



CAJ

**Committee on the
Administration of Justice**

*CAJ's response to OPONI re
EQIA on Proposed Policy*

**Independence of Investigations Compliant
with Art 2 ECHR**

June 2009

**Submission No. S.237
Price: £1.00**

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Promoting Justice / Protecting Rights

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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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Winner of the Council of Europe Human Rights Prize



CAJ

**Committee on the
Administration of Justice**

Sam Pollock
Chief Executive
Police Ombudsman for Northern Ireland
New Cathedral Buildings
St Anne's Square
11 Church Street
Belfast
BT1 1PG

30 June 2009

Dear Sam,

Equality Impact Assessment on Proposed Policy

Independence of Investigations Compliant with Article 2 European Convention on Human Rights

As you will be aware CAJ has taken a close interest in matters relating to compliance with Article 2 of the European Convention on Human Rights for some time. CAJ represented the successful applicants in the landmark Article 2 rulings in the cases of Kelly and Shanaghan in Strasbourg in 2001, and as such we have a particular interest in ensuring that public bodies in Northern Ireland give full effect to these judgments.

As you may also be aware, CAJ has taken a close interest in the implementation of Section 75 of the Northern Ireland Act across the public sector generally. Along with the trade union UNISON CAJ jointly co-convenes the Equality Coalition, which is an alliance of non-governmental groups that work to ensure that Section 75 is put into practice and to increase the public profile of equality in Northern Ireland. CAJ has also produced a range of publications and submissions focusing on the implementation of Section 75 of the Northern Ireland Act across a range of public bodies.

CAJ would be of the view that your Office has identified what is undoubtedly the key issue in relation to this consultation – namely, ensuring an Article 2

compliant investigation while at the same time ensuring that no section of the workforce experiences unfair treatment. As your document rightly points out, there are certain cases, namely where the State has been involved directly or indirectly in the loss of life, in which it would be inappropriate for staff formerly employed by the RUC or Armed Forces to be deployed without it being perceived as a conflict of interest and in contravention of the principles of Article 2. Equally, it is important to ensure from an employer's perspective that no section of a workforce, or indeed community, are disadvantaged unfairly. In relation to the latter point, we note that the document states that all reasonable steps will be taken to ensure that the current policy will not adversely effect the recruitment and development of any group of staff in the Office. In this context we welcome for example the commitment given (para. 10.7) that all staff employed by the Office can acquire the full range of competence and experience covered by the statutory duties of the Ombudsman, and all investigators can apply for development and promotion opportunities available within the mainstream work in the Office. Such an approach should ensure that the restrictions imposed on the members of the Sapphire Team are proportionate and reasonable.

Given the sensitivities surrounding these issues however, not least of which are the perceptions of the families and communities affected, as well as the wider public, CAJ would be of the view that this is an example of a policy in which a particularly robust monitoring system is necessary. It will be important to monitor for example the extent to which the safeguards in place to ensure that those members of the Ombudsman's Office excluded from the Sapphire Team by virtue of their previous employment in the RUC or Armed Forces are not adversely affected in relation to development and/or promotion opportunities for example. Moreover, the existence of robust data to identify patterns and trends in relation to these issues will help ensure confidence in the wider community that the Office of the Police Ombudsman is operating fairly and in line with the requirements of Section 75 of the Northern Ireland Act.

Overall, CAJ would support the analysis and position that has been reached in relation to this policy, with the caveat that a robust monitoring system is required to ensure that no unexpected adverse impacts do arise in relation to how this policy is delivered.

Best wishes,

Mike Ritchie
Director