

**The Committee on the Administration of Justice (CAJ)
45/47 Donegall Street, Belfast BT1 2BR
Tel: (028) 9096 1122 Fax: (028) 9024 6706
Website: www.caj.org.uk**



Winner of the Council of Europe Human Rights Prize

CAJ's submission on
The Unauthorised Encampments (NI) Order 2004
December 2004

**Submission No. S.158
Price £1.00**

**Submission No. S.158
Price £1.00**

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, 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, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill 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.

Andy Hall
Department for Social Development
Regional Development Office
3rd Floor, Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE

21 January 2004

Dear Mr Hall,

**RE: PROPOSAL FOR CONTROL OF UNAUTHORISED ENCAMPMENTS,
CONSULTATION PAPER AND EQUALITY IMPACT ASSESSMENTS**

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.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its 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.

Many thanks for sending CAJ a copy of the above discussion document that we read with great interest. For some time CAJ has been involved in the process of furthering mainstreaming equality within Northern Ireland and we are keen to forward our views on as many of these documents as possible. We have also taken a particular interest in issues pertaining to the promotion of racial equality over the years, and were involved in the campaign to secure the extension of the Race Relations Order to Northern Ireland. As you can imagine however, one of the difficulties for us as consultees has been the fact that across the various

government departments, and indeed the wider public sector, there have been a number of different deadlines for a range of documents pertaining to equality. Accordingly, we apologise for the short delay in submitting our response to the paper, and we hope nevertheless that you will be able to take our views fully into account.

We note that the proposal in this case is to introduce legislation in Northern Ireland to control unauthorised encampments which would give the PSNI legislative powers to remove trespassers who have the intent of residing on land, together with their vehicles and other property. The paper also states that it is proposed that the powers would enable a senior officer to remove trespassers, their vehicles and property, who have the intent of residing on land without the permission of the landowner.

CAJ is not convinced that the Department has made a sufficient case for these proposals which we consider to be disproportionate to the problem they are intended to address. For example, there is little data regarding the extent of the problem, whether it is in on the increase etc. This is in our view at least partly due to the fact that there is a lack of Traveller representation on the Department's Working Party. Furthermore, the DSD consultation document makes no reference to the wider literature on Travellers, racism and nomadism that the proposed legislation may well have the effect of inhibiting. In this context we would remind DSD that there is a legal requirement under Section 75 of the Northern Ireland Act that consultation take place with those directly affected by a particular policy. We would remind the Department therefore that in this case there is a particular requirement that the consultation process fully gather, and take into account, the views of the Traveller community and their representative groups.

A further problem arises in relation to identifying adverse impact. In particular the report treats Travellers as a homogenous group, without recognising the fact that Travellers with disabilities, young Travellers, Traveller women, Travellers with dependants, and older Travellers will all be affected adversely by these proposals. Undoubtedly, the proposed legislation will impact adversely on Traveller women and their domestic responsibilities, particularly pregnant women or those who have just given birth.

Whilst the report does acknowledge a general adverse impact on Travellers, the paper states that the DSD/NIHE 'Accommodation Strategy' will alleviate adverse impact. There is however, no guarantee this will be implemented before the legislation is introduced. It should be noted that DSD's response on this issue to the PSI Working Group on Travellers (OFMDFM 2000) states:

'...As progress will depend on the availability of the necessary finances and given the protracted nature of the consultation and planning process, it would not be possible to set a definitive timescale.'

In other words, consultees are being asked to accept the introduction of proposals which will clearly adversely impact upon Travellers, while other significant aspects of the accommodation strategy remain on the drawing board.

We would also like to express deep concern at the fact that this legislation may in fact lead to breaches of the Human Rights Act. In particular, CAJ is of the view that any eviction of Traveller families, particularly those with young children/older members, and/or seizure of caravans, in the absence of viable alternative accommodation, could violate article 3 of the Convention in that such action could amount to 'inhuman and degrading treatment'. Such action may also of course breach Article 8 of the Convention which ensures respect for private and family life. We assume that the DSD has taken advice on this matter, however if not we would urge that in particular, guidance be sought from both the Equality and Human Rights Commissions regarding these matters.

In light of these comments, we would request that the Department reconsider their position, and withdraw these proposals.

We look forward to hearing your views on these matters.

Tim Cunningham
Equality Project Worker

