EXPLANATORY MEMORANDUM TO

THE LOCAL JUSTICE AREAS ORDER 2016

2016 No. 941

1. Introduction

1.1 This explanatory memorandum has been prepared by HMCTS and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order will rearrange the organisation of Local Justice Areas (LJAs) in Avon and Somerset, Cheshire, Hampshire, Hartlepool, Humber and South Yorkshire, Merseyside, Northamptonshire, Staffordshire, Surrey, Wales and West Yorkshire from 1st April 2017. The changes to the existing Local Justice Areas, including the names of the newly combined areas, are set out in the Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The schedule to this instrument makes provision as to elections for JTAAAC selection panels and FTAAAC selection panels to be held under the Justices of the Peace Rules 2016 (S.I. 2016/709). No such elections have been held to date, and no such elections will be held before the date on which this instrument comes into force. Therefore this instrument does not make any provision in respect of persons already elected to these panels under S.I. 2016/709 for the relevant areas (as no persons have yet been elected).

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 England and Wales is divided into areas known as Local Justice Areas. The areas are specified by an Order made by the Lord Chancellor under Section 8(2) of the Courts Act 2003 (the Act); the Lord Chancellor may also make Orders altering LJAs under Section 8(4) of the Act but must consult with the Lord Chief Justice, as provided for by Section 8(5A) of the Act (as amended by the Constitutional Reform Act 2005). This function has been delegated to the Senior Presiding Judge under Section 8(8) of the Act.

4.2 In accordance with section 8(6) of the Act, consultation has been undertaken through Her Majesty's Courts and Tribunals Service (HMCTS) about altering the LJAs set out in the Order.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is 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

7.1 HMCTS keeps under review its structures and working practices. In doing so, HMCTS takes into account the available resource, and the need to use resources in an efficient manner, whilst continuing to provide access to justice. In relation to these proposals, the local Judicial Business groups (JBGs) (the local body responsible for ensuring that the judicial business of the courts is conducted effectively and efficiently, in the interests of justice) have decided that the mergers will enable their business to be managed more efficiently.

7.2 Local consultations on the creation of the LJAs set out in the Order, provided an opportunity for interested parties to comment on the structure of their local justice areas. The consultations enabled respondents to comment on whether the size and number of LJAs was commensurate with the location and workload of the local magistrates' courts, and whether it would be more efficient to organise the local magistracy over fewer and larger areas.

7.3 In recent years, there have been many mergers of local justice area, some of which have resulted in the creation of benches with over 1000 Magistrates.

Consolidation

7.4 None

8. Consultation outcome

8.1 When each of the consultations were published copies were sent to the local judiciary, local authorities, the Police and Crime Commissioner, the Police, Crown Prosecution Service (CPS), defence practitioners, the National Probation Service (NPS), the Youth Offending Service (YOS), the Magistrates Association (MA), local members of ament (MPs) and all other interested parties.

8.2 A number of key themes in opposition to LJA mergers were raised across the consultation responses. The key themes included, loss of local justice and reduced access to justice, increased travel times, a greater likelihood of an adverse impact upon the recruitment of magistrates and general bench management. Each JBG, whilst accepting that these concerns are understandable and legitimate, recognised that they are not matters that are directly related to LJA mergers, and agreed that significant changes affecting such matters would be subject to separate local consultation.

8.3 **Avon and Somerset -** The JBG consulted on whether to retain the status quo or to create 1 LJA by merging the existing 4 LJAs or whether to create 2 LJAs by combining the 3 LJAs in Bristol, North Avon, and Somerset to form 1 LJA, retaining Gloucestershire as a separate LJA. The consultation ran from 18 May to 13 July 2016 and a total of 14 responses were received, all recognised the necessity for a merger of

some form, 6 fully supported the creation of two LJAs, including those from the Police, the Gloucestershire Criminal Justice Board, North East Youth Offending Service, and 3 individual magistrates, 5 responses were neutral and four recommended alternative proposals.

8.4 The JBG recognised the benefits of moving to a single LJA, but given the lack of support from the Gloucestershire Bench they recommended the creation of an Avon and Somerset LJA and the retention of the Gloucestershire LJA.

8.5 **Cheshire** - The JBG consulted on whether to retain the status quo or to create a single LJA and the consultation ran from 3 May to 30 June 2016. A total of 15 responses were received and of those, 11 supported the proposal, 2 opposed and 2 gave no specific view but expressed concerns. Those in support of the merger included some local individual magistrates, 3 bench committees, HHJ Nicholas Woodward (liaison judge), CPS and Prisoner and escort contractors. Those not in favour were individual magistrates, all of whom who expressed concerns about loss of local justice, an increase in travel time, reduced access to justice, and loss of Bench identity. HHJ Nicholas Wood, although supporting the proposal, also referred to the concerns raised by individual magistrates.

8.6 The JBG recommended the merger of North Cheshire, South and East Cheshire and West Cheshire to create a single Cheshire LJA.

8.7 **Hampshire** - In Hampshire the JBG consulted on whether to merge South Hampshire and South East Hampshire to create a single LJA to be known as East Hampshire LJA. The consultation ran from 19 May to 1 July 2016. A total of five responses were received, all of which fully supported the proposed merger. The JBG, with unanimous support recommended the creation of a single LJA to be known as East Hampshire.

8.8 **Hartlepool** - In Hartlepool the JBG consulted on whether to retain the status quo or to merge the Hartlepool and Teesside LJAs into one LJA, to be known as the Cleveland LJA, or to merge the Hartlepool LJA with the County Durham and Darlington LJA. The consultation ran from 15 July 2016 to 12 August 2016. A total of nine responses were received, all of which fully supported the creation of a Cleveland LJA. Those who responded included 3 individual magistrates, the Magistrates Association, (MA) CPS, NPS, Hartlepool borough council and Alex Cunnigham, Labour MP for Stockton North. The JBG recommended the creation of a single LJA to be known as Cleveland LJA.

8.9 **Humber and South Yorkshire** - In Humber and South Yorkshire the JBG consulted on whether to retain the status quo, create one, two, three or four LJAs across Humber and South Yorkshire. The consultation ran from 29 July 2016 to 26 August 2016. A total of 29 responses were received, 21 supported the proposal to reduce from eight down to two, 2 agreed with a reduction down to 4 and all others including that from Nic Dakin, labour MP for Scunthorpe, gave no specific views on the proposals but made suggestions relating to future listing practices.

8.10 The JBG considered all proposals and in light of the majority view recommended the merger of East Yorkshire, Grimsby and Cleethorpes, Hull and Holderness and North Lincolnshire to create an LJA to be known as Humber LJA and the merger of Barnsley District, Doncaster, Rotherham and Sheffield to be known as South Yorkshire LJA.

8.11 **Merseyside** – In Merseyside the JBG consulted on whether to retain the status quo or create a single LJA for Merseyside and the consultation ran from 3 May to 30 June

2016. A total of 18 responses were received, 11 supported the proposal, including a number of individual magistrates, CPS, PECS, Police, 3 opposed the proposal including Sefton Bench committee and a number of individual magistrates, and 4 gave no fixed view but made suggestions regarding listing practices and bench leadership under a single LJA.

8.12 In light of the responses received and the perceived benefits, the JBG recommended the merger of Liverpool and Knowsley, Sefton, St Helens and Wirral to create a single Merseyside LJA.

8.13 **Northamptonshire** - The JBG consulted on whether to retain the status quo or to create two or one LJA. The consultation ran from 24 June to 5 August 2016. A total of 18 responses were received and views were mixed. The Corby bench chairman who responded on behalf of 27 magistrates, supports two LJAs as do 5 individual magistrates. The response on behalf of the other three bench chairs suggests that although a single LJA should be the ultimate goal, 2 LJAs should be created in the short term to allow for time to change. Four individual magistrates, NPS, Police, CPS, witness service, the Midlands Presiding Judges and David Mackintosh, Conservative MP for Northampton South, all support the proposal for a single LJA.

8.14 The JBG recognised that in many respects the work of the magistrate's courts in Northamptonshire is arranged as though a single LJA already existed, as such, to achieve maximum benefits and in light of the responses received, the JBG recommended the merger of Corby, Kettering, Northampton Daventry and Towcester and Wellingborough LJAs to create a single Northamptonshire LJA.

8.15 **Staffordshire** - The JBG consulted on whether to merge South East Staffordshire and Central and South West LJAs to form a new South Staffordshire LJA or to merge the existing 3 LJAs to create a Staffordshire LJA. A total of 30 responses were received, of those 19 supported the creation of a single Staffordshire LJA, including CPS, PECS, individual magistrates, and HHJ Carr DBE. Eight responses opposed a single LJA, preferring two LJAs, including 2 bench chairmen (who responded on behalf of their bench), individual magistrates and Amanda Milling, Conservative MP for Cannock Chase. The Staffordshire branch of the MA canvassed its members, receiving 81 responses, of those 68% favoured 2 LJAs and 20% a single LJA. A number of responses did not express an opinion on which proposal they preferred, instead choosing to raise concerns about listings, excessive travel and access to justice.

8.16 Numerically the option to create a single LJA received most support but from a representative perspective, the option to create 2 LJAs received more. However, the rationale for opposing a single LJA is based upon issues that would be subject to further consultation, such as listings, access to justice, magistrate's sittings, bench cohesion and increased travel times.

8.17 After lengthy discussions the JBG voted by majority to recommend the proposal to merge North Staffordshire, Central and South West Staffordshire and South East Staffordshire to create a single Staffordshire LJA.

8.18 **Surrey** - The JBG consulted on whether to merge South East Surrey, South West Surrey and North Surrey LJA to create a single Surrey LJA. The consultation ran from 18 May to 29 June 2016, a total of 20 responses were received, and of those, 13 supported the creation of a single LJA, including the CPS a number of individual magistrates and the bench chairmen affected by these proposals, 3 were neutral and

welcomed plans to consult on future listings policies and 4 individual magistrates opposed the proposal.

8.19 The JBG formed the opinion that opposition to these proposals did not represent the views of the majority of magistrates in Surrey and with the support of the relevant bench chairmen, recommended the creation of a single LJA to be known as Surrey LJA.

8.20 Wales - In light of the agreement to close courts in, Brecon, Bridgend, Carmarthen, Dolgellau, Holyhead, Pontypridd, and Prestatyn the relevant JBGs and HMCTS recognised that action was required to maintain the effective management of work across Wales, and to ensure as far as possible the provision of Welsh speaking judiciary and legal advisers. As a result, HMCTS issued a consultation paper that suggested 6 potential options and sought alternative suggestions from consultees.

8.21 The consultation ran from 28 June to 5 August 2016 and a total of 42 responses were received. The clear majority(23 responses) supported option 2 to merge the following LJAs:

Conwy and Denbighshire LJAs to form North Central Wales LJA,

Newcastle & Ogmore and Cardiff & the Vale LJAs to form Cardiff LJA;

Gwynedd and Ynys Mon LJAs to form North West Wales LJA; and

Brecknock & Radnorshire and the Glamorgan Valleys LJAs to form Mid Wales LJA.

8.22 All relevant JBGs have met and it was accepted that option 2 is the minimum needed to give effect to the decision already made to close certain court houses, and reflects the changes already agreed in respect of the listing arrangements implemented or to be implemented as courts close. The JBG accepted that if future consideration were to be given to any other option, HM Courts & Tribunals Service would require more time to engage with Criminal Justice Agency partners about how working across criminal justice areas may best be achieved.

8.23 **West Yorkshire** - The JBG consulted on whether to retain the status quo or to create one or three LJAs. The consultation ran from 18 April to 13 June 2016 and a total of 18 responses were received, of those, 14 supported a single LJA, including individual magistrates, bench representatives, PECS, CPS, NPS and the Police, 3 opposed a single LJA including 2 individual magistrates and 1 bench representative, and one favoured the creation of 3 LJAs.

8.24 The JBG considered that the majority of responses supported the creation of a single LJA, it was felt that three LJAs would not be cost effective or effective in addressing issues such as falling workload and increasing flexibility in workload. The JBG also considered that local justice would not be affected by the creation of a single LJA as work would be retained at the remaining three courthouses within the proposed LJA

8.25 As a result the JBG recommended the merger of Leeds District, Wakefield and Pontefract, Calderdale, Kirklees and Bradford and Keighley to create the West Yorkshire LJA.

9. Guidance

9.1 It is not necessary to publish guidance relating to these mergers as the Order will bring about mergers of local justice areas about which stakeholders are fully aware from the consultation exercise.

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 not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 Management of the merged Bench is undertaken by the Justices' Clerk, and it would fall to the Justices' Clerk in consultation with the HMCTS Delivery Director and Bench Chair to review the mergers.

13. Contact

13.1 Jane Wignall at the Legal Operations Team, Telephone: 07951 328729 or email: jane.wignall1@hmcts.gsi.gov.uk can answer any queries regarding the instrument.