

56. MoJ will not save the full £2 million operational cost of HMICA in 2011/12. This is because some staff remained in the Civil Service temporarily after the administrative closure whilst seeking alternative deployment. This means that some salary costs were incurred with respect to these staff to a total estimate of around £0.1 million by the end of the financial year. This will result in the total savings to MoJ being around £1.9 million in 2011/12 rather than £2 million.

57. HMICA's budget covered payroll, travel & subsistence, training and development and other administrative costs (catering, printing and publishing, office supplies, postage).
58. IT, accounting and payroll services are provided centrally from MoJ. We have assumed no savings as the amount would be negligible.
59. HMICA will no longer require their office in Leeds, for which the rent is £0.2 million per annum. This saving may not be realised immediately. It is hoped that an alternative office can be moved to HMICA's location (as there is not a lease break until 2012). Until this is confirmed the extent of the saving cannot be known.

Benefits to HMICA staff

60. The majority of HMICA staff were re-deployed into other posts in the Civil Service. As discussed above, staff that took voluntary exit or voluntary redundancy schemes received payments totalling almost £0.5 million.

Benefits to other affected groups (HMCTS, small businesses, lease holder, other parts of government, court users)

61. No additional benefits are anticipated to any of the other affected groups.