EXPLANATORY MEMORANDUM TO

THE JUSTICES OF THE PEACE (TRAINING AND DEVELOPMENT COMMITTEE) (AMENDMENT) RULES 2011

2011 No. 1493

AND

THE YOUTH COURTS (CONSTITUTION OF COMMITTEES AND RIGHT TO PRESIDE) (AMENDMENT) RULES 2011

2011 No. 1494 L. (12)

AND

THE FAMILY PROCEEDINGS COURTS (CONSTITUTION OF COMMITTEES AND RIGHT TO PRESIDE) (AMENDMENT) RULES 2011

2011 No. 1495 L. (13)

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 instruments

2.1 The Justices of the Peace (Training and Development Committee) (Amendment Rules) 2011 amend the Justices of the Peace (Training and Development Rules) (S.I. 2007/1609). The Youth Courts (Constitution of Committees and Right to Preside) (Amendment) Rules 2011 amend the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 (S.I. 2007/1611). The Family Proceedings Courts (Constitution of Committees and Right to Preside) (Amendment) Rules 2011 amend the Family Proceedings Courts (Constitution of Committees and Right to Preside) Rules 2007 (S.I. 2007/1610).

The Youth Courts (Constitution of Committees and Right to Preside) (Amendment) Rules 2011 dissolve the Inner London and City Youth Panel ("ILCYP") while the Justices of the Peace (Training and Development Committee) (Amendment) Rules dissolves the Inner London Youth Training and Development Committee ("ILYTDC").

The Justices of the Peace (Training and Development Committee) (Amendment) Rules 2011 further permit magistrates in London who only sit in the youth court to be appointed as youth court chairs and amend the date when a Magistrates' Area Training Committee

("MATC") is required to submit its annual training report to the Lord Chief Justice.

2.2 Each instrument also amends references in the underlying Rules from 'Area Director' to 'Delivery Director' to reflect recent organisational changes in Her Majesty's Courts and Tribunals Service ("HMCTS"). This is the only change provided for by the Family Courts (Constitution of Committees and Right to Preside) (Amendment) Rules 2011.

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

3.1 None.

4. Legislative Context

4.1 The Lord Chancellor's decision on changes to the court estate and the merger of Local Justice Areas ("LJAs") in England and Wales, which included the dissolution of the ILCYP and the ILYTDC, were announced to Parliament by the Parliamentary Under-Secretary of State, Jonathan Djanogly, on 14 December 2010.

4.2 Following these decisions, the Local Justice Area Order 2011 (S.I. 2011/1168), provides for a number of LJAs to be merged across England and Wales and for new LJAs, including those for London, to be created in January 2012.

5. Territorial Extent and Application

5.1 These instruments apply to England and Wales.

6. European Convention on Human Rights

6.1 Each instrument is subject to the negative resolution procedure and does not amend primary legislation, therefore no statement is required.

7. Policy background

Dissolution of the Inner London and City Youth Panel

7.1 HMCTS consulted in June 2010 on the provision of court services in its 16 Areas. The proposals in London were to close 11 magistrates' courts and 2 county courts and to reduce the 28 LJAs to 9. Additionally, the consultation requested responses on the proposal to replace the current 20 Outer London youth panels and the ILCYP with a youth panel for each of the newly created LJAs.

7.2 Rule 5(2) of the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 states that there shall be a combined youth

panel for the Inner London Area. As rule 5(2) stands, the effect of the Local Justice Area Order 2011 would be that a magistrate within one of the new Inner London LJAs would be accountable to both a Bench Training and Development Committee ("BTDC") and the ILYTDC. Aligning youth panel and LJA boundaries will enable more efficient management, communication and judicial support arrangements to be put in place and will help to ensure that magistrates in the Inner London Area will be exposed to a broad spectrum of work.

Once the ILCYP has been dissolved, youth justices will become members of the youth panel of the LJA to which they are attached by virtue of rule 3 of the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007. The Local Justice Area Order 2011 provides for a number of new LJAs for London, to be created as of 1st January 2012. The Senior Presiding Judge (acting on behalf of the Lord Chief Justice) will reassign or transfer Inner London magistrates to the new LJAs in accordance with section 10(2)(b) of the Courts Act 2003.

Dissolution of the Inner London Youth Training and Development Committee

7.3 The Justices of the Peace (Training and Development Committee) Rules 2007 (the "JP (TDC) Rules 2007") provided that the ILCYP shall establish the ILYTDC for that area. Once the ILCYP is abolished, there is no practical benefit in retaining the ILYTDC.

The ILYTDC is responsible for training and appraising youth justices assigned to the LJAs within the Inner London area. Outside Inner London, this function is carried out by a BTDC.

Rule 11 of the JP (TDC) Rules 2007, which disapplied the ordinary BTDC provisions in the Inner London Area, will be amended so that the functions of the ILYTDC will be undertaken by a BTDC.

Part 1 of Schedule 2 of the Local Justice Area Order 2011, which came into force on 19 May 2011, provides that a BTDC and a chairman of a youth panel shall be elected for the new LJAs to take office on 1 January 2012.

Chairs of the Youth Court

7.4 Rule 36 of the JP (TDC) Rules 2007 provides that a youth justice may only be included in the list of approved youth court chairs if s/he is on the list of approved chairs in the adult court. This has caused operational difficulties in magistrates' courts in London because a number of magistrates who currently sit on the ILCYP do not sit in the adult court and cannot be added to the list.

7.5 The Justices of the Peace (Training and Development Committee) (Amendment) Rules 2011 provide that the JP (TDC) Rules 2007 be amended so that in addition to removing reference to the ILYTDC, those members of the ILCYP who immediately prior to the coming into force of this amendment rule did not undertake adult work are not prevented from having their names added to the list of approved youth chairs.

7.6 This amendment would assist from an operational perspective by providing a wider pool from which to draw; and it would take the magistrates concerned out of the position of not being able to take the chair in the jurisdiction to which they were appointed and put them, instead, on a par with their youth court colleagues who also sit in the adult court. It is not proposed to introduce similar changes for youth court magistrates in the rest of country given that they have the opportunity to train as chairs in the adult court and are not disadvantaged in the same way.

Magistrates' Area Training Committees - submission of Annual Reports

7.7 The Justices of the Peace (Training and Development Committee) (Amendment) Rules 2011 amend the JP (TDC) Rules 2007 so as to amend the date that MATCs are required to submit their annual report.

7.8 Currently annual reports are due on 30th September each year. However the Lord Chief Justice, on the advice of the Judicial College, has decided to amend this date to bring it forward to 30 June each year. This amendment to the date for submitting the annual report, which has the support of the Justices' Clerks, Justices' Clerks' Society and Magistrates' Association representatives on the Magisterial Committee of the Judicial College, would make reporting more timely and relevant.

Delivery Directors

7.9 Currently, HMCS Area Directors are appointed as 'Designated Officers' under the Courts Act 2003. As a result of the creation of HM Courts and Tribunals Service from 1st April 2011 and a corresponding organisational restructure of HMCS and the Tribunals Service, the post of Area Director has been abolished and replaced by Delivery Director. It is necessary therefore to re-designate duties from 'Area Directors' to 'Delivery Directors'.

7.10 The JP (TDC) Rules 2007, the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 and the Family Proceedings Courts (Constitution of Committees and Right to Preside) Rules 2007 contain references to 'Area Director' and so these Orders replace those references with 'Delivery Director'.

8. Consultation outcome

8.1 The proposals to reduce the 28 LJAs in London to nine and to replace the current 20 Outer London youth panels and the ILCYP with 9 youth panels received 26 responses. All responses were analysed for the degree of support for, or opposition to, the proposal and for any comments and/or concerns that needed to be captured in the decision making process.

8.2 Of the 26, nine (35%) expressed support for the proposals, nine (35%) were neutral, and eight (30%) were opposed. Those supporting the proposals highlighted the potential for increased flexibility of youth court listing and for bespoke youth court sitting days. Those opposed were concerned about the loss of local knowledge and impact on youth justice as well as on the relationship with local Youth Offending Teams.

8.3 HMCTS considers that these changes will create a balance between the need to have greater flexibility in listing youth work and the need for there to be local accessibility and ownership of youth justice. There are no obvious benefits in retaining the ILCYP operating across the nine new local justice areas; once youth is organised in a uniform fashion in London based on LJAs there is no compelling argument for the retention of the ILYTDC.

8.4 Following consideration of consultation responses, the Lord Chancellor decided that the 28 LJAs in London should be merged into 9 LJAs, that each new LJA should have its own youth panel and that the ILCYP should be dissolved.

8.5 A more detailed analysis of the consultation outcome is available in the response papers regarding the provision of court services in each of the 16 former HMCS Areas. The response papers can be found on the Ministry of Justice website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

8.6 The Lord Chief Justice has also consulted the Criminal Procedure Rule Committee, the Family Procedure Rule Committee and the Magistrates' Courts Rule Committee. These committees noted the proposals and draft Orders but did not comment on them.

9. Guidance

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

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

11. Regulating small businesses

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 While there is no monitoring or review planned that is specific to these instruments, the Ministry of Justice plans to conduct a Post Implementation Review to evaluate the changes to the provision of magistrates' and county court services in England and Wales. The Post Implementation Review will assess the impact of a reduced court estate on the public and the Justice System to inform potential future court estate strategy. Further detail can be found in the Impact Assessments accompanying each of the consultation response papers on the Departmental website at:

http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/consultations/consultations-closed-with-response.htm

13. Contact

13.1 Lee Howse at the Ministry of Justice Tel: 0203 334 6298 or e-mail: lee.howse@hmcourts-service.gsi.gov.uk can answer any queries regarding the instrument.