

<b>Title: Abolition of the Legal Services Commission (a Non-Department Public Body) and the establishment of a new Executive Agency within the Ministry of Justice.</b> <b>Lead department or agency: Ministry of Justice (MoJ)</b> <b>Other departments or agencies: Legal Services Commission (LSC)</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> MoJ 087
	<b>Date:</b> 20/05/11
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary Legislation
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## Summary: Intervention and Options

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

The LSC is a Non-Departmental Public Body (NDPB) established under the Access to Justice Act 1999 to run legal aid in England and Wales. In recent years, its status as an NDPB has come into question, through a lack of clarity around the policy role of Ministers and the MoJ, as well as problems associated with accountability. Ministers are accountable for the LSC's performance and effectiveness, yet have limited formal ability to influence the LSC's approach. Recent reports have criticised the way governance and delivery arrangements operate. The most notable of these is Sir Ian Magee's review. Government intervention is necessary to introduce legislation to abolish the LSC, provide for the transfer of LSC employees to MoJ, and vest all relevant functions and responsibilities for the administration of legal aid to the Lord Chancellor.

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

The policy aims to abolish the LSC and transfer all relevant functions and responsibilities for the administration of legal aid to the Lord Chancellor. It aims to tighten financial control of the legal aid budget (funded through MoJ), improve accountability for policy decisions, as well as linking legal aid policy making in the context of wider justice policy issues, and reduce organisational barriers. Whilst offering clear lines of Ministerial accountability and ensuring strict controls are in place to manage the cost of the scheme, the policy also aims to ensure that case-by-case funding decisions remain at arm's length from Ministers. The intended effect is to set up a structure which will foster more joined up working between the MoJ and the new agency, whilst considering wider organisational budgetary demands such as to achieve greater utilisation of shared corporate 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 - LSC to continue in its present form as an NDPB.

**Option 1** - Legislate to bring delivery of legal aid within the MoJ by abolishing the LSC and establishing a new Executive Agency (EA) within the MoJ.

Option 1 is our preferred option as it fits with the policy objectives and intended effects outlined above.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2015

**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month / Year

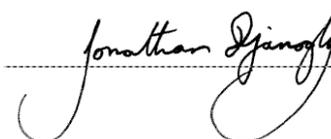
**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**Ministerial Sign-off** For final proposal stage Impact Assessments:

*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) the benefits justify the costs.*

Signed by the responsible Minister:



Date: 16 June 2011

# Summary: Analysis and Evidence

Policy Option 1

**Description: Abolition of Legal Services Commission (a Non-Department Public Body) and establishment of new Executive Agency within the Ministry of Justice.**

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			

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

- One-off costs to be paid from MoJ budget, including programme management, employee severance and IT migration. Total abolition costs are estimated to be approximately £8m in total over four years.

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

- Potential cost to MoJ if there is a deficit in the LSC pension scheme at the point of transfer which would need to be cleared by MoJ (although there was no formal deficit at the last formal actuarial valuation on 31/03/2010). This would represent a transfer payment.

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			

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

- Savings of approximately £8m-£9m are expected to be achieved by the end of 2014/15 against the 2010/11 baseline, building up to this total in previous years, and continuing at approximately this level each year beyond the end of the spending review. These savings relate to expected savings in shared and support services, as well as operational efficiencies that are anticipated with the abolition of the LSC and establishment of an EA.

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

- Possible improvements in legal aid decision making and possible wider efficiencies and improvements in legal aid delivery.  
 - Potential benefits to legal aid providers from one policy voice and clearer policy accountability.  
 - Potential benefit to LSC pension scheme if there is a deficit in the LSC pension scheme at the point of transfer which would need to be cleared by MoJ at point of transfer. This would represent a transfer payment.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>
<ul style="list-style-type: none"> <li>- The analysis has been modelled on the transfer to EA status taking place in October 2012.</li> <li>- No optimism bias included e.g. potentially higher abolition costs, cost overruns or unforeseen costs.</li> <li>- We are not clear of what the exact value of the LSC pension schemes at the point of transfer will be. The schemes could be in surplus or in deficit (at the time of LSC employees joining the civil service).</li> <li>- It has been assumed that the abolition will have no impact on legal aid clients and generate no costs for legal aid providers.</li> <li>- If an outstanding judicial review is successful, the pension schemes may be valued using RPI rather than CPI, which when previously used resulted in a funding deficit in the scheme.</li> </ul>	

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

## 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?			01/10/2012			
Which organisation(s) will enforce the policy?			MoJ			
What is the annual change in enforcement cost (£m)?			£0m			
Does enforcement comply with Hampton principles?			Yes			
Does implementation go beyond minimum EU requirements?			No			
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: £0m	Non-traded: £0m		
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: 100%	Benefits: 100%		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)		Micro £0m	< 20 £0m	Small £0m	Medium £0m	Large £0m
Are any of these organisations exempt?		No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	Please see Bill webpage on MoJ website.
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	12
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	12
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	12
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	12
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	12
Justice system <a href="#">Justice Impact Test guidance</a>	No	12
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	13
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	13

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

#### No. Legislation or publication

- 1 Review of Legal Aid Delivery and Governance – By Sir Ian Magee - <http://www.justice.gov.uk/about/docs/legal-aid-delivery.pdf>
- 2 Proposals for the Reform of legal Aid in England and Wales – Consultation Paper CP12/10- <http://www.official-documents.gov.uk/document/cm79/7967/7967.pdf>
- 3 Access to Justice Act 1999 – <http://www.legislation.gov.uk/ukpga/1999/22/contents>.
- 4 The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP) [http://www.civilservice.gov.uk/Assets/stafftransfers2\\_tcm6-2428.pdf](http://www.civilservice.gov.uk/Assets/stafftransfers2_tcm6-2428.pdf).
- 5 The Transfer of Undertakings (Protection of Employment) Regulations 2006 <http://www.legislation.gov.uk/uksi/2006/246/contents/made>.

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base

## 1. Introduction

### Background

1. 1 Legal aid spending represents a significant component of the cost of running the justice system in England and Wales. It has been in the order of £2 billion per annum since 2002/03.
1. 2 The Access to Justice Act 1999 (the 1999 Act) contains a broad mix of statutory functions, responsibilities and powers for the administration of legal aid and divides these between the LSC and the Lord Chancellor. The LSC is an executive NDPB and therefore exercises its statutory responsibilities at arm's length from ministers.
1. 3 The 1999 Act gives the LSC a broad range of functions and responsibilities including to establish, maintain and develop a Community Legal Service (CLS) and Criminal Defence Service (CDS), to set priorities for CLS funding and prepare a funding code setting criteria for the funding of individual CLS cases and routes of appeal. These provisions vested in the LSC are complemented by a range of order and direction-making powers vested in the Lord Chancellor, for example, to set financial eligibility limits and to set payment rates for representation in CDS cases.
1. 4 The present arrangements have been in place for more than ten years. Until October 2009, when Sir Ian Magee CB was commissioned by the previous administration to look at the delivery of legal aid in England and Wales, there had been no independent review of how the LSC administers and delivers legal aid.
1. 5 In Sir Ian Magee's report<sup>2</sup>, the key problems identified related to: i) a lack of clarity in the supplier base as to who is now calling the shots over legal aid policy, which may be inhibiting effective delivery of Ministers' policy intentions; ii) inconsistency with the MoJ about how it monitors the activities of and supports the LSC; iii) a reduction in corporate focus over financial accountability and a lack of transparency around financial forecasting and the LSC's financial systems and processes; iv) that the governance of the LSC does not reflect current best practice; and v) that there are opportunities for efficiencies, and improved relationships with the legal aid market and interaction with contracted suppliers.
1. 6 The report contained recommendations to strengthen governance and accountability arrangements, streamline policy functions and establish a more rigorous approach towards legal aid fund forecasting and financial management, with reference to several relevant National Audit Office reports<sup>3</sup>. Some changes have already been made, such as a reconciliation of the policy relationship between MoJ and the LSC, the agreement of a new Framework Document between the two organisations, and the appointment with full voting rights of the LSC's Chief Executive and Finance Director to its Commissioners Board. The report also included options for further investigation, including the restructure of the LSC to an EA of the MoJ. The previous administration endorsed Sir Ian's recommendations and announced it would bring the administration of legal aid in-house as an EA of the MoJ.
1. 7 The Coalition Government agrees that the creation of an EA will address the concerns raised in Sir Ian's report and realise a number of benefits.

### Policy Objectives

1. 8 The policy objective is to enable the government to tighten its stewardship of the legal aid fund, establishing clear lines of Ministerial accountability.

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<sup>2</sup> Review of Legal Aid Delivery and Governance <http://www.justice.gov.uk/about/docs/legal-aid-delivery.pdf>

<sup>3</sup> Refer to pp.30 for detail of National Audit Office reports which informed the report <http://www.justice.gov.uk/about/docs/legal-aid-delivery.pdf>

1. 9 A change in status also aims to utilise shared corporate services (where deemed effective), in order to drive significant efficiency savings, as well as aiming to achieve greater organisational flexibility and improved collaboration with other criminal and civil justice bodies.

## Policy Proposals

1. 10 We propose to abolish the LSC (a non-departmental public body (NDPB)) and transfer legal aid functions to the Lord Chancellor. It is intended that an EA will be established within the MoJ to administer legal aid. The Legal Aid, Sentencing and Punishment of Offenders Bill will provide for:
- The abolition of the LSC.
  - The vesting of powers and functions in the Lord Chancellor for the administration of legal aid.
  - The creation of a new statutory office holder who will make decisions in individual applications for legal aid funding.
  - The transfer of LSC employees to the Civil Service on their existing terms and conditions (save as to pensions and severance) with their continuity of employment preserved.
  - Transfer from LSC of contractual obligations, including the transfer of estates, liabilities and interests in land.
  - Maintaining the current independence of the Public Defender Service (PDS). The PDS provides independent advice, assistance and representation on criminal matters to people in custody or clients in magistrates', crown and higher courts.
1. 11 The proposals will only apply to England and Wales. Due to their different legal systems, the LSC is not responsible for legal aid in Scotland and Northern Ireland.
1. 12 Although no formal public consultation was undertaken on the decision to abolish the LSC as an NDPB, Sir Ian Magee conducted a series of interviews with those who contribute to and are impacted by the current delivery arrangements for legal aid as part of this review.
1. 13 In general, the evidence submitted to the review by stakeholders supported the proposed abolition of the LSC and establishment of an EA. A full summary of the findings can be found at page 40 of the Magee Review<sup>4</sup>. As part of the consultation on reforming civil legal aid, the Government also asked for responses as to how the current LSC administrative structure could be made more efficient. Further details on this can be found at paragraph 10.17, page 141 of the civil legal aid consultation paper<sup>5</sup>.
1. 14 As part of the policy development, another option was considered. This was to maintain the LSC as an NDPB, but make further changes to streamline the organisational structure. However, this option was discounted as further to the changes already made, maintaining the LSC as an NDPB would not allow the more salient issues to be addressed. These include establishing clearer lines of Ministerial control and accountability and avoiding confusion for legal aid suppliers. The abolition of the LSC and establishment of an EA will also make possible greater savings through shared services and other efficiencies that can only be achieved with a change in status.

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<sup>4</sup> Refer to pp.40 <http://www.justice.gov.uk/about/docs/legal-aid-delivery.pdf>

<sup>5</sup> Refer to pp.141 <http://www.official-documents.gov.uk/document/cm79/7967/7967.pdf>

## Economic rationale for intervention

1. 15 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 re-distributional reasons (e.g. to reallocate goods and services to the more needy groups in society).
1. 16 In this case, intervention may be justified on efficiency grounds. The LSC administers legal aid in England and Wales, with a current administration budget of approximately £100m per annum. The LSC currently spends approximately £2bn per annum on the provision of publicly funded legal advice. The abolition of the LSC and establishment of an EA will lead to efficiencies through the following channels:
  1. Efficiencies in operational support services (e.g. HR support, estates support, IT support): The abolition would allow for greater use of shared and centralised corporate support services with areas of the MoJ.
  2. Efficiencies in administration costs themselves: Administrative efficiencies would be expected, for example through fewer employees working in overlapping policy areas, more sharing of accommodation and closer integration and coordination between the two organisations.
  3. Service delivery efficiencies: These relate to those more intangible efficiencies that would arise from better governance and delivery arrangements of the current £2bn legal aid fund itself. There could be improvements in the administration and delivery of legal aid for example through clearer policy lines, or improved processes in dealing with the replacement EA. Such changes could benefit providers of legal aid, their clients, MoJ and other organisations that currently work with the LSC. These wider efficiencies are a key reason for intervention, with the efficiency gains detailed above further justifying intervention.

## Main affected groups

1. 17 The proposals are likely to affect the following groups:
  - *MoJ / LSC*: There will be streamlined policy making and financial control and a direct financial impact on the MoJ through efficiency savings.
  - *LSC Employees*: The abolition of the LSC and establishment of an EA of the MoJ will have a limited effect on the transferring employees in that, although LSC employees are currently public servants and not civil servants, the transfer to the MoJ will take place on their existing terms and conditions (save as to relation to pensions and severance) with continuity of employment preserved. As civil servants they will have to comply with the Civil Service Code. They will also have to comply with policies that apply to all civil servants and MoJ employees.
  - *Legal aid suppliers*: The abolition of the LSC and establishment of an EA may potentially have an indirect beneficial impact on legal aid suppliers, as outlined in the Magee review.
1. 18 As regards legal aid clients, the abolition is not expected to have any direct impact.

## 2. Costs and benefits

2. 1 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 this option. The costs and benefits of the option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the

2. 2 The considered options in this Impact Assessments are: i) the do nothing option (option 0) where the LSC would remain as an NDPB as currently, working at an arm's length from the MoJ, and ii) the abolition of the LSC and establishment of an EA of the MoJ (option 1).

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

2. 3 Under the 'do nothing' base case, the LSC would remain a NPDB in its present form. As a result, the current issues around lack of clarity and accountability would continue. Existing LSC systems of financial management and associated supporting LSC governance would also remain largely as they are now. This would not allow the policy objectives to be achieved.
2. 4 The 'do-nothing' option is compared against itself and therefore the costs and benefits are necessarily zero, as is its Net Present Value (NPV).

### **Option 1: Abolition of the Legal Services Commission (a Non-Department Public Body) and the establishment of new a Executive Agency within the Ministry of Justice**

#### **Description**

2. 5 Under this option the LSC would become an EA of the MoJ. The current planning assumption is that this will take effect in October 2012. The LSC will not have a separate legal existence from its parent department, the MoJ, and its employees will become civil servants. The relationship between the EA and the MoJ will be set out in a framework document.
2. 6 Once the LSC is abolished as an NDPB, legislation will vest decision-making for legal aid applications in a new independent statutory office holder (civil servant) with responsibility for making individual funding decisions. The current intention is that the statutory officer holder will be an existing MoJ official or civil servant.

#### **Costs of Option 1**

##### *One-off transitional costs to MoJ/LSC*

2. 7 The transitional costs are estimated to be approximately £8m in total over four years. This excludes any potential impact of the pension transfer which is dealt with separately below. The basis of this estimate and the main assumptions used are as follows:
- **Programme management** (approximately £0.5m): Programme management costs are estimated to be approximately £0.5m in total and include the costs of the team working on the abolition and funding for relevant communications brought about by the abolition. Programme management costs will only be required until the new structure has been fully implemented. Abolition is expected to take place in October 2012.
  - **Severance** (approximately £2m): Staff severance costs are estimated to be approximately £2m. Where possible, employees savings will be achieved through natural wastage or early retirement. This would reduce potential costs for the MoJ. It may be the case that if the LSC remained as an NDPB, some people severance costs could be necessary. This calculation may therefore overstate the potential severance costs on transfer to an EA. No estates severance costs have been included as it has been assumed that all estate changes would take place in line with contract break points.
  - **IT migration** (approximately £5m): As an EA of the MoJ there will be a need to ensure information management systems are compliant and consistent with the Ministry of Justice future operating model and aligned with the shared services model. This estimate of £5m relates to the cost of aligning the relevant IT systems.

**- Pensions actuarial advice** (approximately £0.2m): LSC employees are not civil servants and the LSC has a pension scheme for its employees. LSC employees joining the civil service will be entitled to become members of the Principal Civil Service Pension Scheme (PCSPS). Under COSOP, the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector, LSC employees will be entitled to join a 'broadly comparable' pension scheme to that which they were entitled to, prior to the LSC's abolition. Actuarial advice is required to advise on whether proposals meet this requirement.

2. 8 When the LSC pension scheme's members transfer to the PCSPS, any deficit in the LSC pension scheme's funding will need to be made good in full. It is not expected that the LSC pension scheme will be in deficit at the point of transfer. The last formal valuation performed by the scheme's actuaries (31st March 2010) concluded that the scheme had a £5m surplus. However, the most recent informal update on 31 December 2010, estimated the scheme as having a £3m deficit. This was not based on a formal valuation by the scheme's actuaries. There is therefore a risk that the pension scheme may be in deficit upon transfer. In addition this position would change if the outcome of a current judicial review is that the RPI should be used for calculations instead of the CPI. Using RPI, the scheme was valued as having a £17m deficit at the 2008 formal evaluation. Funding updates on the scheme (between formal evaluations) showed the deficit to fluctuate up to a maximum of £30m, under the RPI measure.
2. 9 The final transfer value of the schemes will not be confirmed until the valuation post employees transfer to the civil service. Therefore, the final pension position is currently unknown.
2. 10 Once the valuation has been carried out post the members transfer exercise, the MoJ would make arrangements to clear any deficit.
2. 11 There are no anticipated ongoing costs as the result of the abolition of the LSC and establishment of an EA. The day-to-day operational and case management functions, as currently undertaken by the LSC, will continue under EA arrangements, and will not generate any additional costs. It is also currently expected that the statutory officer holder will be an existing MoJ official or civil servant, and therefore the set-up of the new statutory office holder similarly will not generate any additional cost.

#### *LSC employees*

2. 12 There may be a non-financial cost to LSC employees on abolition associated with familiarising themselves with MoJ processes and any changes in ways of working as a result of transfer. No ongoing costs have been considered as employees will transfer on the same salary and their jobs will be evaluated and allocated to relevant MoJ grades on transfer. When LSC staff transfer to the MoJ they will transfer on existing terms and conditions of employment, save in relation to pensions and severance. Any potential future impacts have not been quantified, indeed future pay scales for MoJ and LSC employees (for the period beyond the transfer) are yet to be set.
2. 13 In terms of pension provision, under the transfer arrangements, employees should continue to receive a broadly comparable pension.

#### *Legal aid providers*

2. 14 It is not expected that the abolition will generate significant one-off adjustment costs for legal aid suppliers. It is intended that existing LSC processes will be used by the EA and that providers will not be asked to update or redistribute information referencing the LSC, outside of their usual cycle to do so.

## *Legal aid users*

2. 15 We do not expect there to be any costs to legal aid users as a result of the proposed administrative and structural changes to the LSC.

## **Benefits of Option 1**

### *Ongoing benefits to MoJ / LSC*

2. 16 The abolition will generate ongoing benefits, coming largely from a reduction in resource costs going forward through shared and centralised services, and management efficiencies. The saving associated with the abolition of the LSC and establishment of an EA is expected to be approximately £8m-£9m by the end of 2014/15 when compared to the 2010/11 baseline. The savings builds up year on year over the period, and are expected to continue at approximately this level in each year beyond the Spending Review.
2. 17 These savings are expected to be achieved through generating savings in the following areas:
  - **Shared and centralised services:** The abolition of the LSC and establishment of the EA will enable further sharing of services. Areas where efficiencies are expected to be realised are HR, communications, IT, legal and governance, planning and assurance, shared services centre and finance. Approximately a 25% saving in these areas are expected to be achieved once the steady state is reached, and this element is the most substantive component of the savings calculated.
  - **Other efficiencies, including employees savings:** The abolition of the LSC and establishment of the EA will lead to a streamlined staffing and senior management structure. This will contribute to ongoing savings as a result of the abolition.
  - **Estates:** A change in status will allow estates savings to be realised by virtue of a rationalisation of the MoJ estate, and the potential for current LSC employees to work within existing MoJ buildings. The final estate configuration after the abolition will allow an ongoing saving to be realised.
  - **Commissioners:** A change in status will deliver savings in Commissioners costs due to a change in Governance arrangements. The LSC currently has six Commissioners, including a Chair. EA status will see Commissioners replaced with a Board, with Non-Executive as well as Executive members. These savings are likely to be relatively small scale.
2. 18 Further to the monetised benefits, outlined above, the abolition may lead to wider benefits that may improve decision making and accountability, and may improve the efficiency of use of resources and of the MoJ (including the new EA) as an organisation. These are outlined, as follows:
  - Joined up services and improved relationships with stakeholders and delivery partners (Her Majesty's Courts & Tribunals Service (HMCTS), Police, providers). This may have tangible benefits such as facilitating a reduction in delays, for example in dealing with HMCTS, or other stakeholders.
  - Operational effectiveness of legal aid delivery maximised due to fully integrated legal aid work from the centre, a single responsibility and accountability framework; improved communications between employees responsible for delivery in the EA, and MoJ's policy making function.
  - Maximisation of flexible employee deployment due to a single management structure at the MoJ, and a multi skilled workforce.
  - The EA model is expected to provide Ministers with an enhanced ability to set the direction for the legal aid system, while preserving the independence of individual funding decisions. It also allows the Government to tighten its stewardship of the legal aid fund, establishing clear lines of

Ministerial accountability and ensuring that the MoJ has strict controls in place to manage the cost of the scheme.

2. 19 In the event that there is a deficit in the LSC pension scheme at the point of transfer, which MoJ has to clear, this transfer payment would constitute a benefit to the LSC pension scheme.

#### *LSC employees*

2. 20 LSC employees may benefit through transferring to the civil service, for example through any wider support they may receive through becoming civil servants or through more joined up working facilitating their policy work. LSC employees may also benefit from wider opportunities for advancement in the civil service, than as part of a distinct organisation that employs its own staff.
2. 21 In terms of pension provision, under the transfer arrangements, employees will be offered a broadly comparable pension. Therefore there is no anticipated additional pension ongoing benefit to employees as a result of the transfer.

#### *Legal aid providers*

2. 22 Legal aid providers may benefit from clearer policy lines and only one unified group to deal with. Providers may also benefit from improved confidence in relation to decision making, which could improve their planning and ability to deliver effective services to legal aid users. This could generate tangible savings if administrative processes are simplified in due course.

#### *Legal aid users*

2. 23 It is possible that the proposed administrative and structural changes through the establishment of the EA may benefit legal aid users through improved service delivery from providers. However, we do not expect there to be any significant direct benefits to legal aid users.

### **Assumptions and sensitivities**

2. 24 The following assumptions have been made:
- i) The abolition of the LSC and establishment of the EA will take place in October 2012 with core operational functions of legal aid remaining unchanged. It is assumed that movement towards shared services will take place prior to EA status and that the organisational structure will only be an interim structure on vesting date, with further changes to be made during the first year from the day of abolition.
  - ii) Employees will transfer to the MoJ on their existing terms and conditions (save in relation to pensions and severance) with their continuity of employment preserved. Upon transfer, all employees will become civil servants and will be entitled to become members of the PCSPS. No potential ongoing impact on employees has been incorporated, as pay scales for the period beyond abolition (after current pay freezes) are yet to be set, so it is not possible to quantify potential impacts on employees transferred.
  - iii) Abolition costs have been calculated based on current systems and processes being implemented on a 'lift and shift' basis where possible. No funds for system and/or process changes have been allocated other than those for IT migration.
  - iv) Transfer of property, assets and liabilities (including contractual obligations) held in the name of the LSC to the Lord Chancellor or to the Secretary of State.
  - v) Changes to location to generate estates savings are assumed to take place in line with lease breaks and implementation of the organisational structure, so no contract severance costs have been assumed.

- vi) Any potential differences in the funding levels of transferring LSC pensions in the future, have not been included in this IA, e.g. the costs to MoJ if the LSC pension scheme is in deficit and if it is made good by the MoJ upon transfer.

2. 25 The key sensitivities are as follows:

- i) We are not clear of what the exact value of the LSC pension schemes at point of transfer will be. The schemes could be surplus or in deficit (at the time of LSC employees joining the civil service). The most recent formal valuation of the No4 scheme (31 March 2010) concluded that it had a £5million surplus. However it might also be in deficit, indeed if RPI is used for calculation instead of CPI (a possible outcome of the current judicial review) then the deficit might fluctuate up to £30m, although as at 2.8 above this value was as a result of a funding update (ie an informal valuation). The last formal valuation (2008) using RPI resulted in the scheme being valued as having a £17m deficit.
- ii) No optimism bias has been included in the figures detailed above to account for the costs of transfer being higher than anticipated, or savings being lower. With any programme, especially if IT expenditure is involved, there is a risk of cost overrun as well as time delays. This may reduce the overall net saving associated with the abolition.

### **3. Specific Impact Tests**

#### **Competition Assessment**

- 3. 1 These proposals are not expected to directly or indirectly limit the number or range of suppliers. They are not expected to limit the ability of suppliers to compete. They are not expected to limit suppliers' incentives to compete vigorously.

#### **Small Firms Impact Test**

- 3. 2 Businesses with fewer than 50 employees are unlikely to be disproportionately affected by the abolition since the change is purely an administrative one. They may be affected as a result of any other improvements which are happening alongside the abolition and other changes to LSC commissioning activity, however, we cannot quantify these impacts at this time. Any such changes would be accompanied by an Impact Assessment as appropriate.

#### **Carbon Assessment**

- 3. 3 The proposal to establish the executive agency as part of the abolition may yield some reduction in carbon emissions as there will be a need for less office space. This will require monitoring but any reductions will not be able to be specifically quantified at this time.

#### **Other Environment**

- 3. 4 We do not anticipate any significant environmental impacts as a consequence of these proposals.

#### **Health Impact Assessment**

- 3. 5 We do not anticipate any direct health impacts from these proposals.

#### **Human Rights**

- 3. 6 These proposals are compatible with the Human Rights Act 1998.

#### **Justice Impact Test**

- 3. 7 The proposal is focused on the administration of the LSC and will not create any new offence or impact the distribution of legal aid.

### **Rural Proofing**

3. 8 We do not anticipate any specific or different impact in rural areas as a result of these proposals.

### **Sustainable Development**

3. 9 We do not anticipate any significant impact on the principles of Sustainable Development as a consequence of these proposals.

### **Privacy Impact Test (an MoJ Specific Impact Test)**

3. 10 The Privacy Impact Test covering the abolition of the LSC can be viewed on the Ministry of Justice website at <http://www.justice.gov.uk>.

### **Equality Impact Assessment (EIA)**

3. 11 An EIA has been drafted and is available on the Ministry of Justice website – <http://www.justice.gov.uk>.

## Annex A: Post Implementation Review (PIR) Plan

**Basis of the review:**

It is intended that a review of the LSC's abolition and establishment of an EA of the MoJ will take place three years after the implementation date. This is in line with the Cabinet Office guidelines on reviewing public bodies.

**Review objective:**

To review the impact of the abolition on all the affected groups mentioned in the Impact Assessment and whether the benefits outlined in the impact assessment have been delivered.

**Review approach and rationale:**

It is expected that a review of the changes will take place three years from the date of implementation. It is envisaged that this review/report will look at the impacts of the abolition.

**Baseline:**

The abolition will be assessed against a 2010/2011 baseline of the LSC's administration budget. This will involve the existing employees costs and structure, estates and IT costs. We intend to use the LSC's and MoJ's current data collection systems to ascertain the necessary information that is needed to help analyse the information.

**Success criteria:**

Whether the abolition achieves the monetised and non- monetised benefits outlined in the IA and that LSC employees have been successfully transferred to the sponsoring department.

**Monitoring information arrangements:**

We intend to make use of the data LSC systems routinely collect (i.e. HR). This data will be used in conjunction with MoJ systems for data collection. The collection of both datasets from each respective organisation will allow us to monitor any impacts or unintended consequences of the abolition.

**Reasons for not planning a PIR:**

n/a