

**Commentary by the
Committee on the Administration of Justice (CAJ) on**

“Proposals for an Ulster Scots Academy”

July 2007

The Committee on the Administration of Justice (CAJ) is not aware of the earlier consultations alluded to in this consultation document prepared by the Ulster Scots Academy Implementation Group, though reference is made to an earlier “extensive” consultation process. This oversight may have been due to the fact that those involved do not appear to have addressed the issue of Ulster Scots as a rights issue? Other language activists have taken human rights as a guiding principle in their work, and CAJ has been understandably interested in any efforts to protect and promote the linguistic rights of all. We note, however, with interest that in the background paper by John Edmund, reference to relevant UN, Council of Europe and other human rights standards are helpfully alluded to. To the extent that human rights considerations need to be borne in mind by government when it responds to eventual proposals from the U-SAIG, CAJ would make the following comments.

1. Partnership work

CAJ was left unclear as to the extent and nature of government involvement in the Academy. Government is not listed as a possible partner in the initiative; what role (if any) is envisaged for them in terms of the governance of the Academy, development of its programme, financing and oversight. A related but distinct point relates to the extent and nature of statutory involvement in the Academy. What role will the Ulster Scots Agency play? It is vital that there be clear lines of demarcation between government entities, those entities carrying out public functions on behalf of government, and those that are entirely independent. CAJ has raised this issue in correspondence some years ago with the Ulster Scots Agency, but the text appears ambiguous at points. And the role of the community, voluntary and non-governmental sector raises certain concerns.

CAJ believes it is extremely important to maintain a strong independent community voice able and willing to hold government to account. The more the voluntary sector is integrated into the governance arrangements of public entities, the less likely it is to maintain this necessary independent advocacy role that no-one other than them can play. The arrangements for clear lines of demarcation between government, those bodies carrying out public functions on behalf of government, and those that are entirely independent are not obvious. See, for example, para 8A.24, where it is

proposed to have 7 nominees (50%) from two NGOs, and 7 appointees by way of publicly advertised posts. Why are not all the posts publicly advertised, even if the criteria are skewed to those who have had a track-record of involvement in Ulster Scots language campaigning? This format may lead to a conflict of interest, especially if the nominees (or the organisations they represent) receive important levels of government funding (albeit indirectly).

2. Outreach beyond the Ulster Scots community

CAJ believes that it would be very important in the work of any eventual Academy to reach beyond its “natural” hinterland of academia, language users and the Ulster Scots community. What about cultural associations, other language users, business? There would be a real value to the Ulster-Scots community to have some visible public involvement by those not already actively immersed in it, and this issue is addressed again in relation to the equality implications of these proposals.

3. Language rights

In para 4.29, the Academy is expected to play a major part in helping government secure designation under Part III of the European Charter for Regional or Minority Languages. We did not however see any subsequent reference to this work?

4. Equality Impact Assessment:

Is the Survey referred to a reliable source of information? In the absence of alternative databases, it may be necessary to use some of its findings, but the conclusion that the survey “*did not significantly indicate that unionists or nationalists were relatively any more/less likely to speak Ulster-Scots*” seems counter-intuitive?

This conclusion presumably then led the Implementation Group to find that “*there are no adverse impacts*”, when it would be more appropriate in CAJ’s view to recognise that nationalists, Catholics and young people (the latter group is also disproportionately represented in the first two categories) will be adversely impacted. After all, at the very least, public monies will be being spent on issues that these groups are less likely to benefit from than their older Protestant unionist neighbours. The finding of adverse impact does not of course mean that the measures have to be set aside, but that they are reviewed and at the very least that mitigating and alternative measures are considered. An obvious mitigating factor would be to give much more consideration to outreach beyond the traditional Ulster Scots community, as noted above. However, at this stage, CAJ believes that it is incorrect to determine that there is no adverse impact, and that any such premise inhibits the Implementation Group from proposing measures which would promote greater equality in access to the Academy’s work.

CAJ believes that there is likely to be an adverse impact on certain section 75 categories, and urges the Implementation Group to consider this matter further before deciding whether and if so how to proceed.

5. Conclusion

While we cannot knowledgeably comment on other aspects of the consultation, or whether indeed an Academy is a valuable/necessary asset for Northern Ireland, we would like to commend the tone of this document. The tone is prefaced on the belief that Ulster-Scots, and the creation of an Academy, could be “*a resource for the whole community*” and that the Academy - if properly established - “*would provide for reaching an audience beyond that of Ulster Scots speakers and this wider availability has the potential to improve good relations*”. In a different, but related, arena CAJ had unfortunately to be critical of the altogether more negative tone used in the last Irish language consultation material. Apart from including a Financial Impact Assessment statement (the first one we had ever been made aware of, and which is not included in this consultation?), that consultation document seemed replete with concerns about the possible divisiveness of language.
