

**The Committee on the Administration of Justice (CAJ)
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Winner of the Council of Europe Human Rights Prize

CAJ's response to the

**“Consultation on Proposed Amendments to the
Northern Ireland Assembly
Code of Conduct and the Guide to Rules Relating to
Conduct of Members”**

August 2008

**Submission No. S.209
Price: £1.00**

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

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***CAJ works for a just and peaceful society in Northern Ireland
where the human rights of all are protected***

Dr Kevin Pelan
Clerk, Committee on Standards and Privileges
Northern Ireland Assembly
Room 284, Parliament Buildings
Stormont
Belfast
BT4 3XX

13th August 2008

Dear Dr Pelan,

Re: “Consultation on Proposed Amendments to the Northern Ireland Assembly Code of Conduct and the Guide to Rules Relating to Conduct of Members”

Thank you for inviting the Committee on the Administration of Justice (CAJ) to respond to the above-named consultation, and apologies for the slightly delayed reply.

In general, CAJ welcomes this review of the Code of Conduct and the emphasis it places on the need for propriety, particularly in relation to financial matters, from MLAs. However, we are disappointed that the review chose to focus in most detail on this particular issue, rather than taking the opportunity to expand the code of conduct and its enforcement mechanisms in a more general sense. We feel this would have been especially pertinent given some of the comments made by MLAs and Ministers in recent times both in and outside the Assembly Chamber.

As one of the organisations whose staff and members were named in the debate about the Bill of Rights Forum on 15th October 2007, CAJ wrote to the Speaker to express our concern at the lack of any effective remedy to those who had been “named and shamed” (see copies of correspondence attached for convenience). We were pleased with the efforts made by the Speaker’s Office to address some of the concerns raised by ourselves and others, and particularly his subsequent statement to the Assembly reminding members that that the protection of parliamentary privilege “comes with responsibility” and encouraging members to “remember their responsibilities when speaking in the Chamber.”

While we understand that this current review was initiated prior to that incident, we would have hoped that some of the issues raised as a result of that debate might have been considered by the Committee as part of the review? We further understand that the issues also fall partly under the remit of the Committee on Procedures, and that in response to a request from the Speaker they have conducted some research into the

right to reply and advance notice to those named in parliamentary debates. However, it appears that the rights of those subjected to potentially disparaging or defamatory remarks are no further advanced despite the work of both Committees.

We understand that the right to freedom of speech under parliamentary privilege is an extremely important right, and one that should not be undermined. However, few rights are absolute, and in particular with the exercise of rights comes a responsibility to respect the rights of others.

We welcome the addition to the Principles of Conduct of the standard of respect which states that individuals should not be “*subjected to unreasonable and excessive personal attack.*” However, we would respectfully suggest that - given the current absence of any effective mechanism of redress for those subjected to such attack - that this should form part of the Rules of the Code of Conduct rather than a Principle, given that the complaints and investigation system appears to us to apply only to breaches of the Rules of the Code. Indeed, we would suggest that since there is no remedy for personal attack of any nature, the standard should be higher and the words unreasonable or excessive removed.

In the absence of effective mechanisms of redress within the Code of Conduct, an alternative would be the provision of a right to reply or advance notice to those named in Assembly proceedings, and as noted above we understand that this issue falls within the remit of the Committee on Procedures. However, it seems to us that there is obvious overlap in this regard, and we would not want to see this issue “fall between two stools” as it were. We would therefore encourage the Committee to discuss the issue further with the Committee on Procedures to ensure that the rights of *everyone* are respected and the high standards and responsibilities that come with public office are observed.

We hope you find these comments helpful and we are happy to answer any further queries you might have.

Yours sincerely,

Aideen Gilmore
Deputy Director