

## Equality Impact Assessment Initial Screening - Relevance to Equality Duties

***Before you complete an Equality Impact Assessment you must read the guidance notes and unless you have a comprehensive knowledge of the equality legislation and duties, it is strongly recommended that you attend an EIA training course.***

The EIA should be used to identify likely impacts on:

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

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

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

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

Elinor Howard, Head of Sponsorship, ALB Governance Division

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

Aims/objectives	Outcomes
<p>The abolition of the AJTC and the reallocation of its resources. The Government's reforms of public bodies will increase accountability, remove duplication and streamline the public bodies landscape. The Public Bodies Bill provides the legislative basis for reform but does not itself enact any changes. These will be made through secondary legislation. The AJTC's current functions including the oversight of the administrative justice system and the development of administrative justice policy will be carried out by Justice Policy Group officials within the Ministry of Justice who will ensure that future policy developments are subject to equality impact</p>	<p>Increased ministerial accountability relating to functions carried out on behalf of the state; elimination of duplication and reduced waste; fewer public bodies and reduced costs The needs of service users will continue to be met through the alternative arrangements MoJ's Managing Organisational Change Framework policy will be adhered to ensure fair treatment of all staff affected by these changes.</p>

assessments. In addition, the AJTC's oversight functions are no longer required, as the creation of the unified structure within HMCTS ensures the necessary oversight, and that the needs of users are met and equality impacts identified. MoJ will develop oversight of remaining non-HMCTS tribunals and bodies, and will ensure users are at the heart of policy development.

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

*(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).*

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

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

We expect the impact to users to be minimal as most tribunal jurisdictions have user groups where service delivery and equality impacts can monitored and discussed with managers and the judiciary. We will also monitor evidence such as HMCTS Annual reports and statistics to identify equality impacts and ensure that service delivery is maintained. We have recently consulted widely on the proposed abolition and having considered the responses conclude that, apart from the response from MENCAP, no other consultee identified possible adverse equality impacts.

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

*Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.*

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

We consider that the impact will be minimal as HMCTS operate a number of user groups and already undertakes much work to improve the user experience of those who engage with the system of administrative justice including tribunals.

There are likely to be numerous tribunal users who have protected characteristics, such as users of immigration, mental health tribunals etc. The department will, in future work to ensure that the interests of users, particularly the most vulnerable, are protected. All future policy initiatives with regard to administrative justice including tribunals will be subject to an equality impact assessment to ensure that any impact on people with protected characteristics will be fully considered.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of which benefits from the positive impacts and the evidence and analysis used to identify them.

No.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

No.

8. Is there any evidence that proposed changes will have an **adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

A consultation response from MENCAP- a charity for people with learning disability-suggests that the abolition of the AJTC will limit the ability of the system to listen and respond to users' needs. They highlight that the AJTC has focussed on the experience and perspective of users seeking to understand how the justice system can be made to work to improve this experience.

MENCAP is concerned that the expectation-as outlined in the consultation paper-that public bodies involved in administrative justice will listen and take account of the views of users will prove ineffective in either understanding or addressing concerns. MENCAP also comment that customer surveys need to be accessible to all that use the system and that such considerations will not be possible without a body to understand the needs of users. MENCAP maintain that the AJTC has the expertise to carry out the important and challenging function of ensuring that the user perspective is well represented and is able to influence the design and operation of the justice system.

MENCAP explain that those with a learning disability may require extra support to communicate with the result that standard feedback and consultation fails to acknowledge these needs. MENCAP argue that the AJTC has established experience in determining those needs and are better placed to translate this understanding into changes that will improve the ability of those with a learning disability to access the justice system.

The government considers the arrangements for transferring AJTC's function of overseeing the administrative justice system and the development of administrative justice policy to Justice Policy Group officials within the Ministry of Justice to be a proportionate means of achieving a legitimate aim.. The creation of the unified structure within HMCTS aims to ensure the necessary oversight function is maintained, and that the needs of users are met and equality impacts identified.

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

No.

10. Is a full Equality Impact Assessment Required? Yes  No

If you answered 'No', please explain below why not?

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

**If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: <http://intranet.justice.gsi.gov.uk/justice/eqdiv/equal-impact.htm>, and should be referenced here.**

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11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

Future policy developments will be subject to proportionate equality impact assessments.
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12. Name of Senior Manager and date approved

Name (must be grade 5 or above): Pat Lloyd
Department: Head of ALB Governance Division, MoJ
Date 28 November 2011
Note: The EIA should be sent <b>by email to <a href="mailto:analyticalservices@justice.gsi.gov.uk">analyticalservices@justice.gsi.gov.uk</a> of the Equality Analytical Programme for publication.</b>

## Full Equality Impact Assessment

13. Which group(s) of people have been identified as being disadvantaged by your proposals. What are the equality impacts?

Mencap identified those with learning disabilities who may need extra support to engage with the administrative justice system. HMCTS will continue to listen to established User Groups, including those tribunals such as Mental Health and Special Educational Needs and are currently considering how best to formalise engagement with stakeholders – including those who represent users – in future.

14. What changes are you planning to make to your original proposals to minimise or eliminate the adverse equality impacts? Please provide details of the proposed actions, timetable for making the changes and the person(s) responsible for making the changes.

We believe that all public bodies involved in the administrative justice system should always keep the needs of the user at the heart of their service provision. Almost all jurisdictions have user groups, including those tribunals such as Mental Health and Special Educational Needs who engage with protected groups such as those with learning disabilities. These enable users to discuss issues of concern with the judiciary and HMCTS management.

15. Please provide details of whether or not you will consult on the proposed changes, particularly with disabled people and if you do not plan to consult, please provide the rationale behind that decision.

A public consultation was launched on 12 July 2011; closed on 11 October 2011 and it is intended that the response will be published on 15 December 2011. The responses to the consultation will be analysed and any equality-related responses will be considered in the development of the policy.

16. Can the adverse impacts you identified during the initial screening be justified and the original proposals implemented without making any adjustments to them? Please set out the basis on which you justify implementing the proposals without adjustments.

The AJTC is an advisory body some of whose functions are no longer required and some are more properly performed by Government. Since AJTC was created, the tribunal landscape has changed with the establishment of a unified tribunals service now located within Her Majesty's Courts and Tribunal Service. Therefore there is no longer a requirement for an arm's length advisory body to oversee the tribunals system, All tribunals should keep the needs of users at the heart of service provision and take their views into account. This is particularly so in the case of users who need may need extra support to communicate. Tribunal managers are alive to this need and can provide appropriate support to those users within protected groups. Almost all tribunal jurisdictions have user groups which are the forum for users and their representatives to discuss issues of concern with the judiciary and HMCTS management. The AJTC's role in overseeing the administrative justice system and the development of administrative justice policy is properly one for government and the team within the Ministry of Justice 's Justice Policy Group is well placed to provide Ministers with impartial, balanced and expert advice on administrative justice policy.

17. Do your proposals miss an opportunity to promote equality of opportunity? If so, do you plan to take action to remedy this and if so, when? Please provide details.

No.

18. You are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts.

Please provide details of how you will monitor/evaluate or review your proposals and when the review will take place.

There are a number of tribunal run user groups, which include one for representatives of users of the First-tier Tribunal Special Educational Needs & Disability. It also intended that a user group will be held

for representatives of users of the First-tier Tribunal Mental Health. MoJ is also currently considering how best to bring stakeholders, particularly those who represent users, together for regular meetings. All these groups will provide valuable forums for any concerns or issues arising to be raised and addressed. We will be monitoring the effectiveness of the abolition through monitoring the views of users in tribunal user groups and by identifying themes arising in complaints to ensure customers are effectively supported in accessing justice' Cabinet Office will carry out a post legislative scrutiny review after the passage of the Public Bodies Bill and MOJ will monitor the outcome of that

19. Summary details, sign off by Senior Manager and date approved.

The proposal is that the AJTC an advisory NDPB of the Ministry of Justice should be abolished by an order made under the Public Bodies Act. A 12 week consultation was held between July and October 2011. While some respondents supported the abolition of the AJTC the majority of respondents favoured its retention.

Many of those respondents who opposed the abolition cited the AJTC's value as a body that provides an independent overview of the administrative justice system and which can represent the needs of users. A charity representing those with learning disabilities identified an adverse impact in that those with a learning disability may require extra support to communicate and thought that the AJTC were best placed to translate this understanding into changes that will improve the ability of those with learning disabilities to access the justice system.

The Government remains committed to abolishing the AJTC by an order under the Public Bodies Act. It believes that an advisory body is no longer required in the field of administrative justice as robust governance and oversight arrangements now in place with regard to tribunals and the development of administrative justice policy is properly a function of Government.

The Government is committed to ensuring that the abolition of the AJTC will not adversely impact on the administrative justice system and, in particular, that the Ministry of Justice will exercise effective oversight of administrative justice system in a way that best serves users to ensure that their needs are met and their access to justice assured. It will seek to develop, maintain and enhance a UK perspective of the system as well as enhancing its links with stakeholders. The Government will ensure that there are channels such as tribunal user groups by which best practice can be shared and collaborative working developed. MoJ will also establish a stakeholder group, which will include practitioners, user representatives and others.

The MoJ's view is that HMCTS management is well placed to develop and enhance its capacity to ensure that the views and interests of users-particularly those from protected groups-are at the heart of service provision and inform improvements to user experience. Future policy initiatives, with regard to tribunal users, will be subject to equality impact assessments.

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

Department: Head of ALB Governance Division, Corporate Performance Group

Date: 5 December 2011

Note: The EIA should be sent **by email to [analyticalservices@justice.gsi.gov.uk](mailto:analyticalservices@justice.gsi.gov.uk) of the Equality Analytical Programme for publication.**