EXPLANATORY MEMORANDUM TO

THE CIVIL COURTS (AMENDMENT No. 2) ORDER 2009

2009 No. 3320

and

THE ALLOCATION AND TRANSFER OF PROCEEDINGS (AMENDMENT) ORDER 2009

2009 No 3319

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the instruments is to order the closure of Nelson County Court. The Civil Courts (Amendment No. 2) Order 2009 removes civil and divorce jurisdiction. The Allocation and Transfer of Proceedings (Amendment) Order 2009 removes family jurisdiction.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 2(1) of the County Courts Act 1984 and section 33(1) of the Matrimonial and Family Proceedings Act 1984 confer power on the Lord Chancellor to establish civil and matrimonial jurisdictions within England and Wales and the locations of County Courts designated to deal with such cases. Section 92(6) and Part 1 of Schedule 11 to the Children Act 1989 confer power on the Lord Chancellor to establish jurisdiction for county courts to process and hear family proceedings.

5. Territorial Extent and Application

5.1 These instruments apply to England and Wales only.

6. European Convention on Human Rights

The Allocation and Transfer of Proceedings (Amendment) Order 2009 is subject to negative resolution. The Civil Courts (Amendment No. 2) Order 2009 is simply laid. As neither SI amends primary legislation no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The HMCS Estate Strategy aims to improve the court estate, allow HMCS to meet our financial targets and enable MoJ to respond to Lyons Review targets. In March and April 2007 Ministers agreed an estates strategy which covered

proposals for new court buildings, court integrations and disposal of properties aimed at improving service delivery. Approval was given for the Area Director to discuss the proposal with stakeholders and present a submission to go to full public consultation. The proposal received the backing of the Cumbria and Lancashire Courts Board, the judiciary and HMCS staff, and permission was secured to go to full public consultation.

7.2 There is a strong case to close Nelson County Court and transfer jurisdiction to Burnley Combined Court. Nelson County Court has limited jurisdiction and is under-utilised. The accommodation falls short of the minimum requirement for the provision of services and is not compliant with the Disability Discrimination Act. There is no courtroom at Nelson and the District Judge's chambers are basic and ill equipped. The waiting room is small and does not provide for separation of vulnerable or intimidated witnesses.

7.3 Burnley is a modern, purpose built, court. The court has full civil jurisdiction including Bankruptcy and District Registry. The building is fully compliant with the Disability Discrimination Act 2005 and all areas are accessible to wheelchair users.

7.4 Burnley is approximately 5 miles from Nelson and excellent transport links exist between the towns.

8. Consultation outcome

8.1 A 12 week formal consultation exercise on proposals to close Nelson County Court closed on 20 October 2008. The consultation document was sent to 38 stakeholder groups including Cumbria and Lancashire Courts Board, the judiciary, solicitors, representative bodies, Local Authorities, court users and staff members. Eleven responses were received to the consultation. These generally agreed with the proposals, although some concerns were raised regarding depletion of local services.

9. Guidance

9.1 The nature of these orders makes it inappropriate to publish guidance in relation to them.

10. Impact

10.1 An Impact Assessment has been prepared for these instruments. This identified some increase in the cost of travelling for court users although significant benefits for disabled users will be realised as Burnley is fully DDA compliant and has a full range of facilities, including catering. Significant financial savings for HMCS were also identified.

10.2 An Equality Impact Assessment was also undertaken which revealed no negative outcomes for court users.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 As part of ongoing customer service policy, HMCS conducts regular customer satisfaction surveys which will give court users the opportunity to provide feedback on the quality and accessibility of services within the Burnley and Pendle areas.

13. Contact

Jane Walker at the HMCS Estates Tel: 020 334 5448 or email: Jane Walker@justice.gsi.gov.uk can answer any queries regarding the instrument.