

CAJ's submission no. S. 271

CAJ's response to
Consultations on Proposals relating to
Defence Remuneration for Legal Aid and
Defence Representation and in the
Crown Court

November 2010

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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18 November 2010

Dear Patricia

Consultations on Proposals relating to Defence Remuneration for Legal Aid and Defence Representation and in the Crown Court

We have read with interest the Northern Ireland Courts and Tribunals Service's ('NICTS') consultations on the new rules on the remuneration of defence representation in the Crown Court and the equality impact assessment ('EQIA') on the same, and also the EQIA on proposals to reform of legal representation provided by way of criminal legal aid at the Crown Court.

We have found reason to comment in most detail on the EQIAs carried out in relation to both these proposals, and as such please find enclosed our responses on these individual EQIAs.

In addition to these equality concerns, and as we noted in a letter earlier this year to Minister Ford, it is essential that individuals can exercise their right to a fair trial under Article 6 of the European Convention on Human Rights. We remain concerned that a large reduction in remuneration to those engaged in criminal defence work may lead to an inequality of arms, and that it is imperative to ensure that the quality of legal representation is not adversely affected and that all possible unintended ramifications are considered.

Further, it is not clear why NICTS has launched a consultation and an EQIA concurrently for the proposals relating to defence remuneration for legal aid cases, and yet only an EQIA for the proposals on defence representation. We would be grateful if NICTS could explain this lack of consistency, and whether it represents any difference in the nature, importance or intended consequences of each of the proposals and their consultations.

Does NICTS intend to launch a consultation on the proposals for defence representation after the results of the EQIA have been collated? We would suggest that this is the most appropriate way of coordinating consultations on proposed policies and their EQIA, as it allows responses to the EQIA consultation, and any resulting adapted proposed policies, to be addressed before the general consultation takes place.

We would also suggest that these matters should be more properly and fully explored as part of the wider review of access to justice that is currently being undertaken.

Yours sincerely



Aideen Gilmore
Deputy Director