

CAJ's submission no. S. 256

CAJ's Response to NICTS consultation re
PPS summons

April 2010

Promoting Justice /
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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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23 April 2010

**Re: Provision to allow the Public Prosecution Service to
commence proceedings without recourse to a lay magistrate**

Thank you for inviting the Committee on the Administration of Justice (CAJ) to present our views on the proposed 'provision to allow the Public Prosecution Service to commence proceedings without recourse to a lay magistrate'. As you will know, CAJ is an independent non-governmental human rights organisation that was established in 1981. 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.

CAJ is not convinced that the case for the removal of recourse to a lay magistrate in commencing proceedings and issuing summonses has been adequately made out. In particular, we are concerned that the move constitutes the removal of an important and independent level of judicial scrutiny under the guise of reducing avoidable delay without any clarity on what delay it will actually avoid.

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The consultation document locates the context for the proposal as the report of the Criminal Justice Inspection on avoidable delay. The relevant section (7.26) of that report refers to delays caused by, for example, lay magistrates from rural areas having to travel to Belfast to sign summonses, and recommends that:

“alternative arrangements for signing of summonses should be implemented. This should include the use of electronic signatures which are authorised by a PPS prosecutor.”

CAJ does not read this as recommending that the role of lay magistrates in signing summonses be removed altogether, rather that alternative arrangements for the signing of summonses be implemented.

The consultation document then refers to the decision of the Delay Action Team (DAT) charged with examining avoidable delay. While conceding that the arrangement “does not add a lot of time to the process in the general run of cases” they conclude that it “in reality...cannot be regarded as a quasi-judicial function”.

This is directly contrary to the findings of the Criminal Justice Review Team, who in their report in 2000 outlined the functions of the then Justices of the Peace, including in relation to the issuing of summonses, and went on to:

“register our view that many of the functions outlined above are extremely important. They affect the liberty, privacy and other human rights of the individual, require the exercise of judicial discretion and involve a degree of oversight of the processes employed by the police and other investigating agencies”.

While ostensibly based on the report of the CJI on avoidable delay, nowhere in the consultation document or the report of the Delay Action Team, can we find an explanation of what delays are intended to be avoided by this proposal. The consultation document refers to a saving of £10,000 in expenses per annum, and bringing a resource saving in terms of administrative staff no

longer having to visit courthouses to have summonses signed. CAJ would contend that these savings could also be reached if electronic processes were introduced as recommended by CJI.

We are further concerned at the removal of an important aspect of judicial scrutiny, and are not convinced by the safeguards proposed in the consultation document. The test for prosecution in the Code for Prosecutors and Code of Ethics do not have legal force, and could be changed at any time. They also invest significant levels of discretion in prosecutors, against which oversight is important.

While this may bring Northern Ireland into line with England and Wales, as outlined in the document, the context of the operation of the criminal justice system in Northern Ireland is completely different, and is one which should be located in increasing accountability and transparency so as to build confidence in the system, and particularly the Public Prosecution Service. This proposal, by removing an important judicial oversight mechanism removes accountability and transparency and as such is a retrograde step.

We agree with the report of the Criminal Justice Review that the role of lay magistrates in this process is an important judicial one that serves to protect human rights. We believe that this proposal removes an important judicial check and balance and invests more discretion in the PPS without adequate safeguards and accountability. In conclusion therefore, while CAJ is supportive of reducing bureaucracy and delay in the criminal justice system, this should not be at the expense of the protection of human rights or important oversight and accountability mechanisms. As such we disagree with the proposal and recommend that it be revisited.

Kind Regards,

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