



CAJ

**Committee on the
Administration of Justice**

CAJ's response for the Review of the

**Temporary Provisions in the
Police (Northern Ireland) Act 2000**

January 2010

Submission No. S. 246

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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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Promoting Justice / Protecting Rights

Winner of the Council of Europe Human Rights Prize

Consultation Response for the Review of the Temporary Provisions in the Police (Northern Ireland) Act 2000

Committee on the Administration of Justice ('CAJ')

1. Summary

CAJ fully supports the extension of the temporary provisions which allow for 50:50 recruitment to the PSNI. However, we are concerned that the consultation document does not allow for any further extension, which will be necessary if the Patten targets have not been met by March 2011.

CAJ recommends that the Secretary of State extends the 50:50 Policy for the maximum term of three years at this time, so that it may continue as long as required for the Patten targets to be reached. CAJ underlines the needs for retention data to be included when assessing the Catholic composition of the PSNI.

CAJ notes that the Patten target will not be reached for support staff in the near future and we recommend that the 50:50 Policy continues for support staff, even after it has been discontinued for trainee officers, until the 30% target has been reached.

CAJ underlines the need for the PSNI to be representative of all communities in Northern Ireland and at all levels of seniority. We recommend that specific policies are introduced or continued to address this need.

2. Introduction

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 works on a broad range of human rights issues and its membership is drawn from across the community. Its activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice.

CAJ's areas of work are extensive and include policing, emergency laws, criminal justice, equality and the protection of rights. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award

and the Council of Europe Human Rights Prize. Together with UNISON, we co-convene the Equality Coalition.

For some time CAJ has been involved in the process of furthering the mainstreaming of equality in Northern Ireland and we are keen to forward our views on as many equality related documents as possible. This is particularly the case where the documents concerned have important implications for the delivery of greater equality, as is the case for the review of the temporary provisions in the Police (Northern Ireland) Act 2000 ('the 50:50 Policy').

3. Support for Extension of 50:50 Policy

As noted in the Good Friday / Belfast Agreement, it is essential that the police service be '*representative of the society it polices*'. The 50:50 Policy, as recommended in the Patten report, has helped to make the PSNI more representative of the two main communities living in Northern Ireland.

However, as noted in the consultation document, the PSNI is still not fully representative of our society and has not even reached the Patten target of 30% Catholic composition (at page 10).

CAJ therefore supports the extension of the 50:50 Policy.

4. Allowance to Further Extend the 50:50 Policy

We recognise that the 50:50 Policy is necessarily transitional and should not be used beyond what is required to fulfill its aims. However, we are concerned by the NIO's certainty that the proposed one year extension is the '*final*' extension that will be applied to the 50:50 Policy. Indeed, this assertion is repeated four times in the document, and often emphasised in bold and with underlining.

However, the St Andrew's Agreement only allows for the 50:50 Policy to lapse '*when the Patten target for Catholic officers has been achieved*' (at Annex B). It cannot be said with certainty that sufficient numbers of Catholic trainees will be recruited by March 2011 to ensure that the Patten targets are met. Although the projection at page 10 of the consultation document expects the 30% target to be reached before March 2011, this does not allow for extraneous circumstances. The NIO's approach must allow for some flexibility.

CAJ underlines that the 50:50 Policy may be extended for a period beyond that outlined in the consultation document, if the Patten targets have not been reached.

If the 30% target is not reached by March 2011, the 50:50 Policy would have to be extended again, thus triggering a further consultation process. By contrast, once the target is reached, the 50:50 Policy may be ended unilaterally. The consultation document states '*[w]hen the target 30% Catholic composition has been achieved an order will be made to amend the expiry date and thereby end the temporary provisions*' (at para 48).

Given that each fresh extension of the 50:50 Policy may have a term of up to three years (Art 47(3) Police (NI) Act 2000), we recommend that the Secretary of State order a longer extension at this time. This would give more flexibility and, in the spirit of the Patten report, allow for the default approach to be the application of the 50:50 Policy until the 30% target has been reached.

CAJ recommends that the 50:50 Policy be extended for three years, or until the Patten target has been reached, whichever is shorter.

5. The Importance of Retention Data

CAJ highlights the importance of data regarding the retention of PSNI officers, as well as recruitment figures, when considering projection data. The NIO has confirmed that '*of the 99 officers appointed in the last five years since 4 November 2001, and who had since left, 26 were Protestant, 72 were Catholic and 1 was not determined*' (correspondence with CAJ, cited in CAJ's annual Report 2006/7). Unless the PSNI has taken dramatic measures to address this discrepancy, we should expect this trend to continue, particularly given the rise in dissident activity against Catholic officers.

Furthermore, as soon as the 50:50 Policy ceases to be in force, the current mechanism to extend the 50:50 Policy will no longer be available to the Secretary of State. As such, it is essential that all necessary data be used to ensure that the 30% threshold has truly been met and, thereafter, the longevity of its effects.

CAJ underlines the importance of ensuring that retention data are included when assessing the composition of the PSNI.

6. Patten Targets for Support Staff

The 50:50 Policy does not only apply to officers working within the PSNI. The Patten report states that '*[n]ew civilian entrants to the combined police service should be recruited in the same way and by the same process as we recommend for officers*' (at 14.16). However, it is clear that no Patten targets in relation to support staff will be reached by March 2011.

The consultation document shows that, as of 1 October 2009, only 17.65% of PSNI support staff self-identify as Catholic. It also recognises that it will take longer to make the support staff more representative of our two main communities, given the need to advertise six posts at the same time before the 50:50 Policy may apply.

As such, it may be several years before the PSNI support staff composition will reach the 30% Patten target. While the Patten report did not present a schema of the time that it would take to attain 30% Catholic support staff, immediately below the schema applying to police officers, it states that '*[i]t is important that the same principle of a balanced and representative workforce should also apply to the civilian staff*' (at 14.13).

CAJ submits that the 50:50 policy must continue in relation to support staff until the Patten target has been reached.

We appreciate that the Patten target for police officers will be reached before that of support staff. However, we believe that the legislation allows for this eventuality. Section 46 Police (NI) Act 2000 applies the 50:50 Policy separately to 'police trainees' (at s46(1)) and 'support staff' (at s46(5)). This splitting of the 50:50 Policy allows for the 50:50 Policy to be halted for officers while continuing for support staff, thus allowing for the time differential in reaching the respective targets.

7. The Need for a Representative Police Service

As noted above, and in the Good Friday / Belfast Agreement, it is essential to have a representative police force. The Patten Report states the reason clearly: '*If all communities see the police as their police, there will be a better, cooperative partnership between community and police, and therefore more effective policing*' (at 14.3). In order for the PSNI to be truly representative, it must represent all sections of our community.

The consultation document refers only to the need for a higher proportion of 'Roman Catholic' or 'Catholic' officers. However, as noted in the Patten report, *'[t]he police service in Northern Ireland needs to include appropriately large numbers of nationalists, including republicans, if it is to be fully effective'* (at 14.2). Given the relatively recent engagement by the republican community in policing, recruitment from that section of the 'Catholic' community to the PSNI will be at a much less advanced stage.

With this mind, and bearing in mind Patten's reminder on the need for republicans and nationalists to be represented, there remains a need to take measures to ensure this representation is achieved.

Also, while the 50:50 Policy does not apply to the composition of senior staff, the Patten report did state the need for the 1999 proportion of Catholic senior officers (16%) to be *'at least doubled in as short a time as possible'* (at 15.17). However, the consultation document shows that, over ten years later, the proportion of Catholic senior officers is still only 16% (at page 11). Indeed, only 9.8% of PSNI Superintendents are Catholic, which is a massive reduction from the 16.4% in 2001 (also at page 11).

While the consultation document makes clear that the lateral entry policy has not been successful, it does not clarify what other efforts are being made by the NIO and the police to address this discrepancy.

Finally, although the Patten Report did not set any specific targets for the proportion of women, ethnic minorities, homosexuals, or lower socio-economic groups in the police force, it made clear that a determined effort should be made to recruit and retain officers from these demographics.

CAJ underlines the need for the PSNI to be representative of all communities in Northern Ireland and at all levels of seniority. We recommend that specific policies are introduced or continued to address this need.

Should you require any further information in relation to any of the above, please don't hesitate to contact Debbie Kohner, Equality Programme Officer.