

Many of you probably will not be able to afford legal help, find legal aid difficult to obtain or may have chosen self-representation.

Litigants-in-person are seen as a bane for the legal system. They take up Court time and cost the State, usually with no legal training or knowledge of the operation of the law, they try to put their case to a system which does not properly permit comprehension that when your children, property or finances are at stake, no male or female is in the right condition to present their case, yet often whether in Public or private law are often forced to act alone, submit or withdraw.

Under that distress one of the problems that does occur and we have had a number of cases both male and female whereby the allegations made are not borne out of the evidence since the person is so stressed they cannot see straight.

However, what right thinking person **would not do all they possibly could for their children's medium and long-term best interests?**

It has been sensed by some that the destruction of families is the core aim of the Divorce Courts [see www.familieslink.co.uk and please support the 1503 campaign to expose widespread, systematic and persistent abuses of Human Rights to the United Nations see www.UN1503petition.com].

Some people's experience is that the Family Court operating in secret [no different to the outlawed Star Chambers and the Diplock Courts are not acting properly protecting the State bodies and the Lower Courts from wrongdoing].

For evidence that was accepted by the EU see //

It maybe conceived that the legal advice given is not the best advice for your case.

People's whose only training and/ or understanding of the law comes from their own personal experience of the Court is not conducive to productive Application of the law.

The first matter which the Public need to be aware of is the role of the advocate.

The role of the Advocate is well described in Lord Reid in *Rondel v Worsley* 1969 1 AC 191 stated that "Every Counsel has a duty to his client fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, which he thinks will advance his client's case."

A litigant-in-person maybe said to have an idiot as his client but the same applies

In *Medcalf -v- Weatherill* [2002] UKHL 27, [2002] 3 WLR 172 Lord Hobhouse said:

- The duty of an advocate was a duty "**with proper competence to represent his**

lay client and promote and protect fearlessly and by all proper and lawful means his lay client's best interests."[51]

•The role of the advocate in performing that duty benefited **not only the client but also the public interest. It was essential to achieving the just and efficient resolution of disputes in a system which sought to recognise and enforce rights, obligations and liabilities in accordance with law.** [51]

•"**It follows that the willingness of professional advocates to represent litigants should not be undermined either by creating conflicts of interest or by exposing the advocates to pressures which will tend to deter them from representing certain clients or from doing so effectively. ... Unpopular and seemingly unmeritorious litigants must be capable of being represented without the advocate being penalised or harassed whether by the Executive, the Judiciary, or by anyone else.** Similarly, situations must be avoided where the advocate's conduct of a case is influenced not by his duty to his client but by concerns about his own self-interest" [52]

•"At times the proper discharge by the advocate of his duties to his client **will be liable to bring him into conflict with the court. This does not alter the duty of the advocate. It may require more courage to represent a client in the face of a hostile court, but the advocate must still be prepared to act fearlessly. It is part of the duty of an advocate, where necessary, appropriately to protect his client from the court as well as from the opposing party.**" [53]

•"The professional advocate ...owes certain duties to the court and is bound by certain standards of professional conduct in accordance with the code of conduct of his profession. ... The advocate must respect and uphold the authority of the court. **He must not be a knowing party to an abuse of process or a deceit of the court. He must conduct himself with reasonable competence. He must take reasonable and practicable steps to avoid unnecessary expense or waste of the court's time ...** " [54]

Many from their own experience may say that this is not happening.

So what prevents a litigant from pursuing their own case?

Ignorance of the law and procedure is one aspect.

Another is cost.

Another is poor advice from others and lack of confidence in pursuing the matter.

The final fear is the threat of costs orders, yet **what is more important Justice for your children or perceived threats?**

There are many aspects of the law that could be addressed via well reasoned case and application of the law. Outcome cannot be guaranteed. But we suggest the following rules;

1. Never lie to Court through statements or orally. Bear in mind that presenting your case in the best possible light is totally different to lying or misleading.
2. If you put forward suggestions for the well-being of your children never break them. If you have to take all steps to inform others if you have to out of circumstance.
3. If an order is plainly wrong you must Appeal. The Courts accept non Appeal as acquiescence.
4. Take advice but make any decision yourself, after all who knows the facts of your case best? You or someone else?
5. Be aware that everyone has the right to take second opinion. Weigh up the advice and then decide yourself.
6. Avail yourself of all legal remedies available. This includes at the outset seeking disclosure under the Data protection Act and freedom of information Act and Court ordered disclosure.
7. Protect yourself. Record all telephone conversations and meetings. Keep all communication to writing if possible.
8. Make sure your rights to prepare your own bundle are not washed over.
9. Seek expert help if in difficult case but be wary of the State bodies who as stated below may not be seen to be impartial.

In re O and N (minors) (FC) In re B (minors) (2002) (FC) House of Lords on Thursday 3rd April 2003 it was stated: 24. If authority is needed for this conclusion I need refer only to the wide, all embracing language of Lord MacDermott in J v C [1970] AC 668, 710-711. Section 1 of the Guardianship of Infants Act 1925 required the court, in proceedings where the upbringing of an infant was in question, to regard the welfare of the infant 'as the first and paramount consideration'. Regarding these words, Lord MacDermott said: "I think they connote a process whereby, when all the relevant facts, relationships, claims and wishes of parents, risks, choices and other circumstances are taken into account and weighed, the course to be followed will be that which is most in the interests of the child's welfare as that term has now to be understood." In principle

the same approach is equally applicable under section 1 of the Children Act 1989.

25. The Children Act directs the court, when making a decision regarding a child's welfare, to have particular regard to the factors set out in the welfare checklist in section 1(3).

And 34..... **A parent fears that, once the possibility that he or she was a perpetrator is brought into the scales, cautious social workers will let that factor outweigh all others.**

In P, C & S v UK (56547/2000) the Court stressed the importance of ensuring the appearance of fair administration of justice and further stated that a party in civil proceedings must be able to participate effectively inter-alia by being able to put effective argument in support of his or her claim [see also McVicar v UK (2002, §§50 -51)].

In Ocalan v Turkey 2003 (Application No. 46221/99) the Court reiterated that under the principle of equality and arms one of the features of a fair trial is that “each party must be afforded a reasonable opportunity to present his case under conditions which do not place him under a disadvantage vis a vis his or her opponent.”

In the case of CASE OF GÖRGÜLÜ v. GERMANY (Application no. 74969/01) 26 February 2004 it is stated that “Although the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities, there may in addition be positive obligations inherent in an effective “respect” for family life. Thus, where the existence of a family tie has been established, the State must in principle act in a manner calculated to enable that tie to be developed and take measures that will enable parent and child to be reunited.

In the case of T.P. AND K.M. v. THE UNITED KINGDOM (Application no. 28945/95) 10 May 2001, the relevant paragraphs that apply to the responsibility of the Local Authority, their possible perceived bias and the positive obligations to protect family life read as follows:

80. The Court does however consider that it is essential that a parent be placed in a position where he or she may obtain access to information which is relied on by the authorities in taking measures of protective care. **A parent may claim an interest in being informed of the nature and extent of the allegations of abuse made by his or her child. This is relevant not only to the parent's ability to put forward those matters militating in favour of his or her capability in providing the child with proper care and protection but also to enable the parent to understand and come to terms with traumatic events effecting the family as a whole.**

81...**The local authority, which is charged with the duty of protecting the child and is a party in the court proceedings, may reasonably not be regarded by a parent as being able to approach the issue with objectivity.**

82. **The positive obligation on the Contracting State to protect the interests of the family requires that this material be made available to the parent**

concerned, even in the absence of any request by the parent. If there were doubts as to whether this posed a risk to the welfare of the child, the matter should have been submitted to the court by the local authority at the earliest stage in the proceedings possible for it to resolve the issues involved.

This is first mailing. Many will not have monies to pay for help. Should anyone wish to avail themselves of our help personally the conditions are second class train travel, costs of board and lodging or a floor to sleep on, food whilst away from home.

For those with income the above and donation to FLINT.

We may be contacted via info@familieslink.co.uk