**EXPLANATORY MEMORANDUM TO**

**THE LOCAL JUSTICE AREAS ORDER 2009**

**2009 No. 2080**

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 This order combines the Warley Local Justice Area (LJA) and West Bromwich LJA and names the merged LJA Sandwell.

2.2 The order combines Dudley LJA and Stourbridge and Halesowen LJA and names the merged LJA Dudley and Halesowen.

2.3 The order makes consequential and transitional provision for the appointment and election of justices to various posts in the context of the new areas.

## 3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None.

## 4. Legislative Context

4.1 The Local Justice Areas Order 2005 (SI 2005/554) made under section 8(1) of the Courts Act 2003 ("CA 2003"), specifies the local justice areas into which England and Wales is divided. Section 8(4) of the CA 2003 confers the powers of the Lord Chancellor to make orders altering local justice areas under section 8(5A) and 8(6) of the CA 2003 the Lord Chancellor must consult the Lord Chief Justice (or his nominee: section 8 (8)) and the justices of the peace assigned to the local justice area or part of the local justice area and any local authorities whose area includes the local justice area or part of the local justice area, and any local authority whose area includes the local justice area.

4.2 In accordance with section 8(6) of the CA 2003 a consultation has been undertaken through Her Majesty's Courts Service about altering the local justice areas referred to in paragraph 2, above. In addition, consultation has taken place in accordance with section 21 of the CA 2003 which provides that the Lord Chancellor and the Lord Chief Justice or his nominee must take all reasonable and practicable steps to ensure that lay justices in local justice area are kept informed of matters affecting the performance of their duties and to ascertain their views.

## 5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

## 6. European Convention on Human Rights

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

## 7. Policy background

- ***What is being done and why***
    - Provide increased flexibility in the deployment of both benches. Giving greater scope for magistrates to do the full range of work.
    - The Family Panel, Bench Training and Development Committee, Bench Committee and Advisory Committees have already merged and the merger of the LJA would strength the closer working of magistrates.
    - The courthouses are already managed from one administrative centre and the merger would align administrative and judicial management structures.
- **Consolidation**

The order will amend the Schedule to the Local Justice Areas Order 2005S.I. 2005/554.

## 8. Consultation outcome

8.1 The consultation consulted Magistrates, Courts Boards and Local Authorities as required by legislation as well as other stakeholders. A total of 42 replies were received 19 on the Warley and West Bromwich merger and 23 responses for the Dudley and Stourbridge and Halesowen mergers. The replies were in favour of the mergers save for one objection from a magistrates who did not wish to sit at a different court. The HMCS response to the consultation made clear that magistrates would not be asked to sit at a courthouse against their will. The Dudley and Stourbridge and Halesowen merger consultation is available at http://www.justice.gov.uk/consultations/dudley-lja-merger-consultation.htm The Warley and West Bromwich merger consultation is available at http://www.justice.gov.uk/consultations/proposed-merger-warley-west-bromwich.htm .

## 9. Guidance

9.1 No guidance is necessary as the mergers of Local Justice Areas are administrative processes affecting magistrates, and rules regarding magistrates Bench Elections are already set out in the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005(**1**) on Bench Training and Development Committee election in Justices of the Peace (Training and Development Committee) Rules 2007(**2**) and the

(**1**) S.I. 2005/533
(**2**) S.I. 2007/1609

Youth Panel elections in the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 to which there are no changes.

## 10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to small business.

## 12. Monitoring & review

12.1 Management of the merged Bench is undertaken by the Justice's Clerk, and it would fall to the Justice's Clerk in consultation with the HMCS Area Director to review the mergers.

## 13. Contact

**13.1** Chris Folkmans at the Ministry of Justice Tel. 020 3334 6286 or e-mail Chris.folkman@hmcourts-service.gsi.gov.uk can answer any queries regarding this instrument.