Future Administration and Structure of Tribunals in Northern Ireland – Consultative Document
Foreword by the Minister of Justice

Tribunals are a key part of the civil justice system.

They deal with a wide range of disputes, mostly between individuals and the State and offer important protections against unfair treatment. The tribunals operated by my Department deal with approximately 16,000 cases a year. These cases often involve the most vulnerable citizens in society, such as those who suffer from mental illness, victims of crime and those dependent on welfare benefits. For many individuals, tribunals are their only contact with the justice system. It is essential, therefore, that they are effective, efficient, accessible and independent.

The current tribunal system in Northern Ireland is, however, fragmented and complicated. Tribunals have evolved separately over the years. This means that numerous fora and different processes now exist for the resolution of disputes. This can be confusing to individuals seeking redress and can limit their access to justice.

The fragmented nature of the tribunal system has resulted in overlap and duplication and a less than effective use of the available administrative and judicial resources. There has also been much criticism of the independence of the system given that traditionally tribunals have been sponsored by the Departments whose decisions they review.

Devolution of justice provided us with an opportunity to address many of these concerns. In 2010, shortly after taking office, I launched my vision for reshaping Northern Ireland’s justice system and announced that the reform of tribunals formed an important part of that vision.

Since then, my Department has worked to improve the efficiency and quality of existing mechanisms. The transfer of statutory responsibility for seven tribunals to the Department of Justice in April 2011 was the first step towards bringing tribunals together into a single system, separate from their sponsoring departments. This addressed some

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1 14,007 cases in 2007/2008; 15,114 in 2008/2009; 15,756 in 2009/2010; 16,760 in 2010/2011; 17,439 in 2011/2012. These figures include cases referred to those tribunals which the Department administers on a non-statutory basis (such as the Appeals Tribunal).
misgivings about independence and allowed the realisation of some benefits of shared services and approach.

I now want to take this process further and build upon the improvements already made to ensure that the Northern Ireland tribunal system is one which: the public understands and in which it has confidence; provides redress in an accessible, efficient form; and has the capacity and flexibility to respond to change.

This paper sets out proposals to bring the majority of those separate tribunals, for which my Department is currently responsible, into a new integrated structure and enhance their independence by bringing tribunal leadership under the Lord Chief Justice of Northern Ireland. It also proposes to introduce new rule making procedures, expand the options for the hearing of disputes and explore the possibility of new arrangements for the appointment of tribunal judiciary.

The views expressed during the course of this consultation process will inform the decision making on the final structure of the new framework. Establishing the new structure is a significant enterprise. The complexity of the task is such that it may take a period of time to achieve but the potential rewards for tribunal users will be significant.

I would, therefore, encourage you to contribute to this important consultation and help to create a new modern tribunal system that meets the needs of Northern Ireland people.

David Ford MLA
Minister of Justice
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In summary, it is proposed to create a simple, efficient and independent tribunal system by:

- **merging** the separate first instance tribunals into a **single integrated structure, to be called the Appeal Tribunal**, with common titles, practices and procedures and scope for the integration of further tribunals in the future;

- **establishing common judicial leadership** across all tribunals **under the Lord Chief Justice of Northern Ireland, supported by a Presiding Tribunal Judge**. The Lord Chief Justice will be responsible for the efficient disposal of business within the new system;

- **streamlining** existing mechanisms for hearings, reviews and **onward appeals** to provide greater consistency, efficiency and equality of arms;

- **underscoring** the **impartiality** of tribunal decision making by providing a **statutory guarantee of independence** for tribunal members and consistency in **appointment** arrangements; and

- supporting the effective operation of the system by **enhancing advisory mechanisms**.
Chapter 1: Introduction

1.1. The purpose of this consultation paper is to set out a blueprint for the creation of an integrated tribunal structure in Northern Ireland which is independent, coherent and user friendly. The proposals in this paper have been developed following responses to the ‘Discussion Paper on the Future Administration and Structure of Tribunals in Northern Ireland’\(^2\) and consideration of recommendations contained within a number of independent reports\(^3\).

1.2. Some progress has been made to improve the system in recent years. However, the current tribunal landscape within Northern Ireland remains fragmented. Dealing with many thousands of cases each year, tribunals are a significant component of the civil justice system, but concerns have been raised about the independence and coherence of the arrangements that govern them.

1.3. The devolved tribunals (i.e. those falling within the responsibility of the Northern Ireland Assembly) have evolved separately under different legislation and with differing practices and procedures. These tribunals currently have no overall leadership and little scope for sharing experience and the dissemination of good practice. In contrast, those tribunals which operate in Northern Ireland and which deal with non-devolved matters are, for the most part, supported administratively by HM Courts and Tribunals Service (the Courts and Tribunals Service for England and Wales), incorporated into the integrated structure created by the Tribunals, Courts and Enforcement Act 2007 (‘the 2007 Act’) and overseen by the judicial Senior President of Tribunals (see structure chart attached at Appendix 4). Allowing this disparity to continue would not provide tribunal users in Northern Ireland with the most effective and efficient access to justice.

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\(^2\) A copy of the paper and summary of the responses to it are available on the Department of Justice website at www.dojni.gov.uk

1.4. The Department aims to develop a system of redress which remedies this and adheres to principles of;

- flexibility;
- efficiency;
- transparency;
- independence;
- impartiality; and
- simplicity.

Providing an integrated structure for tribunals with common practices, procedures and leadership is the best way of achieving these objectives. It will ensure that tribunal users have access to a system of redress which is simplified, more efficient and independent than that offered by the current structure. The Department recognises that, in times of economic stringency, when public services are being pared back, the machinery for addressing disputes between individuals and Government can assume increased significance. It is, therefore, committed to making sure that the appeals system provides value for public money. Unifying the system will help ensure this by allowing better sharing of services, improving judicial deployment and allowing greater proportion of resources to be directed to front line services.

1.5. The focus of the proposals in this paper is on those tribunals for which the Department of Justice currently has statutory responsibility. The intention is, however, to construct the new framework in a way which will allow other tribunals to be absorbed at a later date. This could include tribunals administered by other Departments or new appellate functions created by the Northern Ireland Assembly. The Department considers that the proposed integrated structure provides the most appropriate and cost effective foundation for future development.

1.6. This paper is divided into six chapters. Chapter 1 gives an introduction to the paper whilst chapter 2 provides some background to reform and sets out the need for change. Chapter 3 sets out the proposals for reform in detail and provides specific questions to guide respondents and chapter 4 indicates how the Department intends to take the proposals forward. Chapter 5 provides a summary of the key questions on which we are inviting views, whilst chapter 6 outlines the procedure for providing responses to
the paper. Appendix 7 provides a questionnaire for completion by consultation respondents which is also available on the Department's website.

1.7. A partial regulatory impact assessment for the proposals is included at Appendix 6. We would welcome comments on this assessment, in particular, on our analysis of the potential costs and benefits of the proposals and whether respondents consider that they give rise to any other implications which have not been identified. A full regulatory impact assessment will be published once the proposals for reform have been finalised.
2.1. Tribunals in Northern Ireland provide a mechanism for resolving disputes for individuals aggrieved by the decision of a Government Department or agency but they are also used to resolve disagreements between private parties, such as landlords and tenants or employees and employers. They provide an alternative to the courts for resolving disputes and deal with matters that are fundamental to the lives of citizens, including the review of decisions as to whether a patient is properly detained (the Mental Health Review Tribunal), whether a child is obtaining adequate educational support (the Special Educational Needs and Disability Tribunal (‘SENDIST’)) and whether an individual is entitled to receive a particular welfare benefit (the Appeals Tribunal).

2.2. The number of tribunals in Northern Ireland has grown steadily and they now form an integral part of the landscape of administrative justice. A list of the main tribunals operating in Northern Ireland is at Appendix 2 and the functions of tribunals are outlined at Appendix 3. The Department of Justice operates most of these tribunals. A small number of tribunals continue to be operated by other Northern Ireland Departments.

2.3. Most cases which come before tribunals in Northern Ireland are concerned with the provision of welfare benefits (15,140 in 2011/2012), a matter which is obviously of critical importance to the appellant concerned. However, many of the tribunals which convene less frequently are concerned with issues relating to particularly vulnerable or disadvantaged groups (the Mental Health Review Tribunal received 335 cases in 2011/12 and the Special Educational Needs and Disability Tribunal received 81 cases in 2011/12).

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4 Such as the Industrial Tribunal and Fair Employment Tribunal.
5 The Criminal Injuries Compensation Appeals Panel received 670 cases in 2011/12; the Charity Tribunal received 0 cases in 2011/12; the Health & Safety Tribunal received 1 case in 2011/12; the Traffic Penalty Tribunal received 492 cases in 2011/12; the Care Tribunal received 0 cases in 2011/12; the Valuation Tribunal received 40 cases in 2011/12; the Lands Tribunal received 216 cases in 2011/12; the Rent Assessment Panel received 16 cases in 2011/12; and Fair Employment Tribunal received 137 cases. In 2011/12 there were 2,674 claims received by the Industrial Tribunal (please note that there may be more than one complaint raised by a claimant in a single Industrial Tribunal claim i.e. in 2011/12, 2,674 claims generated 5,461 complaints). The Department of Justice is responsible for of the Tribunals listed in this footnote except the Rent Assessment Panel which is the responsibility of the Department of Social Development and the Fair Employment and Industrial Tribunals for which the Department of Employment and Learning has responsibility.
2.4. Whilst most tribunals operating in Northern Ireland deal with matters which are the responsibility of the Northern Ireland Assembly, some deal with matters for which responsibility lies with the Westminster Parliament. For example, tribunals dealing with immigration and with taxation operate on a UK-wide basis. When these tribunals deal with cases in Northern Ireland, the Northern Ireland Courts and Tribunals Service (‘NICTS’) provides administrative support to these tribunals under an agreement with HM Courts and Tribunals Service for England and Wales. Appendix 4 sets out the UK wide tribunals sitting in Northern Ireland (highlighted in pink).

2.5. The Lord Chancellor is considering the transfer of responsibility for these non-devolved tribunals to the devolved Governments in Northern Ireland and Scotland.

**NEED FOR CHANGE**

2.6. **The current tribunal system is complex and fragmented.** Established piecemeal over many years and under many different pieces of legislation, tribunals in Northern Ireland have until recently operated independently of each other, an arrangement which has resulted in concerns about variations in practice and inconsistency of approach.

2.7. **There is no consistency as to whether a tribunal’s decision can be challenged.** The mechanism for appealing tribunal decisions (see Appendix 5) varies according to subject matter. Some decisions can be appealed to another tribunal (the Northern Ireland Valuation Tribunal and Appeals Tribunals), while others can be appealed to the High Court (Care, Charity, Health and Safety and Special Education Needs and Disability Tribunals) or Court of Appeal (the Industrial Tribunals and Fair Employment Tribunals, Mental Health Review Tribunal, the Lands Tribunal and Social Security and Child Support Commissioners). There are also a small number of tribunals whose decisions may only be reviewed through the Judicial Review process (the Criminal Injuries Compensation Panel, Rent Assessment Panel and Traffic Penalty Tribunal). A system which has multiple routes for resolving disputes is not user friendly. We want to make the process simple and easier for individuals to understand.

2.8. **Tribunal procedures need to be improved.** Rules of procedure are an important means of ensuring fairness and assuring users of the independence of the
process. The purpose of rules is to ensure that cases are determined justly, expeditiously, and in a manner which is proportionate to the complexity of the issue raised. Rules of procedure must also place parties on an equal footing, an objective which has particular resonance in the tribunal system which is intended to be more informal than the courts and which is intended to facilitate self representation. Rules should, therefore, be simple to understand and easily accessible. The evolution of separate tribunals with separate jurisdictions has meant that tribunal processes in Northern Ireland are governed by many different rules and regulations. Consequently, the landscape is difficult for users and their advisors to navigate.

2.9. **The tribunal system could make better use of the available resources.** Until recently, tribunals in Northern Ireland were managed separately. Most are now administered centrally by the NICTS on behalf of the Department of Justice. This centralisation has allowed the Department to identify savings which could be made by sharing services, accommodation and staff. We are committed to ensuring the effective management of public resources and want to generate savings and benefits by streamlining processes, sharing support services, and making the best use of the expertise of tribunal members.

2.10. The Department also wants to stimulate improvements in decision-making. The absence of a common method of providing feedback to decision makers within Departments does not serve the objective of improving first time decision making.

2.11. **The perceived independence of the system could be enhanced.** We are fortunate in the calibre of the lawyers and lay people who preside in our tribunals. However, many members have been appointed and have been paid by the Departments whose decisions they are reviewing and this could give rise to the perception that tribunals are not as independent as they should be. The transfer of responsibility for most tribunals to the Department of Justice has helped to address some of these concerns. The Department is committed to further reinforcing the independence of our tribunal system.
2.12. In March 2006, the Secretary of State for Northern Ireland announced a programme of tribunal reform beginning with the transfer of administrative responsibility to the Northern Ireland Court Service.

2.13. The tribunal reform programme announced by the Secretary of State was subsequently endorsed by the Northern Ireland Executive, and in November 2010 the Executive agreed to establish a unified, accountable, independent, efficient, and customer focused administration for tribunals.

2.14. The reform programme has been progressed in stages. The first stage focused on alleviating the most immediate concern, the perceived lack of independence of tribunals, and concentrated on ensuring a clear line of demarcation between the decision-making Departments and the administration of the tribunals. That was achieved by the transfer of responsibility for the administration of most Northern Ireland tribunals in September 2009 and April 2010 to the Northern Ireland Court Service.

2.15. Devolution of justice functions on 12 April 2010, and the transfer of responsibility for the courts from the Lord Chancellor to the Department of Justice, paved the way for a further stage of reform. This included the introduction of a new Tribunal Hearing Centre supported by a combined administrative team. On 1 April 2011, a further seven tribunals transferred to the Department of Justice where they are operated by NICTS.

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6 Agreement at Hillsborough Castle (5 February 2010) further authorised the Department of Justice to progress the reform.

7 On 1 September 2009, administrative responsibility transferred to the Northern Ireland Court Service from the Department of Finance and Personnel for the Lands Tribunal and from the Department of Health Social Services and Public Safety for the Care Tribunal, Mental Health Review Tribunal, the Tribunal under Schedule 11 of the Health and Personal Social Services (Northern Ireland) Order 1972 and for the Special Educational Needs and Disability Tribunal from the Department of Education. Administrative responsibility for the Appeals Tribunal and Rent Assessment Tribunal transferred from the Department of Social Development on 1 April 2010. The Court Service undertook responsibility for the newly established Health & Safety and Charity Tribunals on 1 April 2010.

8 Transfer of administrative responsibility was achieved by agency arrangements under section 28 of the Northern Ireland Act 1998 (c.47).

9 Departments (Transfer of Functions) Order (Northern Ireland) 2011 (S.R. 201 No.44) transferred statutory responsibility for the Mental Health Review Tribunal, the Care Tribunal, the Tribunal under Schedule 11 of the Health and Personal Social Services (NI) Order 1972, the Special Educational Needs and Disability Tribunal, the Lands Tribunal, the Traffic Penalty Tribunal and the Health and Safety Tribunal to the Department of Justice. The Charity and Valuation Tribunals also came within the remit of the Department of Justice on that date but no statutory functions required to be transferred.
2.16. Realignment of tribunals under the unified administration of the NICTS has already brought about improvements. However, there is still work to be done. We want to build on the momentum created by the establishment of the unified administration.

2.17. In June 2010, the Minister of Justice announced his intention to accelerate and broaden the reform of the tribunal system. To help decide the optimum approach to reform, the Department issued a Discussion Document, in December 2011, which set out the aims for reform and outlined potential options for achievement of those aims. We sought the views of those involved in, or with an interest in, tribunals in Northern Ireland and invited written responses to the Discussion Document.

2.18. Twenty seven responses were received from a broad range of organisations and individuals. All respondents were broadly supportive of the main proposals for reform. A summary of these responses is available on the Department’s website at www.dojni.gov.uk.

2.19. The proposals in this consultation paper build on those outlined in the earlier Discussion Document. They are in keeping with the Department’s proposals on reform of the justice system generally which are designed to move towards a simpler, faster and fairer system which is more responsive to public needs.
Chapter 3: Proposals for consultation

3.1. The Department proposes to further unify the tribunal system to allow better sharing of services, improve deployment, and to ensure that the greater proportion of resources is directed to front line user services. The proposals outlined within this chapter will ensure that users have access to a system of redress which is simple, efficient, independent and which makes the most effective use of public money and balances quality considerations.

FRAMEWORK

A New Tribunal

3.2. The Department proposes to simplify the current system by merging the various first instance tribunals into an integrated structure – a new Tribunal - with common practices and procedures. Maintaining the current arrangement of more than ten separate tribunals is not the most practicable approach to managing fluctuations in the workload of established jurisdictions or the integration of new tribunal jurisdictions in the future. The new structure will maximise flexibility and encourage greater organisational coherence.

3.3. The amalgamated structure will include the following tribunals which are currently sponsored by the Department of Justice, namely the:-

- Care Tribunal;
- Charity Tribunal;
- Criminal Injuries Compensation Appeals Panel;
- Health and Safety Tribunal;
- Valuation Tribunal;
- Mental Health Review Tribunal;
- Traffic Penalty Tribunal;
- Tribunal under Schedule 11 of the Health and Personal Social Services (Northern Ireland) Order 1972; and
- Special Educational Needs and Disability Tribunal.
The current caseloads of these tribunals will transfer into the new structure.

3.4. It is proposed that the Lands Tribunal will, in the interim, remain outside the new structure. The existing mechanisms for resolving land law disputes are complex and the Lands Tribunal acts as an appellate body in some instances. The Department wishes to reflect further on how this Tribunal might be aligned with the proposed new structure. In order to assist it in its deliberations, the Department has commissioned external research to map the current arrangements for resolving land law disputes in Northern Ireland. This will inform the Department’s decision on the optimum approach to the resolution of these disputes. Further consideration will be given to the inclusion of the Lands Tribunal in the new structure upon completion of this research.

3.5. It is anticipated that other jurisdictions may be merged into the new structure in the future including newly created appeal rights, existing tribunal jurisdictions sponsored by other Departments and tribunal jurisdictions not yet devolved. This may include the Appeals Tribunal when statutory responsibility for it transfers to the Department. However, the Department recognises that it may be preferable for certain categories of case to remain outside the amalgamated structure.

3.6. The name of the new structure is important. It will be the image it projects to the public and must promote its accessibility to the user. We want a name that is simple, distinctive and lets the public know what the tribunal does. The Department is, therefore, proposing that the new tribunal will be known as ‘the Appeal Tribunal’.

3.7. In its recent Discussion Document, the Department asked for views on whether an integrated tribunal should be subdivided into separate specialist chambers dealing with different areas of law. Those respondents who expressed a view on this issue were not persuaded that a formal chamber structure would be appropriate for Northern Ireland, given the small size of the jurisdiction. A generic structure is more capable of evolving in accordance with business fluctuations and the development of new jurisdictions. Therefore, it is proposed that the new tribunal should not be sub-divided into separate specialist chambers.

3.8. Care will be taken to ensure that the new Tribunal will, at the same time, have access to the professional, specialist and legal expertise necessary to decide each case.
Case allocation and deployment will, therefore, be a matter of discretion for tribunal leadership who will ensure that areas of judicial specialisation and expertise are retained (see paragraphs 3.9 to 3.11 below on leadership).

1. Do you agree with the proposal to establish a new Tribunal?

Judicial leadership

3.9. It is proposed that the existing tribunal members will transfer to the new Tribunal. A common leadership for the tribunal members would contribute to the creation of a system which is simple, efficient and independent. The Department proposes to designate the Lord Chief Justice of Northern Ireland as the head of the Tribunal judiciary. The Lord Chief Justice will be responsible for the welfare, guidance, performance appraisal, standards reports, deployment, absence management and discipline of all tribunal members and he will also handle complaints made against them.

3.10. The Lord Chief Justice will be responsible for the efficient disposal of business within the new system and will issue practice directions for the new system. He should also be responsible for representing the views of tribunal members to Ministers and the Assembly and for reporting annually on the work of tribunals.

Presiding Tribunal Judge

3.11. A new office of Presiding Tribunal Judge will be created to assist the Lord Chief Justice with delivery of his oversight functions in relation to tribunals. The Lord Chief Justice will be able to delegate any of his functions to the Presiding Judge. In carrying out his functions the Presiding Tribunal Judge will have regard to the need for:

- tribunals to be accessible;
- proceedings before tribunals to be fair and handled quickly and efficiently;
- the members of each tribunal to be experts in the law to be applied in cases; and
- innovative methods of resolving disputes.

The Office of Presiding Judge may obviate the need to retain current tribunal leadership structures.
Training

3.12. Training is one of the principal ways of addressing concerns about consistencies and variances across tribunals. A centralised approach will help foster a unified culture and engender the sharing of good practice. Training should, therefore, be a matter for the Lord Chief Justice, and delivered through the Judicial Studies Board for Northern Ireland, in order to make the most effective use of resources and experience.

Members’ titles

3.13. The Department wishes to ensure that the tribunal system is less formal and less legalistic than that applicable in courts. Therefore, with the exception of the Presiding Judge, the title of judge will not be conferred on tribunal members individually. Members will instead be designated as:

- Legal Members;
- Medical Members;
- Valuer Members;
- Financial Members; and
- Other Members.

2. Do you agree with the proposed new judicial structures?

Judicial Deployment

3.14. At present, most tribunals usually comprise three members. One of the three members is normally a legally qualified member. When determining cases, panels look broadly at two kinds of question: ‘legal’ questions (e.g. what the meaning of a particular law is, or what criteria must a party meet to win their case) and ‘factual’ questions (such as whether a particular event occurred in the manner a party alleges). Where there are questions of fact to be decided by the tribunal, non-legal experience may be relevant to the decision. However, the three panel members act as one and have an equal say in all decisions taken (i.e. legal issues are not decided by legal members alone and factual questions by the expert members alone).
3.15. In some tribunals, legal members can sit alone to hear less complex cases without the need for a full panel. This approach has the advantage that, requiring parties to take one tribunal member through the issues, takes less time and is less daunting for users.

3.16. The Department wishes to capture these benefits by ensuring that, in reaching a decision, each tribunal member discharges a distinct function. The Department, therefore, considers it appropriate that where a point of law arises it may be heard by a legal member sitting alone.

3.17. We also suggest that, in cases involving questions that are reasonably straightforward, such as those where issues of fact can be analysed within a settled framework of law, legal members should be able to sit and determine the appeal alone. We would welcome views as to any other type of case that might be appropriate for a legal member or expert member to hear alone (subject to the general discretion to convene a full panel, if necessary).

3.18. Generally the allocation of cases to a legal or other member and the composition of individual tribunals will be matters for the discretion of the tribunal leadership.

3. We propose that cases on a point of law should normally be heard by a legal member sitting alone. Do you agree?

Judicial Support

3.19. A significant amount of tribunal members’ time is currently spent undertaking pre-hearing interlocutory work. This includes dealing with correspondence from parties, exchanging documents, amending pleadings, adjourning or postponing hearings. This means that judicial time is spent dealing with work which is of an administrative character. This may not always be an effective use of resources. The Department considers that there is scope for some of this work to be delegated. This would give tribunal members more time to focus on those matters that do require their specific knowledge and experience.
3.20. There are two potential possibilities for delegation. The work could be delegated to specifically trained and experienced administrative staff within the NICTS. In England and Wales, administrative staff in the First-Tier Tribunal undertake delegated work in certain cases such as those relating to mental health and criminal injuries compensation.\(^{10}\)

3.21. Alternatively, the work could be delegated to qualified legal staff. The Administrative Appeals Chamber of the Upper Tier Tribunal in England and Wales employs legally qualified registrars to deal with interlocutory applications such as applications for the extension of time and case management hearings.\(^{11}\) Likewise, the Administrative Appeals Tribunal in Australia (the body that reviews the administrative decisions of the Federal Government) employs legally qualified registrars to assist the Tribunal President with the management of the Tribunal.

3.22. Judicial time is costly, so either option would provide savings. Procedures are already in place to ensure that, as far as possible, the maximum amount of administrative work is delegated by tribunal members to NICTS staff. There is scope to delegate additional functions, such as dealing with interlocutory matters, to a qualified lawyer. This would free up judicial time to allow members to hear cases. This will ultimately provide a more efficient service to tribunal users. The Department, therefore, proposes to introduce suitably trained legal staff employed to deal with the general interlocutory work currently dealt with by legal members.

4. Do you agree that interlocutory work may be taken forward by suitably qualified Tribunal legal staff? Please explain your answer.

\(^{10}\) See ‘Practice Statement: Delegation of Functions to Staff on or after 02 November 2010: First-Tier Tribunal Health, Education & Social Care Chamber (Mental Health)’ and ‘Practice Statement Delegation of Functions to Staff on or after 3 November 2008’.

\(^{11}\) See ‘Practice Statement Delegation of Functions to Staff on or after 3 November 2008’. 
Pre-Hearing Advice & Representation

3.23. The Department acknowledges that access to advice is an important issue both before and during tribunal hearings. It also acknowledges that legal aid for representation before Tribunals is generally restricted to circumstances where deprivation of liberty is at stake (such as in cases before the Mental Health Review Tribunal). Following the recommendations outlined within the Access to Justice Review the Department is committed to developing a mixed model for the delivery of advice and assistance which may include assistance in case preparation and representation, where appropriate, at tribunals. The Department will be publishing proposals for consultation in this area, later this year.

Hearings

3.24. The Department considers that there should be flexibility in the format of the hearing of cases. Hearings can be stressful, especially for those who are unrepresented, but not all cases require a formal hearing. Given the wide variety of issues which are subject to adjudication, and the complexity of some of the matters considered, it is inevitable that some tribunals will be more formal than others but the aim should remain that the process should be speedy, less formal and less legalistic than the courts. Alternative mechanisms, such as telephone and video hearings, should be available for use at the discretion of the tribunal leadership. The Department also considers that some appeals might be dealt with on the papers without a hearing. These alternate options for hearing will only be used with the consent of the parties. By providing users with increased options for how their appeal is dealt with, we aim to make the process swift, user-friendly, and effective, avoiding undue cost and stress.

Encouraging Earlier Dispute Resolution

3.25. It is important that the opportunity is also taken to bring about improvements in decision-making by Government Departments in order to reduce the need for appeals. The benefits from such improvements are clear. Resolution of a dispute at the earliest point means a better result for the individual, less work for appeal mechanisms and lower costs for Departments. We, therefore, propose improved mechanisms for reporting
feedback to Departments such as an annual report made by the Lord Chief Justice on the work of tribunals. This will allow Government Departments to learn from examples of best practice and to apply this in future cases.

3.26. The Department’s Discussion Document outlined the available forms of alternative dispute resolution (ADR) and explained that mechanisms are already available to some tribunal users such as parties to the Special Educational Needs and Disability Tribunal. For example the Education and Library Boards have a duty to make arrangements with a view to avoiding or resolving disagreements between parents and schools and between parents and boards, relating to special educational needs. The Dispute Avoidance and Resolution Service (DARS) provides this service.

3.27. The Department sought views on the use of ADR in the administrative justice system and a considerable number of respondents indicated their support for the extension of such mechanisms in appropriate cases. This echoes the findings of the Access to Justice Review. It concluded that increased use of alternative dispute mechanisms would enhance access to justice.

3.28. The Department wishes to consider the scope for extending the use of alternative dispute resolution across the administrative justice system. The Department, as a first step, wishes to understand the current dispute resolution services available. The Department is currently considering the results of externally commissioned research which has mapped the current use of ADR. This will assist the Department in deciding the optimum approach to its use.

3.29. The Department understands that, in 2012, some 115 parents used the dispute avoidance and resolution service (DARS) provided for parents of children with special educational needs. Not all the disputes where parents engage with the DARS carry a right to appeal to the SENDIST. In 2012 a small number of those who participated in the DARS lodged an appeal with the SENDIST. There is, however, limited information on whether, subsequent to concluding the DARS process, an appeal was made to SENDIST. The Department, therefore, also intends to put a mechanism in place to allow it to assess the success rate of the current use of ADR in the SENDIST

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12Published 13 September 2011: http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/access-to-justice-review-northern-ireland.htm
framework. This will allow us to assess the effectiveness of the current use of ADR before deciding on whether or not to extend its use.

3.30. In terms of the mechanisms that might be put in place to deliver enhanced earlier dispute resolution, the Department notes that matters lodged with the Administrative Appeals Tribunal in Australia are subject to a conferencing process conducted by the same legally qualified registrars who assist with case management (referred to in paragraph 3.21 above). These registrars are trained in mediation. The Department, therefore, proposes that there should be scope to deploy the Tribunal's legal staff (referred to at paragraph 3.22) as mediators. The Department will put in place performance measures to enable it to monitor and report on the effectiveness of these arrangements. It would be interested to hear the views of respondents on the merits and drawbacks of any such approach.

3.31. The Department also proposes that the new Tribunal should be obliged, where appropriate, to bring to the attention of the parties the availability of any appropriate alternative resolution procedures.

5. Do you consider that it would be helpful if the Tribunal encouraged the use of alternative dispute resolution procedures?

Fees

3.32. Currently, the cost of running tribunals in Northern Ireland rests entirely with tax payers. This differs from the position in the civil and family courts where people using the services contribute to the associated costs. The Department considers that, in certain cases, it may be appropriate to require applicants to pay a financial contribution toward the costs of bringing a case to the Tribunal.

3.33. The Discussion Document invited views on charging applicants fees to use the tribunal system. The vast majority of respondents who responded on this issue were not in favour of introducing fees as they considered that it would have a detrimental impact on the most vulnerable members of society, deter applications in the current economic climate and would restrict access to justice. The Department is conscious of the need to protect the most vulnerable in society and to ensure that charging levels are not
excessive or imposed on those who would be financially unable to pay them thereby restricting their access to justice.

3.34. The Department intends to consult separately on whether a fees mechanism should be introduced for access to the new Tribunal and, if so, the best approach to its implementation.

**Review and Appeal**

3.35. A number of the tribunals which will join the new Tribunal structure have the power to review their own decisions. However, the grounds for review differ from tribunal to tribunal and different provision is also made in respect of who can initiate a review. In order to provide greater consistency, enhance fairness and eliminate unnecessary costs, the new Tribunal will have a power to review its decisions as outlined below.

3.36. The grounds upon which the Tribunal might review its decisions include-

- clerical errors made by the Tribunal or its administrative staff;
- an error of law in the Tribunal’s decision;
- the availability of new, relevant evidence;
- failure to attend the hearing with good reason; and/or
- the interests of justice.

3.37. The Department is also conscious of the need to ensure that the Tribunal is not overburdened with applications for review. It is interested to hear views on what the grounds for review should be.

3.38. In reviewing its decisions, it is proposed that the Tribunal would have the power to;

- correct accidental mistakes in a decision or the record of a decision;
- amend the reasons given for a decision; and
- set aside a decision.

3.39. It is proposed that provision will be made to allow decisions to be reviewed at the initiative of the Tribunal itself or on the application of one of the parties.
Allocation of reviews will again be a matter for Tribunal leadership who will be provided with a power to refer the review to members previously not involved in the appeal.

3.40. There are currently a number of separate routes for appeal against tribunal decisions in Northern Ireland. (See Appendix 5 for the current appeals structure.) The Department is of the view that the small number of tribunal decisions which are appealed in Northern Ireland each year does not justify the creation of an Upper Tier Tribunal\(^\text{13}\). We propose instead to streamline the existing appeal system to provide more consistency in onward rights of appeal. This will be achieved by providing for an appeal from the new Tribunal to the High Court on a point of law. The exercise of this right of appeal to the High Court will require the leave of either the Tribunal or the High Court. Tribunal users will continue to have recourse to judicial review through the High Court\(^\text{14}\).

| 6. | What should the grounds for reviewing a decision of the new Tribunal be? Are there any categories of cases which you consider should not be capable of review? Please give reasons. |
| 7. | Do you agree with the proposed arrangement for appeals from the new Tribunal? |

**PROCEDURAL RULES**

3.41. The Department proposes to simplify and standardise the rules governing practice and procedure in the new Tribunal. The business process of tribunals, from case initiation to determination, is common to most tribunals. Simplification and standardisation of rules which govern this business process will bring advantages for users. It will improve intelligibility, provide clarity of expectation, and ensure consistency in access to information. A standardised procedure will provide a single source of information about:

- pathways through processes; and

\(^{13}\) Since 2009, one case has been appealed from the Mental Health Review Tribunal to the Court of Appeal, one case has been appealed from the Health & Safety Tribunal to the High Court and seven cases have been appealed to the Valuation Tribunal from the Lands Tribunal. The bulk of onward appeals are from a tribunal outside the scope of current proposals, namely from the Appeals Tribunal to the Social Security and Child Support Commissioners. In 2011/12 the Social Security and Child Support Commissioners dealt with 263 cases.

\(^{14}\) In 2011/12 there were six judicial reviews in the Criminal Injuries and Compensation Appeal Panel; five judicial reviews in the Mental Health Review Tribunal; and two in the Special Educational Needs and Disability Tribunal.
terminology for those processes. Generic, simple, easily accessible procedural rules will place all parties on an equal footing. The rules of procedure of the existing tribunals will be retained until such time as the new rules are in place.

3.42. The Department recognises the important role that key stakeholders and, in particular, those with experience in advising tribunal users can play in ensuring that the procedural rules are as accessible as possible. We, therefore, propose that, before making the new rules, the **Department will consult with the proposed new advisory body** (see paragraph 3.54. below) whose membership will include tribunal members, members of the legal profession, operational tribunal staff and representatives from the advice sector. This will ensure that the rules made are accessible and operationally effective.

3.43. We propose that the **overriding objective** of the procedural rules should be to enable tribunals **to deal with cases justly** (as is the case for civil procedural rules in Northern Ireland). The Department will be under a **statutory obligation to make rules that are**, so far as is reasonably practicable, **simply expressed**. This should increase understanding of the system and promote confidence in it.

8. **Do you agree with the proposed new arrangements for the making of tribunal rules? Please explain your answer.**

**INDEPENDENCE**

**Statutory Guarantee of Independence**

3.44. The Department proposes to introduce a **statutory guarantee of independence** for all tribunal members similar to the protection afforded to the judiciary by section 1 of the Justice (Northern Ireland) Act 2002. Section 1 of the 2002 Act places the First Minister, the deputy First Minister, Northern Ireland Ministers and anyone with responsibility for the judiciary or the administration of justice in Northern Ireland, under a duty to uphold judicial independence. It also provides that Ministers must not seek to interfere with particular judicial decisions through any special access to members
of the judiciary. Tribunal users must be afforded the same reassurance as court users that decisions are fair and impartial.

**Appointments**

3.45. The primary function of many tribunals is the adjudication of disputes between individuals and the State. Their independence from Government is, therefore, of fundamental importance. Most tribunal members are appointed by the Northern Ireland Judicial Appointments Commission. The Commission makes these appointments on the basis of merit.

3.46. However, a number of tribunal appointments remain within the remit of Government Departments. To underscore the independence of the tribunals, the Department is proposing consistency in appointment arrangements so that all tribunal members will be appointed by the Northern Ireland Judicial Appointments Commission.

**Appointment criteria**

3.47. There is currently little consistency in the eligibility criteria for appointment to tribunal posts in Northern Ireland. In the interests of fairness and transparency, the Department will seek to standardise eligibility criteria.

3.48. In order to widen the potential pool of candidates for appointment and enhance diversity, the review of eligibility criteria will give considerable weight to arguments that:

- post-qualification experience requirements for professional tribunal members should be reduced to five years (rather than 7-10 years as currently);
- professional posts should be open to candidates from outside Northern Ireland; and
- academic and non-practising experience should be acknowledged and weighted.
Conditions of Appointment

3.49. In responding to the Discussion Document many respondents agreed that the terms and conditions for tribunal members should be aligned. The Department is proposing to undertake a review with the aim of, where possible, their rationalisation and harmonisation.

Removal

3.50. Tenure is also critical to the perceived impartiality of tribunals. Users cannot have the same confidence that decisions have been made independently if the continuation of a tribunal member’s term of appointment involves the exercise of Ministerial discretion.

3.51. Some tribunal members are subject to judicial removal provisions which are independent of Government. Other office holders are, however, subject to removal by the Minister\(^{15}\). Designating the Lord Chief Justice as head of tribunal judiciary provides the opportunity to address this anomaly. The removal of all tribunal office holders will, in future, be a matter for the Lord Chief Justice on recommendation of an independent removals tribunal outside the remit of Government.

OVERSIGHT

3.52. The Department acknowledges that the effectiveness of a system can only be ascertained by review and that oversight arrangements can be of vital importance to users’ perceptions of the adequacy of their access to justice. To date, however, there has been little structured oversight of the tribunal system in Northern Ireland (in contrast to Great Britain where oversight has been provided by the Council on Tribunals and, more recently, by the Administrative Justice and Tribunals Council (‘AJTC’)). The creation of the new Tribunal structure in Northern Ireland provides an opportunity to rectify this.

\(^{15}\) For example, lay members of the Special Educational Needs and Disability Tribunal, lay members of the Care Tribunal, lay members of the Industrial Tribunals and Fair Employment Tribunal; specialist and lay members of the Health and Safety Tribunal and members of the Tribunal under Schedule 11 of the Health and Personal Social Services (NI) Order 1972.
3.53. The Department considers that oversight of the tribunal system could be achieved in a number of ways. One option would be to build upon the existing Tribunal Presidents Group as an oversight body but expand its membership to include representatives from tribunal user groups.

3.54. The Department, however, considers that there are benefits to be derived from having a dedicated expert body to alert it to key issues in the system. We, therefore, propose to establish an independent non-statutory advisory body to keep the new tribunal system under review. Membership of the new body will comprise of tribunal members, members of the legal profession, operational tribunal staff and representatives from the advice sector. This will ensure that oversight is provided by an expert user focused body.

9. Do you agree with the proposal to establish a new advisory body to keep the tribunal system under review? Please explain your answer.
4.1 This consultation will close on 19 April 2013. The Department will then consider the responses received and issue a summary of those responses before publishing its own response setting out how it intends to proceed. To maximise effective consultation on its intended way forward, the Department will actively engage with interested parties, as appropriate.

4.2 Implementation of most measures set out in this consultation paper would require primary legislation. If the Department decides to take these proposals forward, it will do so when Northern Ireland Assembly time permits. Other measures may be taken forward administratively.
Chapter 5: Summary of Key Questions

1. Do you agree with the proposals to establish a new Tribunal?

2. Do you agree with the proposed new judicial structures?

3. We propose that cases on a point of law should normally be heard by a legal member sitting alone. Do you agree?

4. Do you agree that interlocutory work may be taken forward by suitably qualified Tribunal legal staff? Please explain your answer.

5. Do you consider that it would be helpful if the Tribunal encouraged the use of alternative dispute resolution procedures?

6. What should the grounds for reviewing a decision of the new Tribunal be? Are there any categories of cases which you consider should not be capable of review? Please give reasons.

7. Do you agree with the proposed arrangement for appeals from the new Tribunal?

8. Do you agree with the proposed new arrangements for the making of tribunal rules? Please explain your answer.

9. Do you agree with the proposal to establish a new advisory body to keep the tribunal system under review? Please explain your answer.
Chapter 6: How to respond and when

6.1. The Department welcomes views on the proposals and issues raised in this consultation paper. The consultation will run from Friday 25 January 2013 and all responses should be submitted by 5pm on Friday 19 April 2013. Responses can be sent by e-mail, fax or post as below.

6.2. For queries and responses to the consultation please contact:

Department of Justice  
Civil Justice Policy and Legislation Division  
Access to Justice Directorate  
Massey House  
Stormont Estate  
Belfast  
BT4 3SX

Telephone: 028 9016 9612  
Fax: 028 9016 9502  
Textphone: 028 9052 7668  
Email: atojconsultation@dojni.x.gsi.gov.uk

6.3. When responding, please state whether you are making a submission as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

6.4. A list of those notified of this exercise is presented at Appendix 1.

Additional Copies and Alternative Formats

6.5. An electronic copy of this document along with an easy read version is available to view and download from the consultation section of the Department of Justice website (http://www.dojni.gov.uk).

6.6. You may make copies of this document without seeking permission and if you require further printed copies, we would invite you to access the document
through our website. If you do not have access to the internet and require us to provide you with further copies, please contact us with your specific request.

6.7. Copies in other formats, including Braille, large print or audio cassette may be made available on request. If it would assist you to access the document in an alternative format, or a language other than English, please let us know and we will do our best to assist you.

Confidentiality

6.8. At the end of the consultation period, copies of responses received by the Department may be made available publicly. A summary of responses will also be published on the Department of Justice website. If you prefer all or part of your response or name to be anonymised, please state this clearly in your response. Any confidentiality disclaimer that may be generated by you or your organisation’s IT system or included as a general statement in your fax cover sheet, will be taken to apply only to information in your response for which confidentiality has been specifically requested.

6.9. Any personal data which you provide will be handled in accordance with the Data Protection Act 1998. Respondents should also be aware that the Department’s obligations under the Freedom of Information Act 2000 may require that responses not subject to specific exemptions in the Act be communicated to third parties on request.

6.10. Please contact the Consultation Co-ordinator at the address below to request copies of responses. An administrative charge may be made to cover photocopying of the responses and postage costs.

Equality

6.11. Section 75 of the Northern Ireland Act 1998 requires that all public authorities in Northern Ireland comply with a statutory duty to:
have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, martial status, or sexual orientation, gender, and those with or without a disability and those with or without dependents; and

have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group.

6.12. In addition, public authorities are also required to meet legislative obligations under the Disability Discrimination (Northern Ireland) Order 2006\textsuperscript{16}, particularly in the formation of public policy making.

6.13. The Department is committed to fulfilling those obligations and proposals arising from responses to this paper have been subjected to screening to determine impact on equality of opportunity, good relations and other statutory duties.

Complaints

6.14. Any comments, queries or concerns about the way this exercise has been conducted should be sent to the Departmental Consultation Co-ordinator at the following address:

Mark Higgins
Central Co-ordination Branch
Central Management Unit
Department of Justice
Stormont Estate
Belfast
BT4 3SG

\textsuperscript{16} S.I. 2006 No.312 (N.I.1)
Appendix 1 – List of individuals /organisations consulted

This consultation document has been sent to the following individuals and organisations:

- Academics (QUB, UUJ), Dr Jack Anderson, Brian Thompson, Gráinne McKeever
- Action on Hearing Loss
- Advice NI
- Age NI
- Amnesty International
- An Munia Tober
- Association of Chief Police Officers
- Association of District Judges
- Attorney General for Northern Ireland
- Baptist Church
- Belfast Hebrew Congregation
- Belfast Islamic Centre
- British Deaf Association Northern Ireland
- British-Irish Rights Watch
- British Medical Association
- Cara-Friend
- Carers Northern Ireland
- Catholic Church
- Children in Northern Ireland (CiNI)
- Children’s Law Centre
- Chinese Welfare Association
- Christian Scientists
- Church of Ireland
- Citizen’s Advice Bureau
- Coalition on Sexual Orientation
- Coiste na nLarchimí
- Community Foundation for Northern Ireland
- Community Relations Council
- Committee on the Administration of Justice
- Consumer Council for Northern Ireland
Council of District Judges (Magistrates Courts) in Northern Ireland
Council of Her Majesty’s County Court Judges
Criminal Injuries Compensation Appeals Panel Northern Ireland
Criminal Justice Inspection Northern Ireland
Departmental Solicitor
Department of Agriculture and Rural Development
Department of Culture, Arts and Leisure
Department of Education
Department for Employment and Learning
Department of Enterprise, Trade and Investment
Department of the Environment
Department of Finance and Personnel
Department of Health, Social Services and Public Safety
Department for Regional Development
Department for Social Development
Derry Travellers Support Group
Directorate of Legal Services
District Councils
Disability Action
Early Years
EPIC
Equality Coalition
Equality Commission
Executive Committee of the Council of Employment Judges
Extern
Family Mediation NI
First Division Association (FDA)
Foras na Gaeilge
Free Presbyterian Church
Gay and Lesbian Youth Northern Ireland
General Council of the Bar of Northern Ireland
Gingerbread NI
Irish Congress of Trade Unions
Independent Assessor for PSNI/Recruitment Applications
- Independent Monitoring Board – Maghaberry Prison
- Independent Monitoring Board – Magilligan Prison
- Independent Monitoring Board – Hydebank Prison and Young Offenders Centre
- Institute of Professional Legal Services
- Indian Community Centre Belfast
- Judiciary / Tribunal Judiciary
- Justice Committee
- Labour Relations Agency
- Law Centre (Northern Ireland)
- Law Society of Northern Ireland
- Lesbian Advocacy Services Initiatives (LASI)
- Lord Chief Justice of Northern Ireland
- Mediation NI
- Members of the Northern Ireland Assembly
- Mencap
- Men’s Advisory Project
- Methodist Church
- Ministry of Justice
- Multi-Cultural Resource Centre
- Northern Ireland African Cultural Centre
- Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
- Northern Ireland Association for Mental Health
- Northern Ireland Commissioner for Children and Young People
- Northern Ireland Committee – Irish Congress of Trade Unions
- Northern Ireland Council for Ethnic Minorities
- Northern Ireland Gay Rights Association
- Northern Ireland Human Rights Commission
- Northern Ireland Judicial Appointments Commission
- Northern Ireland Judicial Appointments Ombudsman
- Northern Ireland Law Commission
- Northern Ireland Lay Magistrates’ Association
- Northern Ireland Legal Services Commission
- Northern Ireland Local Government Association
• Northern Ireland Ombudsman
• Northern Ireland Political Parties
• Northern Ireland Police Fund
• Northern Ireland Policing Board
• Northern Ireland Public Service Alliance
• Northern Ireland Women’s Aid Federation
• Office of First Minister and deputy First Minister
• Older People’s Advocate Northern Ireland
• Parenting Forum Northern Ireland
• Parole Commissioners for Northern Ireland
• POBAL
• Police Federation for Northern Ireland
• Police Ombudsman for Northern Ireland
• Police Rehabilitation & Retraining Trust
• Police Service Northern Ireland
• Polish Association Northern Ireland
• Presbyterian Church
• Prison Fellowship Northern Ireland
• Prison Governors’ Association
• Prison Officers’ Association
• Prison Service Trust
• Prisoner Ombudsman for Northern Ireland
• Probation Board for Northern Ireland
• Progressive Unionist Party
• Public Prosecution Service
• Rainbow Project
• Reserve Forces Reinstatement Committee
• RNIB Northern Ireland
• RUC George Cross Foundation
• RUC George Cross Widows’ Association
• Scottish Justice Department
• Sentence Review Commissioners for Northern Ireland
• Superintendents’ Association of Northern Ireland
• Tar Anall
• Tribunal Members
- Tribunal Presidents Group
- Tribunal Reform Reference Group
- Ulster Quaker Service
- Ulster Scots Agency
- UNISON
- Victim Support Northern Ireland
- Women's Forum Northern Ireland
- Youth Action Northern Ireland
Appendix 2 – Northern Ireland Tribunals

Tribunals Sponsored by the Department of Justice

- Care Tribunal;
- Charity Tribunal;
- Criminal Injuries Compensation Appeals Panel;
- Health and Safety Tribunal;
- Lands Tribunal;
- Mental Health Review Tribunal;
- Northern Ireland Valuation Tribunal;
- Traffic Penalty Tribunal;
- Tribunal under Schedule 11 of the Health and Personal Social Services (NI) Order 1972;
- Social Security and Child Support Commissioners; and
- Special Educational Needs and Disability Tribunal.

Tribunals Administered by the Department of Justice

- Appeals Tribunal (sponsored by the Department for Social Development);
- National Security Certificate Appeal Tribunal (sponsored by the Northern Ireland Office);
- Rent Assessment Panel (sponsored by the Department for Social Development); and
- Pensions Appeal Tribunal (sponsored by the Ministry of Justice).

Tribunals Sponsored and Administered by Other Departments

- Industrial Tribunals and Fair Employment Tribunal (sponsored by the Department for Employment and Learning); and
- Planning/Water Appeal Commissions (sponsored by the Office of the First Minister and deputy First Minister).
Appendix 3 - Functions of Northern Ireland Tribunals

**Appeals Tribunal**

The Appeals Tribunal hears applications about decisions made by civil servants in the:

- Social Security Agency;
- Child Support Agency;
- Northern Ireland Housing Executive; and
- Rates Collection Agency;

about the assessment of, and entitlement to; a number of benefits including Disability Living Allowance, Child Support, Incapacity Benefit, Industrial Injuries Benefit and Severe Disablement Allowance.

**Care Tribunal**

The Care Tribunal was established to hear appeals against decisions of the Regulation and Quality Improvement Authority regulation of residential care homes, nursing homes, children’s homes, nursing agencies and independent health care providers and later other care services; decisions prohibiting or restricting the employment of individuals teaching or working with children or working with vulnerable adults or decisions concerning the registration of social workers.

**Charity Tribunal**

The Charity Tribunal was established on 1 April 2010 to hear appeals from decisions made by the Charity Commission. The types of decisions that can be appealed and who may bring an appeal to the tribunal are set out in Schedule 3 of the Charities Act (Northern Ireland) 2008.

**Criminal Injuries Compensation Appeals Panel**

Criminal Injuries Compensation Appeals Panel hears appeals against decisions made by the Compensation Agency in respect of entitlement and assessment of criminal injury and criminal damages payments.
Health and Safety Tribunal

The Health and Safety Tribunal hears, considers and determines appeals against decisions made by a licensing authority in connection with the issue of, conditions applied to, or revocations of asbestos or petroleum-spirit licenses. The Tribunal adjudicates upon disputes between members of the public, private bodies and the Health and Safety Executive for Northern Ireland where the appellant has had a disputed action issued under the Petroleum (Consolidation) Act 1929 as amended or in circumstances where the appellant has had a disputed action issued under the Control of Asbestos Regulations (NI) 2007 as amended.

Industrial Tribunals and Fair Employment Tribunal

The Industrial Tribunals and the Fair Employment Tribunal are judicial bodies set up to hear and resolve certain matters of dispute in the employment field including complaints of religious, political, racial or sexual discrimination, unfair dismissal and equal pay.

Lands Tribunal

The Lands Tribunal is a court which, among other matters, resolves disputes over the amount of compensation to be paid for the compulsory acquisition of land or for the injury caused to land by, for instance, the making of roads.

Mental Health Review Tribunal

The Mental Health Review Tribunal is a judicial body responsible for deciding upon the necessity for the compulsory detention of mentally disordered patients in hospital or the continuation of guardianship or aftercare under supervision in accordance with the Mental Health (Northern Ireland) Order 1986.

Northern Ireland Valuation Tribunal

The Northern Ireland Valuation Tribunal hears and determines appeals against new capital values for property in Northern Ireland in respect of domestic rates.
Rent Assessment Panel

Rent assessment committees (usually made up of a chair and one member) are constituted from the Rent Assessment Panel to consider, at the request of a landlord or tenant, if rent determined by the rent officer is an appropriate rent. The Rent Officer determines an appropriate rent for any property subject to rent control as per Article 40 of the Private Tenancies (Northern Ireland) Order 2006. Where a landlord or tenant exercises their right to have the rent considered by a rent assessment committee, the rent officer refers the case to the Appeals Service who in turn assigns the case to a rent assessment committee.

Social Security Commissioners and Child Support Commissioners

The Social Security Commissioners and Child Support Commissioners are the specialised members of the judiciary appointed to hear and determine appeals on points of law from Appeal Tribunals under the Social Security and Child Support legislation.

Special Educational Needs and Disability Tribunal

The Special Educational Needs and Disability Tribunal hears appeals from the parents of children with special educational needs against certain decisions of Education and Library Boards in the assessment and statement process. A statement sets out the specific educational requirements of a child. The Tribunal also hears claims of disability discrimination made against schools and/or Education and Library Boards in Northern Ireland.

Traffic Penalty Tribunal

The Traffic Penalty Tribunal hears and determines appeals against Penalty Charge Notices issued by or on behalf of the Roads Service.

Tribunal under Schedule 11 of the Health and Personal Social Services (NI) Order 1972

The Tribunal was established under Schedule 11 to the Health and Personal Social Services (NI) Order 1972 to consider representations from a Health and Social Services Board regarding disqualification of a professional.
Appendix 4 – Non-Devolved Tribunals

Court of Appeal etc

Upper Tribunal and First Tier

Tribunal Presided over by Senior President Lord Justice Carnwath

Upper Tribunal

Administrative Appeals Chamber
President: Mr Justice Paul Waller
(Mr Justice William Charles w.c.f. 4th April 2012)
(First instance jurisdiction: forfeiture cases and safeguarding of vulnerable persons. It has also been allocated some judicial review functions.)
Also hear appeals from: PAT (Scotland), PAT (NI) ‘assessment’ appeals only, MIBI (Wales), SENT (Wales).

Tax and Chancery Chamber
President: Mr Justice Nicholas Warren
(First instance jurisdiction: Financial Services and Markets and Pensions Regulator)
Hears appeals from: Taxation Chamber and from the Charity jurisdiction in the General Regulatory Chamber. It has also been allocated some judicial review functions.

Immigration and Asylum Chamber
President: Mr Justice Nicholas Blaker

Lands Chamber
President: Judge George Bartlett QC

First Tier Tribunal

War Pensions and Armed Forces Compensation
President: Judge Andrew Baner
(England and Wales appeals only)

Social Entitlement Chamber
President: HH Lord Justice Martin Jackson
(First instance jurisdiction: Social Security and Child Support, Asylum Support, Clinical Injuries Compensation

Health, Education and Social Care Chamber
President: HH Philip Snare
(First instance jurisdiction: Mental Health, Special Educational Needs and Disability, Care Standards, Primary Health Care

General Regulatory Chamber
President: Judge Nicholas Warren
Jurisdictions include: Charity, Consumer Credit, Estate Agents, Transport (Driving Standards Agency Appeals), Information Rights, Claims Management Services, Gambling, Immigration Services, Local Government Standards, Environment

Tax Chamber
President: Judge Colin Shipp
Jurisdictions include: Direct and indirect taxation, MIs Expenses

Immigration and Asylum Chamber
President: Judge Michael Gaunt
Immigration and Asylum

Land, Property and Housing Chamber
President: Acting President: Sir Gordon McGrath

Employment Tribunals

President: Employment Judge David Latham

Employment Tribunals (Scotland)
President: Employment Judge Shona Simon

Key: United Kingdom, Great Britain, England and Wales, England only, Scotland only
Appendix 5 – Current Appeal Structure in Northern Ireland

Court of Appeal

- Schedule 11 Tribunal
- Industrial Tribunals and Fair Employment Tribunal
- Mental Health Review Tribunal
- Lands Tribunal
- Social Security Commissioners & Child Support Commissioners

High Court

- Care Tribunal
- Charity Tribunal
- Health and Safety Tribunal
- Northern Ireland Valuation Tribunal
- Special Educational Needs and Disability Tribunal

Judicial Review*

- Criminal Injuries Compensation Appeals Panel (NI)
- Rent Assessment Panel
- Traffic Penalty Tribunal

*The decisions of all other tribunals can also be subject to judicial review
1. INTRODUCTION

1.1 This paper provides a partial Regulatory Impact Assessment (RIA) of the implications that may arise in Northern Ireland from the proposals to reform the tribunal system.

1.2 It is not practicable, at this stage, to develop a detailed impact assessment given that the final proposals will be informed by the public consultation exercise (any estimates given are indicative only). This paper, therefore, provides a ‘screening’ of likely impacts and highlights any potential impacts. It seeks the views of consultees on the impact of the proposals and on how any potential impacts can be mitigated. This will enable a full assessment of the impacts to be conducted following the public consultation.

1.3 This paper should be read in conjunction with the consultation paper ‘Future Administration and Structure of Tribunals in Northern Ireland – A Consultative Document’ provided by the Department of Justice. An initial Equality Impact Assessment (EQIA) Screening exercise has also been prepared which is available to download from the Department’s website.

Purpose and structure

1.4 The purpose of an RIA is to provide a basis by which impacts can be identified in terms of who they impact on and the nature and scale of that impact. While an EQIA is unique to Northern Ireland, flowing from the Northern Ireland Act (1998) and the guidance of the Equality Commission, an RIA is common best practice on assessing the impact of new policies or legislation.

1.5 The nature of the proposals, some 27 in all, has required the RIA to adopt a structure where proposals are grouped under relevant subject headings and considered in turn.
**Scope and Definitions**

1.6. The proposals relate to those tribunals that have statutorily transferred to the DoJ and are administered, on behalf of the Department, by the Northern Ireland Courts and Tribunal Service (NICTS). The analysis focuses on the impacts arising for those affected by the proposed changes, rather than the budgetary and other implications for the Department. Accordingly, the focus within this RIA is on the impact on those using, or considering using, the tribunals and those who provide support and advice services to those users.

**Background**

1.7. As the consultation paper sets out, the Department is proposing to unify the tribunal system to allow the better sharing of services, improve deployment, and ensure that the greater proportion of resources is expended on front line user services. The proposals aim to ensure users have access to a system of redress which is simple, efficient, and independent, which makes the most effective use of public money and which effectively, balances quality and cost considerations.

1.8. In summary, reform is aimed at developing a system of redress which adheres to the following principles:

- flexibility;
- efficiency;
- transparency,
- independence;
- impartiality; and
- simplicity.

2. **IDENTIFYING POTENTIAL SECTORS FOR IMPACTS**

2.1. This section describes the sectors which may be affected by the policy proposals and the likely nature of the impact. The potential impact of the proposals on these sectors is then considered further in the next section.
Sectors

2.2. The effect of the changes is likely to be felt in the voluntary, business and social economic enterprise sectors.

Voluntary sector and Social Economic Enterprises

2.3. Within the voluntary sector and Social Economic Enterprises (SEEs), some organisations provide advice and assistance to tribunal users. This may take the form of pre-hearing assistance (including form completion and provision of explanatory leaflets etc) or providing representation at hearings.

2.4. Some in the voluntary sector (such as the Law Centre, (Northern Ireland) and the Children’s Law Centre) also act as training providers in the areas of law which are subject to determination by tribunals and in the procedure before individual tribunals.

Business

2.5. In terms of the business sector, those solicitor firms who provide pre-hearing advice and assistance and/or representation to clients at tribunal hearings will be affected by the proposed changes. These firms currently receive limited legal aid in respect of the pre-hearing advice provided to tribunal users and for representing tribunal at certain tribunals (such as the Mental Health Review Tribunal). They may also be paid privately for this work and, at times, may engage barristers to represent clients on their behalf. Barristers are also, at times, instructed by Departments to act on their behalf at appeals.

Public Sector

2.6. The DoJ, through the NICHTS, is responsible for the administration of the tribunals to be impacted by the proposals. Therefore, the proposed changes will have a direct impact on the Department. The proposals in relation to appointments will also impact on the Northern Ireland Judicial Appointments Commission which is sponsored by the Office of the First Minister and deputy First Minister. Given that certain Northern Ireland Departments may be required to defend their decisions before tribunals, any changes to the system or procedure is also likely to have an impact on those Departments (although this is expected to be minor).
**Tribunal Users**

2.7. The proposed changes is likely to be felt most directly by those members of the public who use the system to appeal against the decisions of Government Departments that affect their lives.

3. **FINDINGS**

3.1 This section describes the proposals put forward in the consultation document and summarises the impacts arising for the various sectors.

**Framework**

1. *First instance tribunals should be merged into an integrated structure with common practices and procedures.*
2. *The new integrated first instance tribunal should be known as ‘the Appeal Tribunal’.*
3. *Case allocation and deployment will be a matter of discretion for tribunal leadership.*
4. *There should be improved mechanisms for reporting decisions to Departments.*
5. *The new Tribunal should have the power to review its own decisions.*
6. *Allocation of reviews should be a matter of tribunal leadership, who may in certain circumstances consider that a decision should be reviewed by members previously not involved in the appeal.*
7. *The system should be streamlined to ensure equality of access in onward rights of appeal.*

**Voluntary Sector and Social Economic Enterprises**

3.2. The proposal to create a new integrated tribunal means that those voluntary organisations and SEEs that currently provide advice and assistance to tribunal users will need to provide that service in respect of one tribunal rather than a number of tribunals with differing processes and procedures. It is envisaged that proposals to improve the system of reporting tribunal decisions to Departments and give the Tribunal a power to review its own decisions may have a positive impact on the workload of the
voluntary sector and SEEs. This is because these proposals may lead to a reduction in the number of tribunal hearings required. This could potentially result in savings for these sectors in terms of reduced need to provide advice and representation at tribunals (although they may be involved in the new review procedure).

**Business sector**

3.3. Conversely, proposals to improve reporting mechanisms and introduce a new procedure for review may have some financial impact to the legal profession if there is a resulting reduction in the number of tribunal hearings. For example, those solicitors firms who currently represent users before the Mental Health Review Tribunal may be affected by a reduced legal aid income. However, since legal aid is not generally available for representation before most other tribunals, the impact of these proposals on the legal profession is expected to be minor. Moreover, the proposal to create new rights of appeal from certain tribunals to the courts may offset the potential reduction in income for the legal profession.

**Tribunal Users**

3.4. Streamlined processes coupled with enhanced guidance from the advice organisations (based on an improved system) will make tribunals less complicated, easier to use and will encourage use of this method of redress. In addition, if the proposal to improve mechanisms for reporting decisions improves the initial decision making process and, thereby, results in fewer decisions being appealed to tribunal, this will reduce the emotional stress on appellants at having to instigate the appeal process.

**Public Sector**

3.5. There will be a cost to the DoJ in respect of the set up of the new integrated structure including rebranding and staff training costs. It is not, however, expected that these costs will be significant. It is also possible that new structure may give rise to additional running costs. In the Regulatory Impact Assessment prepared in respect of similar changes to tribunal structures in England and Wales\(^{17}\), it was estimated that a large bulk of running costs would come from the extra administrative support that might be required in respect of the assignment of judicial resources within the new system. An

\(^{17}\) Tribunals, Courts and Enforcement Bill: Regulatory Impact Assessments
annual cost of £100,000 per annum was estimated for that jurisdiction. It is not anticipated that the administrative costs arising from assignment under the proposals for Northern Ireland would be as high. This is because;

the number of cases dealt with by the Northern Ireland tribunals is significantly smaller than those dealt with in England and Wales (the tribunals currently administered by the Department deal with approximately 16,000\(^\text{18}\) cases a year, whilst in England and Wales, in 2010/11, the Tribunals Service received over 800,000 cases\(^\text{19}\));

the jurisdiction of the new integrated tribunal in Northern Ireland will be considerably less than that in England and Wales (the proposed tribunal for Northern Ireland will absorb nine tribunals whilst the corresponding tribunal in England and Wales absorbed over 30 tribunals);

it is not intended to create an Upper Tier tribunal in Northern Ireland as exists in England and Wales; and

there will be significantly less members to assign (there are approximately 3,500 First-Tier Tribunal members in England and Wales\(^\text{20}\) whilst the tribunals which come within the scope of the proposals have less than 180 members).

3.6. In any event, the Department expects that the benefits to the public purse arising from the proposals in the longer term will outweigh any costs. The improved processes should result in reduction in duplication and, hence, in administrative costs. It is also envisaged that savings to the public purse will be incurred from the proposal to create an integrated tribunal where tribunal members will be able to hear any case in which they have expertise. This may lead to a reduction in future duplicative recruitment costs (at present, a number of tribunal members sit on different tribunals).

3.7. If new rights of appeal to court are created, this may have an impact on the legal aid budget as well as the budgets of those Departments which might have to defend

\(^{18}\) 14,007 cases in 2007/2008; 15,114 in 2008/2009; 15,756 in 2009/2010; 16,760 in 2010/2011; 17,439 in 2011/2012. These figures include cases referred to those tribunals which the Department administers on a non-statutory basis (such as the Appeals Tribunal).


actions which cannot at present be brought against them. However, it is envisaged that this impact on the public purse may be offset by savings for legal aid arising from the proposal to provide the tribunal with a power to review its own decisions and the reductions in the number of onward appeals that should follow. It is envisaged that increased workload for the courts arising from the introduction of any new rights of appeal would give rise to only minor costs.

**Process & Procedure**

8. **Rules governing practice and procedure should be simplified and standardised.**

9. **The Department should determine standardised procedural rules after consultation with the proposed new advisory body.**

10. **There should be an overriding objective that tribunals should deal with cases justly.**

11. **There should be a statutory obligation on the Department to make rules that are simply expressed so far as is reasonably practicable.**

12. **There should be flexibility in the format for the hearing of cases.**

13. **Generally, composition of tribunals should be a matter for the discretion of tribunal leadership.**

14. **Points of law should be considered by a single legal member.**

15. **Suitably trained legal staff should deal with interlocutory matters and be deployed as mediators.**

16. **The Tribunal should have an obligation, where appropriate, to draw the availability of any alternative dispute resolution mechanisms to the attention of the parties and facilitate their use.**

17. **The Department will consult separately on the possible introduction of fees to the tribunal system.**

**Voluntary Sector / Business Sector / Social Economic Enterprise**

3.8. In terms of the above proposals, relating to process and procedure, the financial implications for these sectors should be minimal. The proposals to provide a menu of options for the hearing of cases and to ensure that points of law are considered by one tribunal member only should have a positive impact on these sectors. It is envisaged that these proposals should speed up the process and ensure that less time is spent at
hearings. Furthermore, simplified rules will make it more straightforward for advice organisations to assist appellants and will make it easier to train new staff members (as opposed to providing training for different rules for each tribunal). It is accepted, however, that new procedures may involve one-off training costs for these sectors so as to ensure that representatives are aware of the new processes.

**Tribunal Users**

3.9. Responses to the ‘Discussion Paper on the Future Administration and Structure of Tribunals in Northern Ireland’ suggest that users view the tribunal system as complex and fragmented and are deterred from using the system due to the different processes, procedures and legislation in place. Simplified rules and provision of a menu of options should encourage more use of tribunals as a method of redress. There may be minor costs to University of Ulster in terms of refining the module it delivers on tribunal representation as part of its LLM in Clinical Legal Education. As some of those in the voluntary sector provide training on tribunal procedures to others, it is possible that they may decide to deliver training on the new system. This may generate income for the relevant organisations.

**Public Sector**

3.10. Creating a menu of options for the hearing of cases could create financial costs relating to the procurement, installation of equipment and training etc. However, these costs could be offset by the savings possibly achieved from the use of telephone, paper and video hearings i.e. reduction in payment of travel expenses and administrative support. Savings could also be made from the proposal for cases to be considered by a single legal member on a point of law as the Department would, in those cases, not need to pay fees for a three person panel.

3.11. The proposal to introduce legally trained staff to provide support to the new Tribunal will involve costs to the DoJ in terms of recruitment, salary, pension contributions and training (including mediation training). However, it is envisaged that the savings that would be achieved from employing these legal staff would outweigh these costs (i.e. their introduction would reduce the need for judicial resource and the associated fees).
**Tribunal Members**

18. The Lord Chief Justice will be designated as the head of tribunal judiciary.

19. A new office of Presiding Tribunal Judge should be created to assist the Lord Chief Justice with the delivery of his functions in relation to tribunals.

20. Training will be a matter for the Lord Chief Justice and delivered through the Judicial Studies Board.

21. Tribunal members will collectively be known as the tribunal judiciary but the title of judge will not be conferred on members individually.

22. A statutory guarantee of independence should be provided to all members.

23. Consistency should be sought in appointment arrangements for all tribunal members.

24. The removal of all tribunal office holders will be a matter for the Lord Chief Justice on recommendation of an independent removals tribunal.

25. Eligibility criteria will be standardised.

26. A further review will be undertaken on the terms and conditions of appointment of tribunal members.

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**Voluntary Sector / Business Sector / Social Economic Enterprise**

3.12. Proposals relating to tribunals members are likely to have no direct regulatory impact on the above sectors. However, given that these proposals are aiming to change the perceptions of the tribunal system, there is a potential for an increase, over time, in uptake if users / potential users view the new tribunal structure as more independent and less legalistic and, therefore, use it to resolve their disputes. This possible increase in uptake may impact on those within the above sectors who provide assistance and representation to users.

**Tribunal Users**

3.13. As mentioned above, these proposals (such as that to provide a statutory guarantee of independence to tribunal members and remove Departments from the appointment process) have the aim of enhancing the independence of the tribunal
The proposal to standardise office titles is designed to ensure that the process appears less legalistic. It is possible that these proposals may make the tribunal process less daunting for some users and encourage some members of the public to avail of the system.

Public Sector

3.14. For the most part, the proposals relating to tribunal members will have minimal impact on the public sector in terms of extra spend. Rather, most of these proposals involve a shift of financial responsibility from one area to another. For example, the proposal to transfer training to the Judicial Studies Board may have financial implications for the Board. However, as tribunal members already receive funded training, there should be no significant increase in public spending arising from this proposal. Likewise, the proposal to seek consistency in appointment arrangements for all tribunal members may simply involve a shift of responsibility from the Departments that currently appoint the members to the Northern Ireland Judicial Appointments Commission (rather than any extra spending). In fact, potential savings may be gained from a new streamlined appointment process.

3.15. There may be resource implications for the Lord Chief Justice’s office if he is to assume leadership functions and there may be cost implications of creating a new office of Presiding Tribunal Judge. If the Presiding Judge is selected from the ranks of the existing judiciary or salaried tribunal members, it is likely that uplift in salary might be required.

Oversight

27. A non-statutory advisory body will be established to keep the tribunal system under review

3.16. This proposal will have a limited impact overall with the exception of improving tribunal users confidence in the system. There may be a minimal financial cost to the public sector for paying of expenses of members of the new body but this is unlikely to be significant.
4. Conclusions

4.1. The preceding analysis shows that the proposals for tribunal reform will have a range of impacts across the sectors but, at this stage, the Department envisages that overall the impact is likely to be minimal.

4.2. There may be initial financial implications for the voluntary sector, SEEs and legal profession in terms of the provision of training on a new system and its procedures. However, in the medium to long term a new ‘one system fits all’ approach will have a positive impact, particularly in the voluntary sector, as organisations will be able to provide better, more effective advice and guidance to all tribunal users.

4.3. There is likely to be no adverse financial implications on tribunal users as a result of the proposals. The proposals will improve access to justice for all by creating a more independent, streamlined, user friendly and integrated tribunal. The impacts for users, therefore, are expected to only be favourable.

4.4. It is possible that enhanced public confidence in the system could, in the longer term, lead to an uptake in use of the tribunal system which could impact upon the workload of those organisations within the voluntary and business sector. However, any such costs are likely to be offset by other proposals, such as those designed to improved initial decision making, which may reduce the number of hearings needed. The impact of the proposals on private sector businesses in Northern Ireland as a group is very small (only a very limited impact on legal profession has been identified).

4.5. Impacts to the public sector will include financial impacts such as one off set up costs, rebranding and retraining. However, on the whole, it is envisaged that the proposals should result in savings to the public purse arising from the elimination of duplication and reduction in administrative, judicial and recruitment costs.
5. **Consultation questions on impacts**

5.1. The Department is eager to obtain the views of as many consultees as possible on the impacts of its policy proposals for tribunal reform. In particular, the Department asks consultees whether;

- it has correctly identified and assessed the possible impacts of the proposals and any mitigations of those impacts;
- they are aware of any relevant data that quantifies these impacts which they wish to draw to the Department’s attention; and
- they have anything to add in relation to the impact assessments.

Responses to these questions will inform a more detailed RIA following the public consultation which will, if possible, include the costs of the proposals.
Appendix 7 – Questionnaire for Respondents

Please Note this form should be returned with your response to ensure that we handle your response appropriately.

Please return a hard copy version of the questionnaire to Civil Justice Policy & Legislation Branch, Access to Justice Directorate, Massey House, Stormont Estate, Belfast, BT4 3SX

1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

2. Postal Address


Postcode  Phone  Email
3. Permissions - I am responding as... (choose one)

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<thead>
<tr>
<th>An Individual</th>
<th>An Organisation</th>
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<tbody>
<tr>
<td>(a) At the end of the consultation period, copies of responses received by the Department may be made available publicly. A summary of responses will also be published on the Department of Justice Website.</td>
<td></td>
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<tr>
<td>Do you wish for your response to be anonymised? Please tick as appropriate: Yes ☐ No ☐</td>
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<td>(b) We may share your response internally with other departmental policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future but we require your permission to do so.</td>
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<tr>
<td>Are you content for the Department to contact you again in relation to this consultation exercise? Please tick as appropriate: Yes ☐ No ☐</td>
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CONSULTATION QUESTIONS [continue on separate sheet of paper as required]

<table>
<thead>
<tr>
<th>Question 1: Do you agree with the proposals to establish a new Tribunal?</th>
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<td><strong>Yes □ No □</strong></td>
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<td><strong>Comments:</strong></td>
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<th>Question 2: Do you agree with the proposed new judicial structures?</th>
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<td><strong>Yes □ No □</strong></td>
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<td><strong>Comments:</strong></td>
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<td>Question 3: We propose that cases on a point of law should normally be heard by a legal member sitting alone. Do you agree?</td>
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<td>Yes ☐ No ☐</td>
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<td>Comments:</td>
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<tr>
<th>Question 4: Do you agree that interlocutory work may be taken forward by suitably qualified Tribunal legal staff?</th>
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<td>Yes ☐ No ☐</td>
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<td>Comments:</td>
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<tr>
<td>Question 5: Do you consider it would be helpful if the Tribunal encouraged the use of Alternative Dispute Resolution procedures?</td>
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<td>Yes ☐ No ☐</td>
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Comments:

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<th>Question 6: What should the grounds for reviewing a decision of the new Tribunal be? Are there any categories of cases which you consider should not be capable of review? Please give reasons.</th>
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<tr>
<td>Comments:</td>
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</table>
Question 7: Do you agree with the proposed arrangements for appeals from the new Tribunal?

Yes ☐ No ☐

Comments:

Question 8: Do you agree with the proposed new arrangements for the making of tribunal rules? Please explain your answer.

Yes ☐ No ☐

Comments:
Question 9: Do you agree with the proposal to establish a new advisory body to keep the tribunal system under review? Please explain your answer.

Comments:

Department of Justice,
Civil Justice Policy and Legislation Division,
Access to Justice Directorate,
Massey House,
Stormont Estate,
Belfast,
BT4 3SX.

http://www.dojni.gov.uk