



CAJ

**Committee on the
Administration of Justice**

CAJ's response to the

**Consultation on Equality Impact Assessment (EQIA) of
Transfer 2010 Guidance**

June 2009

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Promoting Justice / Protecting Rights

45/47 Donegall Street, Belfast,
BT1 2BR
www.caj.org.uk
Tel: (028) 90961122
Fax: (028) 90246706
Email: info@caj.org.uk



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.

Committee on the Administration of Justice (CAJ) Ltd

45/47 Donegall Street, BELFAST BT1 2BR
Northern Ireland

Tel: (00 44 (0) 28 9096 1122 Fax: (00 44 (0) 28 9024 6706
Email: info@caj.org.uk Web: www.caj.org.uk

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Winner of the Council of Europe Human Rights Prize

Open Enrolment Branch
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

8 June 2009

To Whom It May Concern:

Re: Consultation on EQIA of Transfer 2010 Guidance

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. 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. 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 within Northern Ireland and we are keen to contribute our views on as many equality related consultations as possible. This is particularly the case where the documents concerned evidently have important implications for those in greatest need and this is clearly one such document.

While CAJ welcomes the opportunity to comment on this Equality Impact Assessment (EQIA) of the Transfer 2010 Guidance we would

wish to express our concern that the EQIA was not undertaken as part of the development of the policy itself. One of the main objectives of the EQIA process is to consider the equality implications of a policy as it is being developed thereby helping to weave equality considerations into the policy making process. Such an exercise will however be somewhat undermined when public bodies, as in this case, consult on a policy, and then subsequently carry out a separate consultation on the EQIA.

CAJ would however have much more serious concerns about the equality implications of this Guidance which the EQIA has not addressed. Looking at the consultation, we note that the Department states that the aim of the Transfer 2010 Guidance is to address socio-economic inequality through the cessation of academic selection and the introduction of the Free School Meal Entitlement (FSME) criterion. Such an outcome might indeed be possible were academic selection being ended and the Guidance adopted by all post-primary schools. The reality however is likely to be somewhat different.

CAJ has little doubt that the 11 plus system that existed previously perpetuated socio-economic disadvantage in Northern Ireland – the evidence for that is overwhelming. **Under the new system however, children from poorer backgrounds are likely to be even more disadvantaged that they were previously.** Clearly however, many Grammar schools will continue to use academic admissions criteria (ie entrance examinations), which they are allowed to do under the current law. It is also worth noting that while the Department has “recommended” that primary schools should not prepare pupils for such entrance examinations it is likely that some primary schools, under pressure from parents, will ignore this recommendation of the Department. There will therefore be somewhat of an uneven playing field with respect to those primary schools which prepare pupils for Grammar school entrance examinations and those which do not. Moreover, it is also likely of course that those parents who are in a position to pay for private tuition to prepare their children for this examination will do so.

In reality therefore, many Grammar schools will continue to use an entrance examination, although unlike previously, the process will not be overseen and regulated by the Department. As such, this more “free market” approach will undoubtedly disadvantage those pupils from poorer backgrounds than the system which existed under the 11 plus. Moreover, it is particularly concerning that the EQIA does not take account of this reality and instead seeks to focus on the impact of

Guidance that many schools will in practice ignore. Such an approach not only ignores the reality that many children will face, but also seriously undermines the entire EQIA process by failing to take into account the practical realities of the outworkings of this policy.

CAJ therefore recommends that the Department of Education revisit this EQIA and carries out an assessment of how the Guidance is likely to work *in practice*. In particular, CAJ recommends that the Department consider the impact that the continued use of entrance examinations is likely to have on children from poorer backgrounds within a context in which some primary schools are preparing pupils for the examinations and some are not, and some parents are able to provide private tuition for their children, and some are not.

We hope that you find these comments useful.

Tim Cunningham
Equality Programme Officer