

CAJ's Submission no. S427

CAJ's submission to Northern Ireland Assembly Local Government Bill, Consideration Stage Amendments to Clause 69 (Community Planning)

March 2014

About 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.

Northern Ireland Assembly Local Government Bill, Consideration Stage Amendments to clause 69 (Community Planning) (March 2014)

Committee on the Administration of Justice ('CAJ')

1. CAJ is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the Government complies with its obligations in international human rights law.
2. The Northern Ireland Assembly will consider amendments to the Local Government Bill on the 18 March 2014 during its Consideration Stage. CAJ provides the following commentary on amendments tabled in the Marshalled List to clause 69 of the Bill, which deals with the new Community Planning function on local government.

Community Planning (clause 69): defining terms and providing legal certainty

3. CAJ supports **Amendment 39 from the Minister of Environment** which provides further clarification as to how the concepts of 'social wellbeing' and 'economic wellbeing' are to be interpreted in relation to the Community Planning function. The clause sets out that Community Planning is the process to identify long term objectives for improving the social wellbeing, economic wellbeing and environmental wellbeing of the district. Amendment 39 would link the concept of 'social wellbeing' as including improving equality of opportunity. It would link 'economic wellbeing' to including tackling poverty, social exclusion and deprivation. Matters on which we would hope there is broad political consensus. The Amendment defers to the respective section of the Northern Ireland Act 1998 for further interpretation of these concepts.¹ CAJ supports the amendment as it would both provide a foundation for Community Planning to address issues for those most in need. It also enhances legal certainty over the meaning of otherwise broad and potentially vague concepts currently within clause 69.

¹ Amendment 39 Clause 69, Page 40, Line 30 At end insert - '(2A) In subsection (2)(a)—(a) the reference to improving the social well-being of the district includes promoting equality of opportunity in accordance with section 75 of the Northern Ireland Act 1998; and (b) the reference to improving the economic well-being of the district includes tackling poverty, social exclusion and patterns of deprivation; and expressions used in this subsection and in section 28E of that Act (Executive Committee's strategy relating to poverty, social exclusion etc.) have the same meaning as in that section' *Minister of the Environment*.

4. **Amendment 37 from Alliance MLAs** also deals with similar issues in seeking to add **‘equality and good relations’** itself to the long term objectives of community planning.² However in CAJ’s view if this is incorporated into the bill the existing **safeguards** in the Northern Ireland Act 1998 to prevent good relations considerations conflicting with equality should be maintained and **a definition of ‘good relations’ should be added to the legislation, similar to that in Great Britain.**
5. At present there is no definition of ‘good relations’ in the legislation in Northern Ireland.³ A definition of Good Relations does exist in the more recent counterpart legislation across England, Scotland and Wales. There the Equality Act 2010 defines the concept by stating that the ‘good relations’ duty involves having *“regard, in particular, to the need to- a) Tackle prejudice, and b) Promote understanding.”*⁴
6. Misuse of the concept of ‘good relations’ in the absence of a definition has been a problem which has plagued the existing statutory duties in Northern Ireland.⁵ Such concerns have been articulated on the floor of the Assembly. During the debate on the draft CSI strategy in 2010 Dr Stephen Farry MLA, stated that any use of the concept of good relations to veto equality initiatives was indicative of a “misunderstanding of the concept of good relations, which has been used and abused by certain politicians.”⁶ Concerns have also been raised by the Northern Ireland Human Rights Commission and Council of Europe.⁷

² Amendment 37 Clause 69, Page 40, Line 25 At end insert - ‘(iv) equality and good relations between the categories of persons listed in section 75 of the Northern Ireland Act 1998.’ *Ms Anna Lo, Mr Stewart Dickson*

³ The existing statutory ‘good relations’ duty on designated public authorities under section 75(2) of the Northern Ireland Act 1998, requires Councils to “have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group” this is to be undertaken ‘without prejudice’ to the need to pay due regard to the promotion of equality of opportunity across nine grounds in s75(1). There is also a statutory duty on Councils only to promote ‘good relations’ between persons of different racial groups, in Article 67 of the Race Relations (Northern Ireland) Order 1997. There is also a related duty to pay regard to promote positive attitudes towards disabled persons under s49A of the Disability Discrimination Act 1995.

⁴ s149(5) Equality Act 2010. Such a definition concurs with duties under a number of human rights standards including Article 7 of the International Convention for the Elimination of All forms of Racial Discrimination (ICERD) and Article 6(1) of the Framework Convention for National Minorities.

⁵ See *‘Unequal Relations? Policy, the Section 75 duties and Equality Commission advice: has ‘good relations’ been allowed to undermine equality?’*, CAJ’s publication no. 64, May 2013.

⁶ Northern Ireland Assembly, Official Record Tuesday 28 September 2010, motion on Equality and Good Relations.

⁷ Northern Ireland Human Rights Commission ‘Response to the OFMdFM Consultation on the Programme for Cohesion, Sharing and Integration’, October 2010, Paragraphs 31-32; Advisory Committee on the Framework Convention for National Minorities (Third Opinion on the UK adopted 30 June 2011) ACFC/OP/III(2011)006, paragraph 126.

7. During the recent passage of the Northern Ireland (Miscellaneous Provisions) Act 2014 at Westminster an amendment tabled by Mark Durkan MP to define ‘good relations’ here in a similar manner as in Great Britain was debated.⁸ There was support for the amendment at Westminster with the shadow minister stating the opposition were extremely sympathetic.⁹ The UK Government stated that whilst it did not oppose the amendment in principle the matter should be best dealt with by the devolved institutions.¹⁰ Amendment 37, if there is support to modify the text accordingly, provides an opportunity for this.

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⁸ The Amendment read ““(1A) After subsection (2) of section 75 (Statutory duty on public authorities) of that Act insert— (2A) A public authority shall not interpret its obligations under subsection (2) in a way that is incompatible with measures taken on the basis of objective need.”. (1B) In subsection (5) of section 75 of that Act insert— “good relations” shall be interpreted in line with international obligations and, in particular, with regard to— (a) tackling prejudice, and (b) promoting understanding.

⁹ [Westminster, Official Report, Public Bill Committee, Tuesday 16 July 2013, columns 33-36.](#)

¹⁰ As above and Report Stage [18 Nov 2013 : Column 1029](#).