

Refusing to pay Council tax is a costly business and risks imprisonment.

This case was refused at the admissibility stage on the grounds that all domestic remedies had not been exhausted. Ideas anyone?

The case was given case number 4896/06. Strasbourg is a Public Court. The full argument is here;

Section II Statement of the facts

Abridged Summary

1. The House of Lords refused this Application on the grounds that it was inadmissible and that **in any event the petition does not raise an arguable point of law of general public importance which ought to be considered by the house at this time.**
2. In the Fareham Magistrates Court District Judge (DJ) Purcell was addressed during housekeeping points at a hearing for non-payment of Council tax. There were two matters before the Court: imprisonment for non-payment and a liability order.
3. The Council had employed a barrister from Gray's Inn, London, a Melissa Murphy at taxpayers expense. She argued in their defence that **'it does not matter if the Council mis-spends public money or is corrupt.'**
4. In the High Court Mr. Justice McCombe stated in his judgement in paragraph two:- "The subject of the proceedings in the Magistrates Court was a claim by the Gosport Council to a liability order for Council tax against Mr. O'Connell."
5. The case before the Court was for two Applications for liability order and **imprisonment for non-payment of Council tax.** This is also clearly stated in the skeleton argument for the Council.
6. The Applicant requested the hearing to be adjourned **since the Council had not given full disclosure and had served their skeleton argument the day before the hearing at 4.30 p.m. in contempt of the Courts orders on February 27th 2004 and April 16th 2004.**
7. In the Magistrates defence it was stated in paragraph two: On the 2nd July I received skeleton arguments from both parties. The Applicant had served his on April 16th 2004 to Court and to the Council on the day and gave an up-dated version prior to the hearing on July 2nd 2004.
8. An updated argument was served by the Applicant prior to the hearing. **The Council's barrister served hers in the Courtroom.**

9. **The Council had been ordered to provide one on February 27th 2004 and again on April 16th**, they even wrote stating that if they relied on one it would be served well in advance. They not only did not do so but are then **protected by the Court as they were not only in contempt of Court but denied the Applicant the right to a fair hearing.**

10. In the Magistrates defence it was stated in paragraph three that he had considered the skeleton argument of both parties. This is untrue. He stated that he had read all the barrister's argument for the Council but **only some of the Applicants.** Any consideration as given to the arguments in paragraphs five to seven of the Magistrates defence is after the event by the Head of legal services not by the DJ.

11. In the High Court Mr. Justice McCombe stated in his judgement in paragraph three:-
"...proceedings had initially come before a different judge at Portsmouth Magistrates Court on 16th April" and paragraph four "**I had been told by Mr O'Connell that on the first occasion the learned DJ at Portsmouth**" The case initially came before the Fareham Magistrates Court on 27th February 2004 and the transcript of the hearing is before the Court. **I never stated that which was alleged.**

12. The DJ refused the adjournment after retiring for fifteen minutes to read the Council's skeleton argument and accompanying rules and regulations of the Council and case laws along with the Applicant's 80 page skeleton argument.

13. The DJ stated that he had read all of the Applicant's argument and some of the Applicants. The DJ refused the adjournment orally offering only a short recess until lunch to enable the Applicant to familiarise himself with the papers but **denying him the time to research the argument, rules and regulations and the case laws.**

14. In the High Court Mr. Justice McCombe stated in his judgement in paragraph eleven that the skeleton argument was of some six pages yet ignores the fact that **38 pages had been served on me the night before in contempt of the orders of the Court on February 27th 2004 and April 16th 2004**

15. The DJ stated that Human Rights could only be argued in the High Court and when requested therefore to transfer the case, he refused.

16. In the High Court Mr. Justice McCombe refers in his judgement in paragraph nine to the later arguments in the bundle but **does not at any stage refer to the Human Rights Act argument presented to the Court as evidenced in the transcript and in the written arguments and in much detail of the violations in what is only a skeleton argument.**

17. In the High Court Mr. Justice McCombe stated in his judgement in paragraph twelve that "it seems to me that a very large, indeed substantial whole of the 80 page document which MR. O'Connell presented to the learned DJ was wholly irrelevant to whether there was a liability to Council tax as the Council had claimed. The extract that I have already cited gives sufficient indication of that irrelevance."

18. Mr. Justice McCombe like the Magistrates Court ignores the fact that the hearing was in housekeeping points for both the matters that were before the Court.

19. Mr. Justice McCombe neither **had referred to the lengthy passages on the human rights act and the violations of human rights involved by the Council, or even ruled that the defences of sections 6 and 7 Human Rights Act 1998 and the claim that Council tax was a contract were legitimate defences.**

20. Fearing a kangaroo Court when any defence had been refused in housekeeping points and the District Judge had made comments such as **it doesn't matter if the Council is corrupt and refusing Human Rights arguments**, refusing to transfer to the High Court and to adjourn, the Applicant left the Court stating that he was going to Appeal the decision and that even Saddam Hussain has the right to a fair hearing.

21. No decisions were made as the hearing was solely in housekeeping points and neither did the DJ take any notes.

22. In the High Court Mr. Justice McCombe in his judgement in paragraph ten states that **"the Court duly heard the matter later in the day and made the liability order."**

23. In their defence the Magistrates Court stated that the order had been made in the Applicant's presence and that he left the Court after the order had been made.

24. In the High Court Mr. Justice McCombe stated in his judgement in paragraph 13:- Mr. Justice McCombe stated that **"Mr. O'Connell never gave the Magistrate the chance to consider his defence. It was not that his defence was not heard."**

25. Yet the Court had stated in their defence that he had informed Mr. O'Connell that **all he could consider was whether he was resident in the area and therefore liable, that an amount of Council tax had fallen due, that all relevant notices had been properly served and that a liability order should therefore be made.**

26. However this was untrue. **He had refused all defences in housekeeping points for both matters.**

27. In the High Court Mr. Justice McCombe ignored the fact that the **Applicant had been refused any defence to his arguments in housekeeping points for both matters**, that he had **seven witnesses with witness statements to testify under oath as to the behaviour of the Judge** and that the defence given by the Court was largely untrue.

28. In the Magistrates defence it was stated in Paragraphs eight and nine that the judge was **mindful of s. 16 Local Government Finance Act 1992 re valuation tribunals and s. 57 of the Council tax (Administration and enforcement Act) regulations 1992.** Neither of which were raised during

housekeeping points and without being psychic the Applicant cannot be aware of, respond to or even consider.

29. In the Magistrates defence it was stated in paragraph ten that the DJ explained to the defendant that he could only consider matters which were relevant to the issues, which he had to decide. He stated that he explained to the Applicant that the matters he raised in his skeleton argument were not matters which he could consider when deciding to make a liability order; **that these matters should be dealt with in the valuation tribunal or the High Court.**

30. In the Magistrates defence it was stated in paragraph fourteen that the Applicant was not prepared to accept the matter being put back and **all that was relevant was whether he was resident in the Borough of Gosport, and as he did not dispute that the tax was due and unpaid or that the Council had served the necessary notices he made the liability order and in paragraph fifteen ' the defendant then left the Court room.'**

31. This was again untrue. **The hearing was in housekeeping points for both matters.** The DJ never made any comment re Valuation tribunal and stated that **human rights arguments can only be heard in the High Court and refused to transfer** the case.

32. The issue of disclosure which the Council had been ordered to comply with was never mentioned in the Magistrates defence. **My witnesses would show all this to be true** and the Applicant will willingly testify under oath as to the behaviour of the DJ in open Court.

33. In the Magistrates defence in paragraph eleven it referred to twenty supporters when there were only 11, **the tee-shirts worn bore nothing about fathers and only seven wore the tee-shirt.**

34. In the Magistrates defence it was stated in paragraphs sixteen and seventeen that the Council then applied for a committal order in respect of the unpaid Council tax and that in the circumstances that the defendant having left before the end of proceedings, the judge issued a warrant for the Applicant's arrest so that the question of committal could be considered." **This was again untrue.**

35. The committal order and the liability order were both the issues before the Court as is clearly stated in the Council's skeleton argument and never heard beyond housekeeping points.

36. The Applicant could not appeal the decision as the magistrates Court do not issue Court orders. The Court of Appeal refused the Application.

37. Application was made then instead for Judicial review heard in the High Court. Application for permission was refused even though the Applicant had many witnesses to the actions of the Court and part admitted facts as pleaded by the Applicant and did not address the defence under contract law and Human Rights.

38. On Appeal LJ Sedley dismissed the Application on spurious grounds ignoring the Human Rights

arguments, stating that the issue whether it was a contract depends on the construction of the statute and refused the Applicant a copy of the Judgement at public expense and informed him that he had no avenue for further Appeal and Application could not be made to the House of Lords.

Facts of the case

1. This is a submission to the European Court of Human Rights after all domestic remedies have been exhausted. The House of Lords refused to hear the matter in final decision dated July 28th 2005.
2. The Applicant had with-held payment of Council tax from June 2001 to persuade the Council to address their wrong-doing affecting his children and himself including abuses of common law rights, misfeasance in public office, perjury, perversion of the course of justice, abuse of power and human rights violations.
3. In April 2000 the Secret Family Courts gave an order for no contact direct or indirect and ordered the Applicant to pay ten thousand pounds in costs when the Applicant was a teacher who had training in Science, special needs and anger management and the Local Authority and others had purposefully misled the Court.
4. The unlawful acts by the State Authorities included criminal matters of perjury and perversion of the course of Justice have not been redressed. The Police in the form of the Chief Inspector Wrigglesworth refused even to look at the evidence or to give a crime number despite the evidence having been before both him and CID for three months .
5. The Family Court had refused to take the evidence into account. The Court of Appeal had refused the matter and ECtHR had refused as not all remedies had been exhausted. Yet the House of Lords only hear cases raising a point of law of general public importance and these were well established laws and procedures which were being ignored.
6. The State Authorities had deliberately carried out bias, perjury and perversion of the course of justice as well as other unlawful acts and omissions including violations of articles 3, 6, 8, 14 taking into account 6 and/ or 8 and article 13 ECHR.
7. In order to achieve effective redress, for exposure of this matter of public importance the Applicant had with-held Council tax so the State bodies would remedy their actions or the matter would get aired in an open Court.
8. Applicant was unable to afford legal action privately due to the cost of the lawyers and legal funded lawyers had obtained three barristers reports, which did not reflect the facts of the case. Despite this the Applicant won his Appeal on April 28th 2005!
9. This matter arises from an initial hearing on February 27th 2004 at Fareham Magistrates court. The Applicant had been summonsed by the Council to attend a hearing for the non-payment of Council tax for a liability order and for imprisonment.
10. The Magistrates upon hearing the outline defence, ordered the matter to be adjourned until April 16th 2004 at Portsmouth Magistrates Court for a two to three hour hearing – the defence under sections 6 and 7 of the Human Rights Act 1998 and other laws had been accepted as valid.

11. Fareham Magistrates Court ordered that the Council and myself provide skeleton arguments 14 days in advance of the hearing. The Applicant provided his skeleton argument in the morning to the Court and to the Council. They did not provide any skeleton argument.

12. On April 16th 2004 the Portsmouth Magistrates Court did not have time to hear the case as the Court had been overbooked. At 4.15 p.m. DJ Woollard ordered the matter be set down at Fareham Magistrates Court for one day, and ordered the Council to provide the information that the Applicant requested after seeing the volumes of evidence and hearing legal argument.

13. The Council had requested the transfer to Fareham Magistrates Court as it was '**their Court.**' A statement that made the Applicant suspect a kangaroo Court.

14. Unbeknown to the Applicant the Council instructed a barrister from London. The Council refused to give disclosure as ordered to by the Court for the second time. The Council had stated in writing that they would provide any skeleton argument well in advance of the hearing.

15. The Applicant a litigant-in-person was only served with the Council's skeleton argument and copious references at 4.30pm on July 1st 2004 the night before the hearing despite the Council's promises to provide the skeleton argument well in advance, if they needed to rely on one.

16. This was despite the order of Fareham Magistrates Court on February 27th 2004 and that of orders by DJ Woollard at Portsmouth Magistrates Court on April 16th 2004 to provide skeleton argument 14 days before the hearing.

17. There have not been any Court orders in writing only letters from the Council, the only Summons received was from Julia Oakford Head of legal Services a court official for Hampshire and the Isle of Wight legal services undated but referring to the hearing on 16th April 2004. It stated "**You are summonsed to appear before the Magistrates Court for inquiry as to your conduct and means in relation to the non-payment of Council tax.**"

18. It was not stamped by the Court but by a court official. **The Applicant was never given the opportunity to explain his conduct as the Court had ruled that his defence was irrelevant.** Yet a woman was permitted to put her argument in Court that she needed the money to have her hair done!

19. The Applicant was a litigant-in-person and relied on Judge Woollard's statements that he would be given the chance to present his defence at a one day hearing and with the Council's skeleton provided well in advance to allow sufficient time to prepare arguments and with release of information requested from the Council as the Court had ordered to ensure a fair hearing.

The hearing on July 2nd 2004

20. The hearing never went beyond housekeeping points. The Applicant made requests for an adjournment as the Council had not provided disclosure, and the barrister for the Council had only provided their skeleton argument the night before the hearing.

21. The Applicant informed the Court that he was a litigant-in-person and had required further time as the Council had delayed service of their arguments.

22. The hearing never went beyond housekeeping points. Once the Judge had refused to adjourn and **refused any defence**, the Applicant was unable to take further part in an unfair hearing. The Applicant made this very clear and that he was a litigant-in-person and had no legal training.

23. The risk of continuing with an unfair hearing was too great when the judge not only refused to adjourn, but made statements such as;

“It does not matter if the Council are corrupt.”

“Human Rights have to be heard in the High Court. It cannot be heard in the Magistrates Court.”

24. The Applicant enquired if there were any human rights in the Magistrates Court.

25. Despite requesting that the matter be therefore transferred to the High Court the Judge refused.

26. Paragraph 2 of the human rights policy statement for the Hampshire and Isle of Wight Courts states; “The MCC recognises that as a public Authority section 6 [1] of the HRA places upon it a statutory duty not to act in a way that is incompatible with a right conferred by the convention for the protection of Human Rights and Fundamental freedoms [the convention] and in paragraph 3 “ **As this statutory duty creates a positive obligation on the MCC to avoid acts which are incompatible with convention rights.**”

27. Not only had the Council failed to provide the material the Court had ordered, but **provided some 38 pages at 4.30pm the night before the hearing.**

28. The Council had the Applicant’s skeleton argument from April 16th and had acted in contempt of orders by the Court and even when raised in the Magistrates Court the judge refused to do anything about it. **Under CPR 32PD-27 the Applicant asked the court to initiate steps** to consider if there is a contempt of court and where, there is to punish it. Without the requested evidence, the Applicant could not have a fair hearing. **The Judge refused to address this right.**

29. The Applicant made it very clear that he feared a kangaroo Court and this was shown to be the case. **The over-riding objective of the Court to deal with cases justly**, to ensure that parties are on an equal footing, to save expense and to deal with cases which are **proportionate to the importance of the case, it’s complexity and to the financial position of each party were consistently ignored.**

30. The Court was made aware of the fact that the Applicant was neither legally trained nor competent in law. **The court also was informed that to-date he had not received any Court applications and/ or grounds of these applications.**

31. The court was made aware that the two prior postponements which were adjourned were as a result of the Court overbooking and **not at the fault of the Applicant as the Council's barrister knowingly alleged.**

32. The Council had employed the barrister for some time and had from February 27th and April 12th 2004 to provide their argument in advance. The Council also had stated in writing that they would provide the argument in advance with adequate time for me to deal with the matters arising. **These were brought to the DJ's attention but he ignored it.**

33. Another act of perjury committed by the Counsel was the fact that I had not provided them with my bundle and skeleton – this was an outright lie as the Council had in their possession since the 16th of April 2004. **Despite bringing this to the DJ's attention, he ignored it.**

34. DJ Purcell refused any argument under sections 6 and 7 of the Human Rights Act 1998. Even the Council their letter dated 7th May 2004 admitted in paragraph six "the council does not need to be reminded of your right to raise your defence and have it heard before the District Judge." **Yet I was refused this by the Court.**

35. It is clear that the Council and the Court conspired to prevent the reasons for non-payment to be heard in open Court. Just because the Council would be embarrassed is no reason for an independent and impartial tribunal to refuse argument that is legally valid, permitted by law even if in mitigation and as I am fully entitled to do as a citizen, taxpayer and victim of discrimination, criminal and unlawful acts and human rights violations.

36. DJ Purcell refused human rights argument by stating that the Magistrates Court could not hear human rights. This is contrary to the Human Rights Act 1998 section 6 and 7 which state the convention rights may **be relied on in any legal proceedings** and the Magistrates Courts own human rights policy statement.

37. The Applicant is afforded the right to review of the actions of a Public Authority under the human rights Act 1998 if and only if he was a victim. **The Applicant was such a victim and has substantial documented evidence to prove this, yet continuously this has been refused to be heard, not only in secret Courts but also in the Magistrates Court.**

38. DJ Purcell made conflicting statements. **He refused any defence after only reading some of the skeleton argument**, refused to postpone the case in order that the Applicant may seek advice and research the defence submission which had been provided at the last minute and in contempt of the Court's own orders.

39. **Refusal by DJ Purcell to consider the request that the matter be postponed and the fact that the Council had deliberately and knowingly misled the court were ignored.** The decision of DJ Purcell to refuse to postpone the case was contrary to Article 6 of the Human Rights Act and equality of arms. I do not have the luxury of unlimited taxpayers money to misuse.

40. **DJ Purcell sitting accepted that he had no time to go through my skeleton argument but refused to adjourn the matter.**

41. The applicant feared that the judge would lack impartiality as clearly stated in the skeleton argument. **When the matter was brought up at the Magistrate's Court, the DJ's only concern was with cost and judge offered no guarantee sufficient to exclude any legitimate doubt in this respect as afforded by Article 6 of the ECHR.**

42. The DJ stated he had not had time to read the skeletons, yet adjourned to read for fifteen minutes, to read both parties arguments however he did not do so fairly; **he read the Counsel's argument in full and only some of the applicant's argument. The Counsel's argument had only been provided during the hearing!**

43. The Applicant's had been handed in prior to the hearing. Clearly this was not an impartial tribunal.

44. The Applicant had no option but to inform the Court that he could not take part in an unfair hearing and would Appeal the refusal of the DJ to adjourn and to order the Council to disclose.

45. The Applicant exited the Court. A journalist left the Court shortly after and **informed the Applicant that the Court had put out an arrest warrant.**

46. The Applicant travelled to London to put in an Appeal. **The Appeal was refused on the grounds that there was no order to Appeal.** The Magistrates Court do not issue orders. They permit the Council to write their own letters purporting to be Court orders. **Neither are hearings in Magistrates Courts recorded.**

47. A Judicial review was prepared as an alternative remedy. The High Court administrative office rang Fareham Magistrates Court in anger as they informed the Applicant that **all Courts must issue orders.**

Judicial review

48. Judicial review was the Applicant's only avenue for redress. Sir Richard Tucker refused the Application on paper stating that "The issues to be considered by the Court were short and straightforward. There should have been no need for any adjournment. **It is clear from the comments of the District judge that the claimant was given the opportunity of addressing the Court on any relevant matters, but that what he wished to say was irrelevant.**"

49. Yet I was denied this right when in housekeeping points the DJ had refused any defence.

50. Neither were the matters irrelevant. Over one thousand pages of evidence had been served on the Council and the Court. Both the Magistrates Court on February 27th 2004 and Portsmouth Magistrates Court on April 16th 2004 had conceded the Applicant's defence particularly under sections

6 and 7 of the Human Rights Act 1998. Further, **the refusal on paper did not address the arguments put to the Court.**

51. Mr. Justice McCombe referred to a short 6 page and clear submission by the Council yet he purposefully ignored the fact that the **Counsel for the Council had provided some 38 pages of skeleton argument, Council rules and case law.**

52. The witnesses are fundamental to the case and demand to be heard on the conduct of the lower Court and State Authorities. This is highly relevant when Mr. Justice McCombe contradicts the admissions by the Magistrates Court in their defence. **DJ Purcell stated that the liability order was made in the Applicant's presence yet Mr. Justice McCombe stated that the order was made in the Applicant's absence after he had withdrawn from the Court refusing to take part in an unfair hearing.**

53. If Mr. Justice McCombe was willing to take the Applicant's word for the giving of the liability order above that of the Council and the Magistrates Court then it is also more likely than not that the other claims the Applicant and his witnesses made were also true and should have been heard in a full review.

54. The DJ said in paragraph 12 of his defence **"I explained that all I could consider was whether the defendant was a resident in the borough of Gosport, whether Council tax had fallen due and whether the Council had been served with the proper paperwork."**

55. The defence by Fareham Magistrates Court to judicial review paragraph 10 states that "I explained to the defendant that I could only consider matters, which were relevant to the issues, which I had to decide. I explained to him that the matters which he raised in his skeleton were not matters which I could consider when deciding whether to make a liability order; **that these matters should be dealt with in the valuation tribunal or High Court.**"

56. **This was not raised in Court.** In any event a valuation tribunal could not address the human rights argument and I am permitted by sections 6 and 7 of the Human Rights Act 1998 section 7.1b in particular to rely on the rights afforded by the convention **in any legal proceedings** as a victim of the unlawful acts.

57. **Mr. Justice McCombe did not take into proper account that any argument had been refused.** Mr. Justice McCombe said on page 15d paragraph 13 that **"it seems to me that the learned Magistrate did not err in considering he and the parties would be able to deal with any arguments that would arise out of the material submitted, and any further oral argument Mr. O'Connell wished to raise."** Yet DJ Purcell refused any such argument and the Applicant allegedly has human and civil rights, certainly in law but **not being observed in practise.**

58. Mr. Justice McCombe only addressed the issue of whether the refusal of adjournment was in error. The grounds for judicial review were very clear; **'the refusal of DJ Purcell to allow me the right to present my defence and the refusal to adjourn proceedings.'**

59. When challenged on the Applicant's request to transfer the hearing to the High Court if Human Rights could not be argued in the Magistrates Court, the Judge refused stating that it was the Applicant's responsibility to have made an Application to the High Court. Mr. Justice Mcombe raised the issue that the DJ Purcell may have been referring to an order of incompatibility, yet this was not raised in the Court; **the only references made by the Applicant and DJ Purcell were to sections 6 and 7 of the HRA 1998.**

60. Despite requesting that he therefore transfer the matter to the High Court he refused. An important principle rises here; does a litigant have the right to use a human rights defence as the law and as the will of Parliament and the law clearly states?

61. I am afforded the right to review of the actions of a Public Authority under the human rights Act 1998 if and only if I am a victim. I am such a victim and have substantial documented evidence to prove this, yet continuously this has been refused.

62. DJ Purcell made conflicting statements refused any defence after only reading some of the skeleton argument, refused to postpone the case in order that I may seek advice and research the defence submission which had been provided at the last minute and in contempt of the Court's own orders.

63. DJ Purcell introduced matters which had not been raised by either party or himself in his defence such as the valuation tribunal and being "mindful" of s. 16 Local Government Finance Act 1992 and s. 57 of the Council tax regulations. It shows that the judge was not impartial!

64. Mr. Justice McCombe stated during the hearing "I have read your skeleton argument and it was only about four or five lines of any relevance to the case." When it was pointed out to him the **issue was that DJ Purcell did not read all the argument, only some, and could not therefore determine whether any was relevant or not he ignored this matter.**

65. The violations of my human rights and those of my children, the unlawful acts and the failure of the Public Authorities to give me the right to fair services and in breach of contractual obligations are clearly contained in the skeleton argument [section H/ I] **on pages 59 to 91 in paragraphs 137 to 266 and pages 100 to 120 in paragraphs 312 to 374 to be expanded upon in oral presentation and including the 1000 pages of evidence and two tapes and video to prove my case. [As further example page 42 para 22 -24, page 56 para 122-123, page 63 para 155, pages 66-91 para 165-266].**

66. On January 17th 2005 LJ Ward kindly gave me leave to Appeal against Southampton County Court in a case centred on the bias of the judge sitting HHJ Milligan. Much in the UK seems to depend on the judge on the day and not the rule of Common law, Human Rights law and natural justice.

67. The Appeal was allowed and so it is submitted there must be merit in the Applicant's case since he was one of the Judges who caused the Applicant's actions in refusing to pay Council tax.

68. Whilst the Barrister for the Council wrote in paragraph 1.4 on page 123 that “ **the Council is not wholly unsympathetic to Mr. O’Connell’s position,**” they have refused to do anything positive about it.

69. The Local Authority are under a positive obligation under the Human Rights Act 1998 but dare not rectify their wrongdoing for **fear of legal action and embarrassment.** They are fully aware of the allegations that I make and have the substantial evidence before them yet still continue to refuse to do anything about it and can only act **to prevent the truth from becoming known unlawfully and with the aid of the Lower Court and public money.**

70. The Applicant wore a tee shirt in the Magistrates Court with the words FLINT Family Links International and does not believe that the purported words given by the Head of Legal Services are those of the Judge Purcell, there were 11 witnesses and not twenty and only 7 wore the tee-shirt. There was no mention of fathers.

71. Whilst the Magistrates Court refused me the right to present my defence, Mr. Justice McCombe blames the Applicant by stating **that he did not give the judge a chance.** Yet all argument had been refused. Even in their defence the Magistrates court allegedly on the words of DJ Purcell in paragraphs 10 and 12 clearly confirm that no such argument would be permitted.

72. Witnesses under oath would show for example that the judge took no notes, refused any right to raise any defence, stated that Human Rights issues could not be argued in the Magistrates court, that the issues were simple and that he did not make a liability order as stated.

73. Mr. Justice McCombe’s attention was brought to the witness statements of Dr. Kartar Badsha, Raj chauchan, and Martin Mitchell as examples and if permitted a full judicial review would show that the judge **did not allow any defence to be heard** as the defendant themselves have admitted.

74. He further did not take into account that for this matter to be decided the witnesses must be heard at a full judicial review since statements given by Julia Oakford on the base of the alleged words by DJ Purcell show quite clearly contradictory statements.

75. Mr. Justice McCombe further referred in the hearing and in paragraph 9 of his judgement to having seen **judicial notes from the Magistrates court** yet the judge did not take any, neither were the alleged notes provided by any party to the proceedings.

76. Mr. Justice McCombe made statements in his judgement in direct contrast to the argument provided by the Court such as the fact that the liability order was made in the Applicant’s absence when the defendant DJ Purcell stated the order was given in his presence.

77. The respondent was not present at the hearing and therefore he had determined matters without the right of the respondent to contest his assertions. This should have been determined at full judicial

review.

78. In their defence the Council's barrister provides argument that "**it does not matter if the Council mis-spends public money or is corrupt.**" To give this as the Council's defence brings the Administration of local Government into disrepute and the actions of the State Authorities obviously need to be tempered when they cover-up their wrongdoing.

79. The Council's barrister had further stated that "the proper forum for dissent with the decisions of a democratically accountable body is at the ballot box rather than in the Magistrates Court. In a country with no proportional representation and where the Country has been taken to an unjust war in Iraq and the Prime Minister is being called for impeachment, this is a bit rich. **Democracy is clearly failing and harming the public interest.**

80. These issues of legality of lawful defence either human rights or on breach of contractual obligations were not dealt with in the judgement by Mr. Justice McCombe and hence accepted. **If the defence could not be raised then this would have been made very clear.**

81. In any event the right to be heard in Court in criminal matters and this is criminal bearing in mind it was for my imprisonment is absolute as LJ Sedley admitted.

82. Gosport Borough Council had a contractual agreement with the respondent for which the respondent, was in return, promised services widely advertised by the Council as being services for everyone. The services include not only Social Services and Education but also the Police, Judiciary for the protection of the respondent's rights, and other areas of Gosport and Hampshire County Council.

83. The respondent to the contract had not paid any monies nor had signed any agreement with the third party i.e. Hampshire County Council.

84. The respondent relied upon Gosport Borough council, as the party to the contract to ensure that the benefits as promised were provided. In this case the respondent had fulfilled the basic contract requirements namely: (i) offer and acceptance, (ii) agreement supplied by consideration and (iii) contractual intention to create legal relationships with Gosport Borough Council.

85. The Convention Rights of the Applicant have been seriously violated under articles 1, 3, 6, 8, 13, 14 and 17 of European Convention of Human Rights. The Public Authorities have acted unlawfully discriminating against my children and I as I am white, male and heterosexual.

The Applicant's Appeal

86. The Applicant Appealed the refusal for permission for Judicial review to the Court of Appeal. The case was heard on 24th February 2005 by Lord Justice Sedley. His Judgement was short and his behaviour intemperate. He took my oral argument to read as he said he was a fast reader.

87. The Applicant was bullied for time. After the Judge rose to read at 12.15, he then returned at 12.27 and gave me until 12.30 to finish.

88. He then gave a short Judgement from 12.30 to 12.36. He said referring to the refusal to adjourn the hearing that 'Mr. O'Connell believed he had a legitimate expectation – not the case, no such

expectation was legitimate...only for sufficient time.' 'DJ Made liability order in his absence' 'had not read the whole of the Mr. O'Connell's argument. Mr. O'Connell contends breach of due process should need substantial recess for him to cogently argue his case' Unfair process ..this was not a criminal case where the entitlement to be heard is absolute..I accept.' **Yet it was for my imprisonment!**

89. To be argued on contract 'unless he can show contractual liability in the construction of the regime.' Therefore he did not say it was not a contract in effect.

90. LJ Sedley stated that '95% of the written argument was irrelevant and the case did not require protracted hearing. There was no unfairness related to the hearing on July 2nd 2004 Mr. O'Connell had as much time as anyone to present his argument. Mr. McCombe was plainly right and this Application is rejected.'

91. LJ Sedley then refused me a copy of the transcript at public expense and stated that there is no right to apply to the House of Lords.

92. LJ Sedley ignored the facts of the case, denied the right to pursue just redress and relied on knowingly fraudulent statements contrary to even the written facts in the Magistrates Court's defence and that of the High Court.

93. He refused the Applicant the right to a copy of the transcript of the Judgement at Public expense which has been given to the Applicant previously due to his financial position.

94. The Applicant is entitled to a copy of the judgment at public expense on discretionary grounds where his financial situation is such that he has no assets, no savings and had been unemployed since July 2004. The refusal was contrary to my experience in other Court hearings where the route to access justice requires the judgment in order to pursue the matter.

95. The refusal of a copy of the transcript of the judgment at public expense was not on the initial Court order and the Applicant wrote a letter to the Court Manager to be put before LJ Sedley to amend the order so that I could pursue this matter.

96. LJ Sedley duly amended the order and the case was then petitioned to the House of Lords on the refusal of the judgement at public expense.

House of Lords

Important issues arise from this case:

97. It was argued that the case had points of law of general public importance as outlined below:-

Does a litigant have the right to pursue just redress regardless of his financial position and standing within society or is the right to justice restricted to a chosen few.

Does a Court of Appeal judge have the right to ignore the rule of law, natural justice and citizen's human rights?

Is a Magistrates Court, a competent Court to hear human rights issues under sections 6 and 7 of HRA 1998?

Has a UK citizen a common law right to present his or her defence in Court?

Do we the public have the right to use a human rights defence as intended by sections 6 and 7 of the Human Rights Act 1998?

Should judges be protected by law from their own actions when knowingly and purposefully colluding with State and public Authorities and not independently as are our believed rights under the Magna Carta, Bill of rights, civil law and International and European law and instruments?

The Authority of the Council as party to legal proceedings to write their own court

orders.

The failure of the magistrates Courts to issue orders.

The right of the individual to raise wrongdoing of Local Authority employees when acting in an official capacity.

Should anyone have to pay for their own abuse?

98. The House of Lords refused the petition on July 28th 2005 on the grounds that the petition was inadmissible and in any event did not raise an arguable point of law of general public importance which ought to be considered by the House at this time.

III Statement of the alleged violation(s) of the Convention and/ or protocols and of relevant arguments.

ARTICLE 1 taking into account article 6 ARGUMENTS

1. A fundamental principle of law is the maxim actus non facit reum, nisi mens sit rea – **an act does not make a person legally guilty unless the mind is blameworthy.**
2. The matter before the Court was for the Applicant's imprisonment and a liability order and never proceeded beyond housekeeping points.
3. On July 2nd 2004 at the final hearing the Applicant requested the hearing to be adjourned since the Council had not given full disclosure and had served their skeleton argument the day before the hearing at 4.30 p.m. in contempt of the Courts orders on February 27th 2004 and April 16th 2004.
4. In the Magistrates defence it was stated in paragraph two: On the 2nd July I received skeleton arguments from both parties. The Applicant had served his on April 16th 2004 to Court and to the Council on the day of the hearing. An updated argument was served by the Applicant prior to the hearing. **The Council's barrister served hers in the Courtroom.**
5. **The Council had been ordered to provide one on February 27th 2004 and again on April 16th.** The Council even wrote stating that if they relied on one it would be served well in advance. They not only did not do so but are then **protected by the Court as they were not only in contempt of Court but denied the Applicant the right to a fair hearing.**
6. In the Magistrates defence it was stated in paragraph three that he had considered the skeleton argument of both parties. This is untrue. He stated that he had read all the barrister's argument for the Council but **only some of the Applicants.** Any consideration as given to the arguments in paragraphs five to seven of the Magistrates defence is after the event by the Head of legal services not by the DJ.
7. In the High Court Mr. Justice McCombe stated in his judgement in paragraph three:-
“...proceedings had initially come before a different judge at Portsmouth Magistrates Court on 16th April” and paragraph four “ **I had been told by Mr O'Connell that on the first occasion the learned DJ at Portsmouth** “ The case initially came before the Fareham Magistrates Court on 27th February 2004 and the transcript of the hearing is before the Court. **The Applicant never stated that which was alleged.**
8. The DJ refused the adjournment after retiring for fifteen minutes to read the Council's skeleton argument and accompanying rules and regulations of the Council and case laws along with the Applicant's 80 page skeleton argument.
9. The DJ stated that he had read all of the Applicant's argument and some of the Applicants. The DJ refused the adjournment offering a short recess until lunch to enable the Applicant to familiarise himself with the papers but **denying him the time to research the argument, rules and regulations and the case laws.**
10. In the High Court Mr. Justice McCombe stated in his judgement in paragraph eleven that the skeleton argument was of some six pages yet ignores the fact that **38 pages had been served on me the night before in contempt of the orders of the Court on February 27th 2004 and April 16th 2004.**

11. The DJ stated that Human Rights could only be argued in the High Court and when requested therefore to transfer the case, he refused.
12. In the High Court Mr. Justice McCombe refers in his judgement in paragraph nine to the later arguments in the bundle but does not at any stage refer to the Human Rights Act argument presented to the Court as evidenced in the transcript and in the written arguments and in much detail of the violations in what is only a skeleton argument.
13. In the High Court Mr. Justice McCombe stated in his judgement in paragraph twelve that ‘‘it seems to me that a very large, indeed substantial whole of the 80 page document which MR. O’Connell presented to the learned DJ was wholly irrelevant to whether there was a liability to Council tax as the Council had claimed. The extract that I have already cited gives sufficient indication of that irrelevance.’’
14. Yet Mr. Justice McCombe had not referred to the lengthy passages on the human rights act and the violations of human rights involved by the Council, or even ruled that the defences of sections 6 and 7 Human Rights Act 1998 and the claim that Council tax was a contract were legitimate defences.
15. Fearing a kangaroo Court when any defence had been refused in housekeeping points and the District Judge had made comments such as **it doesn’t matter if the Council is corrupt and refusing Human Rights arguments**, refusing to transfer to the High Court and to adjourn, the Applicant left the Court stating that he was going to Appeal the decision and that even Saddam Hussain has the right to a fair hearing.
16. No decisions were made as the hearing was solely in housekeeping points and neither did the DJ take any notes.
17. In the High Court Mr. Justice McCombe in his judgement in paragraph ten states that ‘‘**the Court duly heard the matter later in the day and made the liability order.**’’
18. In their defence the Magistrates Court stated that the order had been made in the Applicant’s presence and that he left the Court after the order had been made.
19. In the High Court Mr. Justice McCombe stated in his judgement in paragraph 13:- Mr. Justice McCombe stated that ‘‘Mr. O’Connell never gave the Magistrate the chance to consider his defence. It was not that his defence was not heard.’’
20. Yet the Court had stated in their defence that he had informed Mr. O’Connell that all he could consider was whether he was resident in the area and therefore liable, that an amount of Council tax had fallen due, that all relevant notices had been properly served and that a liability order should therefore be made.
21. However this was untrue. He had refused all defences in housekeeping points for both matters.
22. In the High Court Mr. Justice McCombe ignored the fact that the Applicant had been refused any defence to his arguments in housekeeping points for both matters, that he had seven witnesses with witness statements to testify under oath as to the behaviour of the Judge and that the defence given by the Court was largely untrue.
23. In the Magistrates defence it was stated in Paragraphs eight and nine that the judge was mindful of s. 16 Local Government Finance Act 1992 re valuation tribunals and s. 57 of the Council tax (Administration and enforcement Act) regulations 1992. Neither of which were raised during housekeeping points and without being psychic the Applicant cannot be aware of, respond to or even consider.
24. In the Magistrates defence it was stated in paragraph ten that the DJ explained to the defendant that

he could only consider matters which were relevant to the issues, which he had to decide. He stated that he explained to the Applicant that the matters he raised in his skeleton argument were not matters which he could consider when deciding to make a liability order; that these matters should be dealt with in the valuation tribunal or the High Court.

25. In the Magistrates defence it was stated in paragraph fourteen that the Applicant was not prepared to accept the matter being put back and **all that was relevant was whether he was resident in the Borough of Gosport, and as he did not dispute that the tax was due and unpaid or that the Council had served the necessary notices he made the liability order and in paragraph fifteen ‘ the defendant then left the Court room.’**

26. This was again untrue. The hearing was in housekeeping points for both matters. The DJ never made any comment re Valuation tribunal and stated that human rights arguments can only be heard in the High Court and refused to transfer the case.

27. The issue of disclosure which the Council had been ordered to comply with was never mentioned in the Magistrates defence. **My witnesses would show all this to be true** and the Applicant will willingly testify under oath as to the behaviour of the DJ in open Court.

28. In the Magistrates defence in paragraph eleven it referred to twenty supporters when there were only 11, **the tee-shirts worn bore nothing about fathers and only seven wore the tee-shirt.**

29. In the Magistrates defence it was stated in paragraphs sixteen and seventeen that the Council then applied for a committal order in respect of the unpaid Council tax and that in the circumstances that the defendant having left before the end of proceedings, the judge issued a warrant for the Applicant’s arrest so that the question of committal could be considered.” **This was again untrue.**

30. The Applicant could not appeal the decision as the Magistrates Court it would seem do not issue Court orders. Application was made then instead for Judicial review heard in the High Court. Application for permission was refused even though the Applicant had many witnesses to the actions of the Court and part admitted facts as pleaded by the Applicant and did not address the defence under contract law and Human Rights.

31. On Appeal LJ Sedley ignored the facts of the case, refused the Applicant a copy of the Judgement at public expense, limited the argument to three minutes after speed reading the written oral argument and gave a judgement unrelated to the argument pleaded.

32. Article 6 of the European Convention on Human Rights states:

Article 6.1 'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to **a fair and public hearing** within a reasonable time by an independent and impartial tribunal established by law.

Article 6.2 states that “**Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.**”

Article 6.3 states that **everyone charged with a criminal offence** has the following minimum rights:

to have adequate time and facilities for the preparation of his defence;

to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, **to be given it free when the interests of justice so require;**

to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf **under the same conditions as witnesses against him;**

33. In Re S (FC) In Re S and Others In Re W and Others (First Appeal)(FC) In Re W and Others (Second Appeal) (Conjoined Appeals) ON 14 MARCH 2002 [2002] UKHL 10:

Sections 7 and 8 of the Human Rights Act

45. Sections 7 and 8 of the Human Rights Act have conferred extended powers on the courts. Section 6 makes it unlawful for a public authority to act in a way, which is incompatible with a Convention right. Section 7 enables victims of conduct made unlawful by section 6 to bring court proceedings against the public authority in question. Section 8 spells out, in wide terms, the relief a court may grant in those proceedings. The court may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate. Thus, if a [Public Authority] conducts itself in a manner which infringes the article 8 rights of a parent or child, the court may grant appropriate relief on the application of a victim of the unlawful act.

61. Where, then, does that leave the matter so far as English law is concerned? The domestic counterpart to article 13 is sections 7 and 8 of the Human Rights Act, read in conjunction with section 6. This domestic counterpart to article 13 takes a different form from article 13 itself. Unlike article 13, which declares a right **('Everyone whose rights ... are violated shall have an effective remedy')**, **sections 7 and 8 provide a remedy. Article 13 guarantees the availability at the national level of an effective remedy to enforce the substance of Convention rights. Sections 7 and 8 seek to provide that remedy in this country. The object of these sections is to provide in English law the very remedy article 13 declares is the entitlement of everyone whose rights are violated.**

34. In JJ v Netherlands Judgement of ECtHr dated 27th march 1998 IIHRL 22 the Court held that 'the fact that both J's appeal on points of law to the Supreme Court and that the latter's decision was limited to a **preliminary question of a procedural nature could not suffice to find article 6.1 inapplicable.**'

35. Section 7 (1b) of HRA 1998 clearly states :- person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may:- bring proceedings against the authority under this Act in the appropriate court or tribunal, or **rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.**

36. In subsection (1)(a) "appropriate court or tribunal" means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding and (3) If the proceedings are brought on an application for judicial review, **the applicant is to be taken to have a sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act.**

A review is the last remedy of Administrative decisions; (6) In subsection (1)(b) "legal proceedings" includes- (b) an appeal against the decision of a court or tribunal.

s7. (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

(6) In this section- "court" includes a tribunal; "damages" means damages for an unlawful act of a public authority; and "unlawful" means unlawful under section 6(1).

s6. - (1) **It is unlawful for a public authority to act in a way which is incompatible with a Convention right.**

In this section "public authority" includes- (a) **a court or tribunal, and (b) any person certain of whose functions are functions of a public nature**, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(5) In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

37. Under article 6 I have the right not only to a fair hearing including a fair hearing, equality of arms and the rights which the European Convention on Human Rights entitles and enshrined in the Human Rights Act 1998 in UK law.

38. The fundamental principal of English law clearly gives considerable weight that an appellant has the fundamental right to present his or her defence in court. **This has been further re-enforced by HRA (1998), Arts 3, 6, 14 and 17, and also under article-13 ECHR.**

39. In the case of Niderhost-huber v Switzerland 27th january 1997 ECtHR it was stated in paragraph 28 that the requirements derived from the right to adversarial proceedings are the same in both civil and criminal cases and in paragraph 29 that '**Only the parties to a dispute may properly decide whether this is the case; it is for them to say whether or not a document calls for their comments.** What is particularly at stake here is litigant's confidence in the workings of justice, which is based on inter-alia, the knowledge that **they have had the opportunity to express their views on every document in the file.**' In the concurring opinion of Judge De Meyer it is stated that '**it is not at all certain that in this area contracting States enjoy greater latitude in civil cases than in the criminal sphere.**

40. LJ Sedley stated that this was not a criminal matter. Yet imprisonment alone makes it a criminal matter.

Never mind payment of monies and cost which would have such effect on the person as to be tantamount to a criminal matter when the Applicant is acting in the general public interest as a victim of unlawful and criminal acts by the State.

41. Mr. Justice McCombe referred to DJ's notes that were not filed as part of the defence and when none were made during the housekeeping points.

42. The right to a fair hearing is absolute. It is mandatory in the European Convention of Human Rights and incorporated in the UK Human Rights Act 1998. LJ Sedley indicated that the rights under article 6 are less in the civil sphere than in the criminal sphere. Yet this was in effect a criminal matter and regardless article 6 is mandatory. The right to be heard is intrinsic in article 6.1.

43. These actions of the judge obviously do not transpire any confidence in the judicial system and the judge sitting did not offer any guarantees sufficient to exclude any legitimate doubt. The Human Rights Act and ECHR very clearly state that any hearing under Article 6 must be fair and impartial.

44. The DJ's only concern was with cost and judge offered no guarantee sufficient to exclude any legitimate doubt in this respect as afforded by Article 6 of the ECHR. (*De Cubber v. Belgium*, Publ. Court, Series A, vol. 86, pp. 13-14, § 24). One of the requirements of fairness of Article 6 of the Convention is equality of arms. The Applicant feared that his submission and evidence would not be given a fair hearing, not only before the hearing but also during the hearing when subsequent behaviour further proved the matter.

45. ECtHR in *Werener v Poland* (Application no. 26760/95) 15 November 2001, recalls that there are two tests for assessing whether a tribunal is impartial within the meaning of Article 6 § 1: the first consists in seeking to determine the personal conviction of a particular judge in a given case and the second in **ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect** (see, among other authorities, the *Gautrin and Others v. France* judgment of 20 May 1998, Reports 1998-III, pp. 1030-1031, § 58). When applied to a body sitting as a bench, it means determining whether, quite **apart from the personal conduct of any of the members of that body, there are ascertainable facts, which may raise doubts as to its impartiality.**

46. In this respect even appearances may be of some importance. It follows that when it is being decided whether in a given case there is a legitimate reason to fear that a particular body lacks impartiality, the standpoint of those claiming that it is not impartial is important but not decisive. **What is decisive is whether the fear can be held to be objectively justified** (see the *Gautrin and Others* judgment cited above, loc. cit.; *Morel v. France*, no. 34130/96, §§ 40-42).

47. Under the European Convention of Human Rights and the Human Rights Act 1998 (HRA 1998) and in particular Section 7 (1b) clearly the right to Appeal is afforded against an unjust judgement as in this case.

48. In *Ashby v White* 14th January 1704 Holt CJ said **"If the Plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it; and indeed it is a vain thing to imagine a right without a remedy, for want of right and want of remedy are reciprocal."**

49. In *A and others v sec of State for Home Dept* (see above) in paragraph 90 it states **"Under the 1998 Act, the Courts still cannot say that an Act of Parliament is invalid. But they can declare that it is incompatible with the human rights of persons in this country."**

50. In the case of *Magill v Porter 2001 UKHL 67* paragraph 81 it states "it has now been held in *R v*

Kansal (No 2) [2001] UKHL 62 that section 7(1)(b) of the 1998 Act **applies to acts of Courts and tribunals in the same way as it applies to acts of other public Authorities.**

51. In *A (FC) and Others (FC) v Secretary of State for Home Dept [2004] UKHL 56*, 16th December 2004 in paragraph 41 that **"the Court's role under the 1998 Act is as the guardian of human rights. It cannot abdicate this responsibility."** And "But judges nowadays have no alternative but to apply the Human Rights Act 1998."

52. Further it was said in this case at paragraph 42 - "it is particularly inappropriate in a case such as the present in which **Parliament has expressly legislated in section 6 of the 1998 Act to render unlawful any act of a public authority, including a court, incompatible with a Convention right,** has required courts (in section 2) to take account of relevant Strasbourg jurisprudence, has (in section 3) required courts, so far as possible to give effect to Convention rights and has conferred a right of appeal on derogation issues. The effect is not, of course, to override the sovereign legislative authority of the Queen in Parliament, since if primary legislation is unaffected (section 4(6)) and the remedy lies with the appropriate minister (section 10), who is answerable to Parliament. The 1998 Act gives the courts a very specific, wholly democratic mandate. As Professor Jowell has put it – **the courts are charged by Parliament with delineating the boundaries of a rights-based democracy** (Judicial Deference: servility, civility or institutional capacity [2003] PL 592, 597)".

53. In paragraph 80 of the same judgement it states that **"the duty of the courts is to check that legislation and ministerial decisions do not overlook the human rights of persons adversely affected."**... "The Courts will intervene only when it is apparent that, in balancing the various considerations involved, the primary decision maker must have given insufficient weight to the human rights factor."

54. The UK is obliged to respect the Convention of the Human Rights Act and ECHR as follows:

55. Section 2 for interpretation of Convention rights, and to **'take into account' any judgement, decision, declaration or advisory opinion of the ECHR** (*Aston Cantlow and Wilmcote with Billesley Parochial Church Council v Wallbank*, [2001] 3 WLR 1323).

56. Section 3 of the HRA 1998 to interpretation of legislation by the reading down of express language in a statute but also the implication of provisions (*R v A (No.2)* [2001] 2 WLR 1546).

57. European Community law provides an important method whereby the terms of the ECHR and the rights it confers may be invoked before a national court where the issue falls within the scope of E.C. law. This is because, within its scope, Community law takes precedence over inconsistent national law, (The European Communities Act 1972, s. 2. Provides legal effect to this within the U.K).

58. For judicial acceptance of this, see *R v. Secretary of State for Transport, ex-parte Factortame Ltd* [1990] 2 A.C. 85; *R v. Secretary of State for Employment, ex-parte EOC* [1995] 1 A.C. 1; *R v. Secretary of State for the Environment, ex-parte Seymour-Smith* [1995] I.R.L.R. 464); and **it is well established that respect for fundamental rights including the Convention rights "forms an**

integral part of the general principles of Community law protected by the Court of Justice". (Case 11/70 International Handelsgesellschaft v. Einfuhr-und Vorratsstelle Getreide [1970] E.C.R. 1125, 1134.. See Joint Declaration of Community Institutions of April 5, 1977 O.J. 1977, C-103/1).

59. This principle is now given legislative force by Article 6(2) of the Treaty of the European Union, which provides that "**the Union shall respect fundamental rights as guaranteed by the European Convention for the Protection of Fundamental Rights and Freedoms. . . and as they result from the constitutional traditions common to the Member States as general principles of Community law**". (The Treaty of Amsterdam made this provision justiciable by amending TEU Article 46 to bring Article 6(2) within the ECJ's jurisdiction).

60. **Everyone has the right to freedom of expression.** This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

61. The exercise of these freedoms, since it carries with it duties and responsibilities, **may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society for maintaining the authority and impartiality of the judiciary.**" Kyprianou v. Cyprus (73797/01) [2004] ECHR 43 (27 January 2004).

62. I also refer the Court to the case of 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.**"

International treaties (beyond Europe)

63. International treaty law recognises **the right to have one's rights and obligations heard before and determined by an independent and impartial tribunal.** Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR) similarly underscores the right to a hearing before an **independent judiciary:**

64. **..the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law...**

65. The ICCPR makes explicit the requirement of '**competence**', as well as those of **independence and impartiality.** **Article 14 implies an obligation on States to create the conditions for judges to**

adjudicate independently.

International declarations and resolutions

66. Article 10 of the Universal Declaration in Human Rights (UDHR) refers to the importance of judicial independence:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

67. The United Nations Basic Principles on the Independence of the Judiciary were endorsed by the United Nations General Assembly in 1985. Principle 1 provides:

68. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

69. Furthermore, Principle 10 of the resolution holds: “Persons selected for judicial office shall be individuals of **integrity and ability** with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives”.

70. Article 21(1) of the Convention establishes the formal criteria for appointments to the Court: The judges shall be of **high moral character** and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.

71. The obligation to respect human rights by the government is defined in Article 1 of the European Convention for the protection of Human Rights and fundamental freedoms which states; 'The high contracting parties shall secure to everyone within their jurisdiction the rights and freedoms defined in section 1 of this Convention.'

72. It is the responsibility of the UK Government to ensure the Judiciary are independent and impartial.

73. Applicant submits from all of the above there have been violations of article 1 taking into account article 6 in that the UK Judiciary are not acting in an independent and impartial manner and cost/ court time is the major factor influencing the rendering of judicial decision rather than the object of the Courts and their judicial oath to deliver Justice, mercy

and right.

III Statement of the alleged violation(s) of the Convention and/ or protocols and of relevant arguments.

ARTICLE 6 ARGUMENTS

Equality of arms, right to a fair hearing and access to justice

1. For the reasons stated in the statement of facts it is abundantly clear that the Applicant has been denied the right to a fair hearing article 6.1. Judges have acted partially in contravention of national, European and International laws.
2. Further in pursuit of this matter on February 24th 2005, LJ Sedley refused me the right to obtain a copy of the transcript of the judgement at public expense in room 63 of the Supreme Court of Justice.
3. He refused leave to apply to the House of Lords and ignored the facts of the case. This matter would have been pursued to the House of Lords in full but without a transcript of the judgment the Applicant was being denied access to justice and the legitimate pursuit of the right to effective redress violations of article 6, and 17 and article 13 ECHR.
4. The Applicant a litigant-in-person and had been unemployed since July 2004 and could not afford to obtain a copy of the transcript at his own expense.
5. The Courts are aware that besides this action the Applicant had two other cases before the Courts without legal aid/ public funding and paid for at his own expense as the Applicant had lost faith in lawyers and the judiciary in the UK. No lawyer would take these cases on and the Applicant had no funds for private payment being unemployed with no savings.
6. An applicant has the right to choose his own legal assistance under article 6.3 Human Rights Act 1998 when charged with a criminal offence. The offence in this case has been non-payment of Council tax with-held in order that the State Authorities amend their wrongdoing under article 3, 6, 8, 14 Human Rights Act 1998 and article 13 ECHR and due to the costs to the Applicant in pursuing effective redress against the Family Court Judiciary and State bodies.
7. In order to avoid imprisonment as the Applicant had constantly been threatened he had no option but to prepare his own defence. He had been denied a most fundamental right under article 6; the right of access to the Court. Without a copy of the judgment of LJ Sedley he was denied effective redress a violation of article 6.1, 6.2 and 6.3 and article 13 ECHR.

8. Article 6.1 states that "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

9. Article 6.2 states that "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

10. Article 6.3 states that everyone charged with a criminal offence has the following minimum rights:

to have adequate time and facilities for the preparation of his defence;

to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

11. In *R v Lord Chancellor, ex p witham* [1997] 2 All ER 779 The UK court recognised the constitutional right of access to the Courts. Laws LJ said '**the common law has clearly given special weight to the citizen's right of access to the Courts.** It has been described as a constitutional right, though the cases do not explain what this means. In this whole argument, nothing to my mind has been shown to displace the proposition that **the executive cannot in law abrogate the right of access to justice, unless it is specifically so permitted by parliament; and this is the meaning of the constitutional right.**' This was entirely applicable to this case. It was for my imprisonment and for a liability order for non-payment of Council tax.

12. In *R v Lord Chancellor, ex p lightfoot* [1999] 4 all ER 583, the Court of Appeals did not accept that the right of access to the Court was not infringed by payment of a fee towards costs of services provided by others for the debtor's benefit and which were essential to the fair working of the rehabilitation scheme by guarding the proper interests of creditors. In considering human right's arguments the Court held that it did not impede access to the Courts for the adjudication of general disputes and that **article 6 only applied where there was a dispute whose outcome would decide rights and obligations.**

13. In *Hornsby v Greece* (1997) 24 EHRR 250 it stated that execution of a judgement given by any Court must be regarded as an integral part of the trial for the purposes of article 6 '**where administrative authorities refuse or fail to comply [with a judgement], or even delay doing so, the guarantees under article 6 enjoyed by a litigant during the judicial**

phase of the proceedings are entirely devoid of purpose.'

14. At previous hearings in the High Court and in the Court of Appeal the Applicant had willingly been provided transcripts of the judgment at public expense due to his financial circumstances including Case number B4/2004/2341 in which LJ Ward gave permission to Appeal and case number C0/2004/2340 which was also before the House of Lords.

15. The refusal of a copy of the transcript of the judgment at public expense was not on the initial Court order but was **amended under the slip rule by LJ Sedley so that the Applicant could pursue this matter.**

16. The Applicant had been refused a crisis loan to help fund the defence when he had no savings, no assets and relied on payment of income based Job Seekers allowance and monies were being extracted for payment of a crisis loan in 2000 to fund the costs of pursuing complaints against the way in which he and his children had been treated by the State for their medium and long-term best interests.

17. No credit was available as the Family Court had given a costs order which was in a County Court Judgement so the Applicant could not get a bank account.

18. Applicant had had three barristers reports for the grounds for Appeal the decision of HHJ Milligan on April 12th 2000 which lead to the Applicants actions yet was won on Appeal on April 28th 2005 as a litigant-in-person.

19. This left a net income of around 47 pounds per week and has to fund costs of photocopies, binding, travel to London as well as daily existence.

20. On 17th January 2005 LJ Ward gave leave to Appeal and on April 28th and June 22nd Lord Justices Wall and Thorpe allowed both Appeals arising.

21. I am being denied access to justice in a deliberate attempt to thwart the rule of natural justice, my civil rights, and article 6 Human Rights Act (HRA 1998) and ECHR.

22. This matter of access to the Courts was raised **On Monday 9 June 2003 when the Law Society said 'Rising court fees may prevent people getting civil justice and that the Lord Chancellor should be required to take account of access to justice when setting court fees.**

23. Janet Paraskeva, Chief Executive of the Law Society, said: **We are particularly concerned that if court fees continue to rise they will act as a real barrier to people using the civil courts.**

24. The Government policy that civil court users should meet almost the full cost of running the UK courts is a relatively recent one, introduced by the last Conservative Government in the early 1990s. **Very few European countries recover the full cost of the civil justice system from court users.**

25. The policy has placed considerable pressure on court fees, which have risen by approximately 12 per cent in the last four years almost double the rate of inflation. Some individual fees, such as the fee for judicial review applications, have increased by 50 percent. Court Service figures show that the level of claims issued in the county court fell by 25 per cent from 2million to 1.5million between 1997 and 2001.

26. Janet Paraskeva said: **If the number of claims continues to fall there will be pressure to raise court fees considerably to enable the court system to pay for itself.** If fees were to be raised above a certain level many people on low incomes and not in receipt of relevant benefits will be effectively barred from access to the civil courts. **These maybe vulnerable people in danger of losing their homes or unable to work because of serious industrial injury. If such people are denied basic redress, society will pay a higher price in the long term through the strain on the welfare and health systems.**

27. Although people in receipt of Family Credit, Disability Working Allowance and JobSeekers Allowance pay reduced court fees, or are exempted from them altogether, many vulnerable people on low incomes are not entitled to any remission or exemption and will be barred from **accessing the civil justice system.**

28. Janet Paraskeva said: Access to the courts is a constitutional right, which should not be barred by high court fees in the Governments bid to recover the cost of the civil justice system. For this reason, it is important that in setting fees the Lord Chancellor should be required to consider access to justice.

Mr Al Fayed's attempt to recover his unpaid costs under section 51 of the Supreme Court Act 1981 from those who had backed Mr Hamilton's unsuccessful libel action, failed in the Court of Appeal: ***Hamilton -v- Al Fayed*** [2002] EWCA Civ 665.

Dismissing Mr Al Fayed's appeal, the court held that as a matter of policy a successful litigant's normal entitlement to his costs should yield to the public interest in facilitating access to the courts by those without funds to pay for legal representation. This justified a general approach or presumption that "pure funders" should be exempt from section 51 liability: per Simon Brown LJ [45 - 51], Chadwick LJ [71], Hale LJ [83-87].

Hale LJ also said that the general policy involved should make no distinction according to whether or not the court approved of the litigation in question or whether the party whose case was being funded had a reasonable case or not.

To these persons the advice - assuming that there is no further appeal by Mr Al Fayed - can be that the court will not normally order them to pay the costs of the unsupported party, even if the litigation (be it claim or defence) fails. However, a caveat will be

appropriate. As Hale LJ said:

"There must, however, be exceptional cases where it would be quite unjust not to make an order: principally where the litigation was oppressive or malicious or pursued for some other ulterior motive. The fact that it was quite unmeritorious would be powerful evidence of ulterior motive but neither a necessary nor a sufficient criterion in itself."

29. The Court (ECtHR) qualified the importance of an independent and impartial judiciary and now requires that judges do not have prejudicial connections to, or views about, any party to a dispute, either because of involvement in a previous stage of the dispute, or because of a personal pecuniary connection to a party or issues involved in the dispute. [See *Daktaras v Lithuania* (42095/98 of 10 October 2000)]. The Court held that a tribunal must be impartial from an objective view point – that is, **it must offer sufficient guarantees to exclude any legitimate doubt as to its impartiality. Judges must similarly be seen to be independent and impartial.** [*Delcourt v Belgium* (1970), 1 EHRR 355, paragraph 31].

30. It is clear from the following facts that the Court; DJ Purcell, Mr. Justice McCombe and LJ Sedley denied the Applicant right to a fair hearing e.g.

- a) The Applicant requested the hearing to be adjourned **since the Council had not given full disclosure and had served their skeleton argument the day before the hearing at 4.30 p.m. in contempt of the Courts orders on February 27th 2004 and April 16th 2004.**
- b) **The Council had been ordered to provide one on February 27th 2004 and again on April 16th**, they even wrote stating that if they relied on one it would be served well in advance. They not only did not do so but are then **protected by the Court as they were not only in contempt of Court but denied the Applicant the right to a fair hearing.**
- c) The DJ refused the adjournment after retiring for fifteen minutes to read the Council's skeleton argument and accompanying rules and regulations of the Council and case laws along with the Applicant's 80 page skeleton argument. He stated that he had read all the barrister's argument for the Council but **only some of the Applicants.**
- d) The DJ stated that he had read all of the Applicant's argument and some of the Applicants. The DJ refused the adjournment offering a short recess until lunch to enable the Applicant to familiarise himself with the papers but **denying him the time to research the argument, rules and regulations and the case laws.**
- e) In the High Court Mr. Justice McCombe stated in his judgement in paragraph three:- "...proceedings had initially come before a different judge at Portsmouth Magistrates Court on 16th April" and paragraph four " **I had been told by Mr O'Connell that on the first occasion the learned DJ at Portsmouth** " The case

initially came before the Fareham Magistrates Court on 27th February 2004 and the transcript of the hearing is before the Court. **The Applicant never stated that which was alleged.**

f) In the High Court Mr. Justice McCombe stated in his judgement in paragraph two:- "The subject of the proceedings in the Magistrates Court was a claim by the Gosport Council to a liability order for Council tax against Mr. O'Connell." The case was for two Applications for liability order and **imprisonment for non-payment of Council tax.** This is also clearly stated in the skeleton argument for the Council.

g) In the High Court Mr. Justice McCombe stated in his judgement in paragraph eleven that the skeleton argument was of some six pages yet ignores the fact that **38 pages had been served on me the night before in contempt of the orders of the Court on February 27th 2004 and April 16th 2004**

h) The DJ stated that Human Rights could only be argued in the High Court and when requested therefore to transfer the case, he refused.

i) In the High Court Mr. Justice McCombe refers in his judgement in paragraph nine to the later arguments in the bundle but **does not at any stage refer to the Human Rights Act argument presented to the Court as evidenced in the transcript and in the written arguments and in much detail of the violations in what is only a skeleton argument.**

j) In the High Court Mr. Justice McCombe stated in his judgement in paragraph twelve that "it seems to me that a very large, indeed substantial whole of the 80 page document which MR. O'Connell presented to the learned DJ was wholly irrelevant to whether there was a liability to Council tax as the Council had claimed. The extract that I have already cited gives sufficient indication of that irrelevance."

k) Yet Mr. Justice McCombe **had not referred to the lengthy passages on the human rights act and the violations of human rights involved by the Council, or even ruled that the defences of sections 6 and 7 Human Rights Act 1998 and the claim that Council tax was a contract were legitimate defences.**

l) Fearing a kangaroo Court when any defence had been refused in housekeeping points and the District Judge had made comments such as **it doesn't matter if the Council is corrupt and refusing Human Rights arguments**, refusing to transfer to the High Court and to adjourn, the Applicant left the Court stating that he was going to Appeal the decision and that even Saddam Hussain has the right to a fair hearing.

m) No decisions were made as the hearing was solely in housekeeping points and neither did the DJ take any notes.

- n) In the High Court Mr. Justice McCombe in his judgement in paragraph ten states that **“the Court duly heard the matter later in the day and made the liability order.”**
- o) In their defence the Magistrates Court stated that the order had been made in the Applicant’s presence and that he left the Court after the order had been made.
- p) In the High Court Mr. Justice McCombe stated in his judgement in paragraph 13:- Mr. Justice McCombe stated that **“Mr. O’Connell never gave the Magistrate the chance to consider his defence. It was not that his defence was not heard.”**
- q) Yet the Court had stated in their defence that he had informed Mr. O’Connell that **all he could consider was whether he was resident in the area and therefore liable, that an amount of Council tax had fallen due, that all relevant notices had been properly served and that a liability order should therefore be made.**
- r) However this was untrue. **He had refused all defences in housekeeping points for both matters.**
- s) In the High Court Mr. Justice McCombe ignored the fact that the **Applicant had been refused any defence to his arguments in housekeeping points for both matters**, that he had **seven witnesses with witness statements to testify under oath as to the behaviour of the Judge** and that the defence given by the Court was largely untrue.
- t) In the Magistrates defence it was stated in Paragraphs eight and nine that the judge was **mindful of s. 16 Local Government Finance Act 1992 re valuation tribunals and s. 57 of the Council tax (Administration and enforcement Act) regulations 1992.** Neither of which were raised during housekeeping points and without being psychic the Applicant cannot be aware of, respond to or even consider.
- u) In the Magistrates defence it was stated in paragraph ten that the DJ explained to the defendant that he could only consider matters which were relevant to the issues, which he had to decide. He stated that he explained to the Applicant that the matters he raised in his skeleton argument were not matters which he could consider when deciding to make a liability order; **that these matters should be dealt with in the valuation tribunal or the High Court.**
- v) In the Magistrates defence it was stated in paragraph fourteen that the Applicant was not prepared to accept the matter being put back and **all that was**

relevant was whether he was resident in the Borough of Gosport, and as he did not dispute that the tax was due and unpaid or that the Council had served the necessary notices he made the liability order and in paragraph fifteen ‘ the defendant then left the Court room.’

w) This was again untrue. **The hearing was in housekeeping points for both matters.** The DJ never made any comment re Valuation tribunal and stated that **human rights arguments can only be heard in the High Court and refused to transfer** the case.

x) The issue of disclosure which the Council had been ordered to comply with was never mentioned in the Magistrates defence. **My witnesses would show all this to be true** and the Applicant will willingly testify under oath as to the behaviour of the DJ in open Court.

y) In the Magistrates defence in paragraph eleven it referred to twenty supporters when there were only 11, **the tee-shirts worn bore nothing about fathers and only seven wore the tee-shirt.**

z) In the Magistrates defence it was stated in paragraphs sixteen and seventeen that the Council then applied for a committal order in respect of the unpaid Council tax and that in the circumstances that the defendant having left before the end of proceedings, the judge issued a warrant for the Applicant's arrest so that the question of committal could be considered.” **This was again untrue.**

aa) On Appeal LJ Sedley dismissed the Application on spurious grounds ignoring the Human Rights arguments, stating that the issue whether it was a contract depends on the construction of the statute and refused the Applicant a copy of the Judgement at public expense and informed him that he had no avenue for further Appeal and Application could not be made to the House of Lords.

31. Whilst it is considered by the council in the public interest that the Applicant be pursued for non-payment through the justice system, it is equally if not more important that “Justice should not only be done but should manifestly and undoubtedly be seen to be done” (Lord Hewart 1870-1943, R v Sussex Justices 9th November 1923) **none of this has been evident in this case to-date.**

32. The standards contained in Article 6 of the Convention and their implications for judicial independence and impartiality, and appointment processes have been considered by the Court itself (ECtHR). In Bryan v United Kingdom the Court set out several principles to be taken into account in establishing the independence of the judiciary, including the manner of appointment of its members and their term of office, the existence of guarantees against outside pressures, and whether the body presents the appearance of independence.

33. The Court of Appeal should have given a copy of the transcript at public expense being unemployed and on low income.

34. It is clear that the pressure of the Court to fund itself puts a pressure on the Judges to limit time, restrict argument and deny litigants when faced against the weight and power of the State the right to be heard and to Justice sometimes against the facts of the case.

35. The fundamental principal of English law clearly gives considerable weight that an appellant has the fundamental right of access to the Court. This has been further re-enforced by HRA (1998), Arts 3, 6, and 17, and also under article-13 ECtHR.

36. The power of the Court of Appeal is unlimited as accepted by LJ Potter on Thursday 17th February 2005 in Davies v Davies. In Tsai v Woodworth November 23rd 1983 before Lord Justice Dunn and Lord Justice May, it was stated “ **Appellate jurisdiction is always statutory: there is no restriction upon the jurisdiction of the Court of Appeal:** and whilst the appellate court in the exercise of its appellate power is no doubt entirely justified in saying that normally it will not interfere with the exercise of the judge’s discretion except on grounds of law, **yet if it sees that on other grounds the decision will result in injustice being done , it has both the power and the duty to remedy it.**

37. In order to achieve the highest standards of civil and human rights there is no reason why justice should not be done and be seen to be done. As per Lord Atkin; the Court has the power and the duty to remedy it in justice.

38. In order to avoid imprisonment as the Applicant has constantly been threatened he had no option but to prepare his own defence. He has been denied a most fundamental right under article 6; the right of access to the Court. Without a copy of the judgment of LJ Sedley the Applicant could not take the full argument to the House of Lords. Although the Applicant insisted the matter be put before the Judges to determine the matter.

39. In the case of Ford v Labrador [2003] UKPC 41 PC: Lord Hope of Craighead, Lord Rodger of Earlsferry and Sir Philip Otton: 22 May 2003, LORD HOPE OF CRAIGHEAD, giving the reserved judgment of the Board, said that the only reason given by the Chief Justice for making the order was that "enough money has been spent by the respondent so far, to defend a matter which is becoming totally disproportionate."

40. The question was whether that was a denial of her right of access to the court under s 8(8) of the Constitution of Gibraltar, which guaranteed the same rights as art 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In Tolstoy Miloslavsky v United Kingdom (1995) 20 EHRR 442 the European Court of Human Rights reiterated that the right of access to the courts secured by art 6(1) of the Convention **might be subject to regulation by the state, provided that any limitations imposed did**

not restrict the access to such an extent that the very essence of the right was impaired, and that the means employed were proportionate to the aim sought to be achieved.

41. The Court to date has denied the Applicant the right to be heard, a fair hearing and the Applicant's costs to defend himself, without payment to a lawyer whose charges exceed the Applicant's ability to pay and the costs of the case have impaired the very essence of the Courts, unless they have become rubber stamping grounds for bureaucratic dictat. No different to totalitarian regimes.

42. In *Kreuz v Poland* (Application No 28249/95) (unreported) 19 June 2001, the European Court of Human Rights held that a requirement to pay fees to civil courts could not in itself be regarded as a restriction on the right of access. However, **the amount of the fee, assessed in the light of the circumstances of the case, including the applicant's ability to pay, and the phase of the proceedings at which the restriction was imposed, were factors material to whether or not a person enjoyed the right of access.** In the present case, having regard to such factors, their Lordships were in no doubt that the effect of the order was to impair the very essence of the claimant's right of access to the court under s 8(8) of the Constitution.

43. Article 6 of the European Convention on Human Rights (ECHR) protects the right to have disputes concerning civil rights and obligations determined by a competent tribunal. Article 6 therefore guarantees a right of access to court in relation to such disputes. This right includes not only the right to institute proceedings before the court, **but the right to a determination of the merits of the claim.** This right is not however, an absolute one, since the right of access to court by its nature requires regulation by the state.

44. Therefore, procedural bars which prevent the full consideration of disputes are in certain circumstances permissible, **where they pursue a legitimate aim and are proportionate to that aim. In order for such limitations to be permissible, they must not impair the very essence of the right of access to court.**

45. In this case it was to protect the Applicant's liberty against the arbitrary actions of the State and Judiciary.

46. In the case of *Waite and Kennedy v Germany*, the ECtHR found that an immunity from suit of the European Space Agency in an employment dispute before the German courts constituted a proportionate interference with Article 6 rights. In that case, the finding that the interference was not arbitrary and pursued a legitimate aim was based in part on the existence of clear international rules making provision for the immunity, which had been implemented by the German national courts. The finding that the interference was proportionate was based on the existence of reasonable alternative means to protect effectively the applicant's rights under the Convention, through an independent appeals board. The existence of this mechanism meant that the very essence of the right of access to court had not been impaired. **Yet in this case I have no alternative remedy being denied the right to an Appeal by way of case stated because the Magistrates Court do not issue orders.**

47. Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal. In this way the Article embodies the "right to a court", of which the right of access, that is, the right to institute proceedings before courts in

civil matters, constitutes one aspect only (see the *Golder v. the United Kingdom* judgment of 21 February 1975, Series A no. 18, p. 18, § 36, and the recent *Osman v. the United Kingdom* judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3166, § 136).

48. The right of access to the courts secured by Article 6 § 1 of the Convention is not absolute, but may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State. In this respect, the Contracting States enjoy a certain margin of appreciation, although the final decision as to the observance of the Convention's requirements rests with the Court. It must be satisfied that the limitations applied do not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired.

49. A limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see the *Osman* judgment cited above, p. 3169, § 147, and the recapitulation of the relevant principles in the *Fayed v. the United Kingdom* judgment of 21 September 1994, Series A no. 294-B, pp. 49-50, § 65).

50. The UK Courts have to date denied the Applicant a fair hearing and have persistently refused to permit the defence to be heard and ignored the Human Rights Act 1998 and ECHR in so doing.

51. The UK court has disregarded the priority of human rights over protection of the State Authorities and their misfeasance, malfeasance, bad faith and unlawful actions violating the Applicant and his children's human rights in the process.

52. Applicant also refers to the Court to the case of *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."

53. Applicant submits that only a trial by jury, by his peers would be sufficient to give sufficient guarantees on the right to a fair hearing as to exclude any legitimate doubt.

54. It was an act of civil disobedience **which every citizen of the UK has the right to use when democracy and basic rights are being abused and legitimate means failed**. This is a public interest matter of great public importance. Only a jury trial can now protect my rights under article 6 due to the lack of independence and impartiality of the Judiciary.

55. In 1794 the First Chief justice of the US Supreme Court John Jay stated 'The jury has the right to

judge both the law as well as the fact in controversy.'

56. In Trial by Jury Lysander Spooner writes 'The trial by jury...is a trial by the Country-that is, by the people-as distinguished from a trial by the Government.' and 'It is indispensable that the people, or "the Country," judge of and determine their own liberties against the Government; instead of the Government's judging of and determining its own powers over the people.'

57. To quote from the *Guardian Unlimited* (Sunday, January 16, 2005) Families Denied Justice: The Observer:

The iron law of all bureaucracies is **'first we protect ourselves'**. In an ideal world they would look to free themselves from scrutiny by operating under the cover of secrecy. They would strive to deflect criticism by maintaining the pretence that it **was in the public interest to operate in absolute privacy**. If they could go further they would then make a **breach of their secrecy a crime punishable with all penalties up to and including imprisonment**. In an ideal world all bureaucracies would want to achieve **the state of perfect irresponsibility achieved by the Family Division of the High Court**...Shocked journalists discovered that Sir Mark had no experience of family law. They reported that Dame Elizabeth Butler-Sloss, the retiring president, had recommended that an insider be given the job, and Her Ladyship's wishes had been ignored. It wasn't only Dame Elizabeth who was upset. Other family judges resented the appointment and were furious that the job hadn't gone to one of their own. The charge-sheet lengthened as the outrage grew, and no one stopped to wonder who in their right mind would want to keep the courts the way they are. If Charles Dickens were around today, he'd be writing The Family Division. You might think that as a **British citizen you are innocent until proved guilty beyond reasonable doubt**. And so you are when you are charged with a criminal offence. But **if you are ever unlucky enough to be faced with the prospect of having your child taken into care - a far worse punishment than a jail term for most parents** - you will find that the state need only prove that **you are guilty on the balance of probabilities**. You might think that it's a basic tradition of the English law that justice must not only be done but be seen to be done and that **secret justice is no justice at all**. Not so in the Family Division. **Enter into its courts and you enter a British Guantanamo where basic traditions no longer apply**. One case involved a couple in Essex who had taken the baby to hospital because he had a bump on his head. They were accused of attacking him. **They managed to find medical evidence which proved their innocence, but it was too late: the boy had been adopted. No appeal. No redress.**

The **most notorious incident was during the Rochdale witch craze when children were dragged from their homes by social workers convinced they had uncovered a coven of Lancashire devil worshippers**. Parents went to their councillors, **who could do nothing because they had been warned that it was illegal to ask what was going on**.

58. The right of effective redress and access to the Court is a grey area of the law where the right of a litigant without **funds sufficient to defend himself is denied access to justice when the Court refuses a copy of the judgement at public expense when on state benefits and with no savings against the weight of the State with unlimited Public funds**.

59. Whilst legal aid may be available the granting of legal aid would depend on a State registered Solicitor in being willing to argue Human Rights arguments under sections 6, 7 and 8 and on the basis of contract law against violations and criminal acts by the State agencies and Judiciary.

60. Under criminal matters, Article 6.3 HRA 1998 gives the accused the right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.

55. The Applicant submits that there have been violations of article 6.1, 6.2 and 6.3 ECHR

III Statement of alleged violations

Violation of Article 1 of Protocol No.1

1. **Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.**
2. The Applicant has been the victim not only in the secret Family Courts but also in the open Magistrates Courts of violations of his Human Rights and has in the process of having to defend himself against the State bodies and partial Judiciary been forced to defend himself against their wrongdoing.
3. On refusing to pay for his own abuse and wishing to raise a matter of general public importance the Applicant has been further pushed to lose rights to property in order to pursue the defence in the Court.
4. The Applicant has not been heard and has been denied the right to a fair hearing of this matter having to exit when the Judge refused any defence he wished to make.
5. The Applicant has experienced loss of his rights as his rights are his property under the UK Theft Act as intangible property.
6. Further it has cost substantially financially in order to defend the case which was not proportionate to the alleged monies owed.
7. The State having unlimited funds have employed barrister at public expense. Applicant was denied this right.
8. General principles of International Law on the Authority and independence of the Judiciary have not been upheld. This has resulted in financial loss and threat of removal of property.
9. Council Tax is controlled by Council rules and regulations not Statute law. Pursuit of non-payment is at the discretion of the Council. There is no obligation on the Council to do so.
10. Gosport Borough Council have stated that their policy is to pursue all non-payment. At the same time, the Council can increase the amount every year at their virtual whim. There is no thought to the interest of the general public who according to the Council must pay regardless of fixed incomes dwindling at an ever greater rate each year.
11. The Council tax regime does not have sufficient protection for the rights under article 1 of protocol 1. It is simply a money making scheme for the Council.
12. For the reason sated in this Application the Applicant submits there have been violations of article 1 of protocol 1.

III Statement of alleged violations

Article 10 of the European Convention of Human Rights

1. This states that 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions ...and impart information and ideas without interference by public authority.
2. The exercise of these freedoms since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are described by law and are necessary in a democratic society, in the interests of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
2. **Everyone has the right to freedom of expression.** This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
3. The exercise of these freedoms, since it carries with it duties and responsibilities, **may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society for maintaining the authority and impartiality of the judiciary.**” Kyprianou v. Cyprus (73797/01) [2004] ECHR 43 (27 January 2004).
4. The Applicant’s case was one of civil disobedience and whistleblowing on the unlawful and criminal acts of the State Authorities and his children by the State bodies funded in part by Council tax.
5. The Applicant not only had refused to pay the Council tax but expected that with the right to be heard and the arguments under sections 6 and 7 of the Human Rights Act 1998 and contract law his defence would at least get a fair hearing and the right to be heard so that his rights under article 10 would be respected and the Public would be better informed as to the truth of the matter that is not in their best interests that is occurring on a daily basis.
6. This has always been claimed to be a matter in the general public interest, matters which were not entirely denied when the Council’s barrister had stated in her submission that it will not have escaped the Court’s attention that there are both political and personal dimensions to Mr. O’Connell’s submissions.
7. The Applicant would gladly have accepted an independent and impartial tribunal’s ruling o this matter having been heard in full. The Applicant does not accept that he was effectively silenced by the Court. He demands the full right to be heard.
8. While women are permitted to be heard on whether they need the money to get their hair done, the Applicant is not permitted to be heard on matters of general public importance and criminal and unlawful acts of the State Authorities. Applicant therefore submits there has been a breach of article 10.1

III Statement of alleged violations

Violations of article 13

1. The House of Lords declined to allow my petition to be heard on July 28th 2005 after consideration by Lord Bingham of Cornhill, Lord Rodger of Earlsferry and Lord Carswell. The grounds given were that the Application was inadmissible and that in any event the matter did not raise an arguable point of law of general public importance, which ought to be considered by the House at this time.
2. That is not to say there was not an arguable point of law of general public importance just that there was not one which ought to be considered **at this time.**
3. The Court of Appeal LJ Sedley had refused the Judgement at public expense at the end of the hearing and in an order amended under the slip rule.
4. In the case of Niderhost-huber v Switzerland ECtHR 27th January 1997 it was stated in paragraph 28 that **'the requirements derived from the right to adversarial proceedings are the same in both civil and criminal cases'** and in the concurring opinion of Judge De Meyer it is stated that 'it is not at all certain that in this area contracting States enjoy greater latitude in civil cases than in the criminal sphere.
5. LJ Sedley stated that this was not a criminal case. Yet it affected my rights to liberty and was in part for imprisonment.
6. In Tsai v Woodworth, judgement delivered November 23rd and reported in the Times on November 30th 2003, the Court of Appeal stated "There had been considerable debate in recent years about the exercise of judicial discretion at first instance, and the circumstances in which the Court of Appeal could disturb the exercise of discretion. In respect of the exercise of a judge's discretion, one should go back to the locus classicus: Evans v Bartlam where Lord Atkin said at page 480;

'Appellate jurisdiction is always statutory: there is in the statute no restriction upon the jurisdiction of the Court of Appeal: and while the appellate court in the exercise of its appellate power is in no doubt entirely justified in saying that normally it will not interfere with the exercise of the judge's discretion except on grounds of law, yet if it sees on other grounds the decision will result in injustice being done it has both the power and the duty to remedy it.'
7. There have not been any Court orders in writing only letters from the Council, the only Summons received was from Julia Oakford Head of legal Services a court official for Hampshire and the Isle of Wight legal services undated but referring to the hearing on 16th April 2004. It stated " You are summonsed to appear before the Magistrates Court for inquiry as to your conduct and means in relation to the non-payment of Council tax." It was not stamped by the Court but by a court official. Court officials do not have the right to issue Court orders.
8. The only liability orders have been letters written by the Council a party to the case.
9. An appeal by way of case stated will not be accepted by the Court of Appeal unless there is a Court order. Either the Court itself in this case, the local area or nationally are at fault in not issuing orders or the failure to issue orders is a problem relating to the whole of England and Wales.
10. Appeals cannot be made without Court orders. The right to Appeal is enshrined in UK law. Yet without an order no Appeal can be made. These rights are well established in the UK.

11. There is no avenue for an Appeal by way of case stated when legal action is taken by the State bodies for non-payment of Council tax. A litigant should not be deprived of this basic right under article 6.

12. Applicant contends that the failure of the Magistrates Court to issue orders violates the Applicant's right to effective redress in denying him the right to Appeal by way of case stated. A violation of article 13.

13. Applicant also submits for the above reasons that there has been a violation of article 13 in that the Applicant was denied the right to submit his full case to the House of Lords due to the refusal of the Court of Appeal to provide a transcript of the judgement at public expense. The UK appear to be relying on the litigants in Court to fund the running of the Courts and deny the right of the litigant the right to due process. Justice is for all not just for those with money and under article 6 I have the right to the legal assistance of my own choosing as this is a criminal matter.

III Statement of alleged violations- article 3

1. The Applicant submits he has been subjected to degrading treatment.
2. Whilst the Applicant believed and still believes these are matters of general public importance in attempting to whistle blow and to seek just redress and effective remedy the Council and the DJ Purcell conspired in a most degrading manner denying the litigant even the right to be heard.
3. The Local newspaper Portsmouth Evening News printed an article entitle 'Dad goes on the run.' It was stated that Applicant bolted from the Court and went on the run. It was further stated that the DJ Purcell had ordered Applicant to pay up and had issued an arrest warrant.
4. This was not only untrue but the journalist who wrote the article was not in the Court that day. He informed Applicant that this information was given to him by the Council.
5. Gosport Borough Council and the Fareham Court continue to harass me, pursuing matters even the Applicant had appealed by way of Judicial review, making order without notification and threatening him with imprisonment after the Council and other Public Authority abuses funded in part by Council tax the Court could and should have struck out the claim by the Council as I requested in my skeleton argument but I was denied the right to be heard.
6. Instead they are showing themselves to be nothing more than bullies whose barrister asserts in paragraph 6.10 in their defence that it does not matter if the Council are corrupt or mis-spending public money. No-one is above the law. Ironically the Council put out a press release out the week after the hearing on July 2nd 2004 stating fraud doesn't pay.
7. It would seem to pay for the Council and the Local Government; in Hansard notes in 1994 Mr. Curry questioned on a statement about fraud and corruption in Local Government said " It is the responsibility of local Authorities themselves to take measures to prevent and detect fraud and corruption in their affairs. **There is no room for complacency however; fraud and corruption are always to be condemned, wherever they occur.**"
8. Yet **this Council pay a barrister out of public funds to state it does not matter if they are corrupt or misspending public money.**
9. I also refer the Court to the integrity of County Councillors from the same Council – Councillors and staff are **expected and required to act with integrity and in a way that can give no grounds for suspicion of partiality, self-interest or corruption.**
10. The Applicant was given a letter from a Councillor who had been contacted by the then deputy Mayor who refused to assist despite having seen the evidence of corruption then asking an acquaintance to resign as school Governor because of his association with him who was a teacher.

11. If a person is treated in this manner, being hounded and having to spend time and money to protect himself **from imprisonment** when the Court should have heard the argument and the evidence in full so that they could have made a just decision on the matter.

12. Instead the Council have simply bullied the Applicant and denied the right to a fair hearing knowing that the Courts would protect them and other State bodies from exposure.

13. It is a well-established principle of national law and Authority, in Lazarus Estates Ltd v Beasley (1956) 1 All ER 341 Lord Denning: 'no judgement of a court, no order of a minister can be allowed to stand if it has been obtained by fraud – fraud unravels everything.'

14. In Nuuttinen V Finland (2000) ECHR the Court stated "what is wrong from the beginning cannot be validated by the passage of time" and "Nobody should profit from his or her own wrong-doing."

15. I refer the Court to Regina v Doncaster justices ex parte Jack and Regina v Doncaster justices ex parte Christison May 26th 1999 before Mr. Justice Collins in which it is stated that "Yet again justices were not following proper procedures in sending to custody those who failed to pay any orders made by the Court; whether it was poll tax or council tax, the same procedure applied. **It had been said again and again that the principle to be applied was not punishment for non-payment, but as a means to extracting payment.** It was essential that proper enquiries were made and committal was used as a last resort."

16. The Council has only had the intention of punishing me when my funds have had to be used to uncover and begin to counteract their unlawful wrongdoing and have cost the Applicant a great deal financially over seven years and the Council's barrister has admitted that they were not unsympathetic to Applicant's case.

17. Applicant has made it very clear to the Council and in his arguments that he will not pay due to the cost emotionally and financially enforced on him by the malicious actions of the Council and other State bodies.

18. Applicant only wished for them to remedy their wrongdoing and to be heard in full by an independent and impartial tribunal.

19. I therefore submit this has been degrading treatment at the hands of the Council and the Court.

III Statement of alleged violations- Article 5

1. Article 5 Rights to liberty and Security states 1. 'Everyone has the right to liberty and security of person. **No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law.**' Section 3. states 'Everyone arrested or detained in accordance with the provisions of paragraph 1(c) shall be promptly be brought before a judge or other officer **authorised by law to exercise judicial power** and shall be entitled to trial within a reasonable time or to release pending trial.' 1(c) refers to the lawful arrest or detention.

2. I refer the Court to Regina v Doncaster justices ex parte Jack and Regina v Doncaster justices ex-parte Christison May 26th 1999 before Mr. Justice Collins in which it is stated that "Yet again justices were not following proper procedures in sending to custody those who failed to pay any orders made by the Court; whether it was poll tax or council tax, the same procedure applied. **It had been said again and again that the principle to be applied was not punishment for non-payment, but as a means to extracting payment.** It was essential that proper enquiries were made and committal was used as a last resort."

3. The Council has only had the intention of punishing me when the Applicant's funds have had to be used to uncover and counteract their unlawful and criminal wrongdoing and have cost him a great deal financially over now ten years.

4. The summonses were rubber stamped by the Head of Legal Services.

5. Orders of the Court were only ever given as letters written by the Council.

6. Bailiff's letters referred to Court orders that have been non-existent. Applicant has never seen or been served with a single Court order from the Magistrates Court.

7. For the above reasons the Applicant submits there has been a violation of article 5 in that decisions were made by Court officials without the power to make judicial decisions and no Court

orders are issued by the Court.

III Statement of alleged violations- Article 7

1. Article 7 of the Convention prevents Punishment without lawful judgement: -Article 7(1). No one shall be held guilty of any criminal offence on account of any act or omission **which did not constitute a criminal offence under national or international law at the time when it was committed.**
2. Article 7(2). This article shall not prejudice the trial and punishment of any person for any act or omission which at the time when it was committed, **was criminal according to the general principles of law recognised by civilised nations.**
3. The Applicant has not been permitted the right to make his defence heard before the Court.
4. The pursuit of the Applicant has been a discretionary act of the Council.
5. The Applicant has a great deal of evidence of judicial and State wrongdoing in the UK secret family Courts that demands to be heard. It is a matter in the general public interest.
6. **Council tax is controlled by rules and regulations of the Council not Statute law.**
7. It is an unfair tax, in that all persons barring those who are unemployed are expected to pay the same within a simple banding system relative to the status of the property where they live regardless of whether it is owned, rented, and the income of the person or persons residing there barring extremely low incomes.
8. There is a 25% reduction if the persons lives alone. Single persons still have to pay 75% of a residence with two persons regardless of marital status, co-habiting or two friends/ acquaintances or a whole tribe.
9. Prior to the Council tax was the Poll tax, a tax placed on the individual with no possibility of challenging the amount to be paid or the individuals financial income.
10. Prior to the Poll tax was the rates system that was placed on the property and paid by the owner of the property. Rates were paid from the rent. **The rent included a portion for the payment of rates.**
11. When the system changed from Rates to Poll tax the landlords no longer had to pay the tax but

the occupier. The Thatcher Government left it to the discretion of landlords as to whether they reduced the rent payable.

12. The Applicant knows of no landlords who reduced the rent. Thus landlords; **the property owners made a profit and the occupier had a new and extra bill to pay.** It was an unfair method that made the well off more well off and the less well off, less well off.

13. Council tax is being complained against by many pensioners who have been put in prison for with-holding amounts as the Councils are using Council tax to raise revenue for the Council and increasing the tax by amounts greater than inflation and rises at their whim.

14. Pensioners on a fixed pension are being forced into real poverty. The pensioners have now grouped together in an organisation called 'IS IT FAIR' and have even demonstrated on the streets of London and have even been imprisoned.

15. Only those who are unemployed on State benefits get automatic reduction. Those others on fixed pensions, salaries etc all have to pay regardless whilst the Councils increase Council tax above that of inflation.

16. Civilised Nations would, it is submitted permit the defence to be heard in full to expose a much greater abuse of power, violations of Human Rights and other unlawful and criminal acts whether the Applicant is to be found guilty or not if non-payment is a criminal offence and deserving of imprisonment.

17. If the Applicant is to be imprisoned for exposing State wrongdoing against him and his children and also affecting thousands of other fathers, their families and especially grandparents then so be it but only after being heard in full in open Court.

18. The Council are not obliged to pursue for non-payment. It is discretionary.

20. I refer the Court to Regina v Doncaster justices ex parte Jack and Regina v Doncaster justices ex parte Christison May 26th 1999 before Mr. Justice Collins in which it is stated that "Yet again justices were not following proper procedures in sending to custody those who failed to pay any orders made by the Court; whether it was poll tax or council tax, the same procedure applied. **It had been said again and again that the principle to be applied was not punishment for non-payment, but as a means to extracting payment.** It was essential that proper enquiries were made and committal was used as a last resort."

21. Yet the Council has only had the intention of punishing me when my funds have had to be used to uncover and counteract their unlawful wrongdoing and have cost a great deal financially and otherwise over the last ten years.

19. The Court should act as a safeguard against repressive and malicious acts of the State bodies.

They should not be rubber stamping the wishes and greed of the Council.

20. I know of no statute that states non-payment of Council tax is a criminal offence yet that is the power under rules and regulations of the Council.

21. The principle of Court action is as a means to extract payment not to punish.

22. The Council should not be pursuing people whether old age pensioners or persons like the Applicant if they do not wish to be exposed for the bullies that they are.

23. I therefore submit there is a violation of article 7.1 and 7.2

III Statement of alleged violations: Article 17

1. Article 17 ~ The Prohibition of Abuse of Rights states:- Nothing in this Convention may be interpreted as implying for any State, Group, or Person, any right to engage in any activity aimed at the destruction of any of the Rights and freedoms set forth herein, or at their limitation to a greater extent than is provided for in the Convention.
2. The old age pensioners many on fixed pensions, with no assets they may use are greater victims than any other group of the Council tax.
3. To such an extent are they concerned that some of them have stood up to the Court and paid the ultimate price of imprisonment for what offence God only knows.
4. They have formed a campaign group called Isitfair and have not only lobbied the Government but taken their cases to Court usually dragged screaming at taxpayers expense by the Councils.
5. They unusually are a group who's rights and freedoms are being denied.
6. They have no redress except to stand tall in the face of a Government bullying it's citizens.
7. For the reasons stated above I submit that the old age pensioners given State or private pensions on the one hand after a hard and difficult life even making severe sacrifices for the Country are then given with one hand by the Government and then denied with the other. Nothing more than a Government making business for itself and it's own greed.

Statement relative to article 35 subsection 1 of the Convention

Page 5 Number 16. The last decision of the House of Lords was on 28th July 2005

Page 5 Number 17. **List in chronological order of previous decisions**

Fareham magistrates Court 27th February 2004

Portsmouth magistrates Court 16th April 2004

Fareham Magistrates Court July 2nd 2004

Judicial review in the High Court 22nd October 2004

Appeal hearing 24th February 2005

Office Manager of House of Lords decision 4th May 2005

Appeal Committee 28th July 2005

Hearing allegedly taken place which cannot be confirmed as Applicant did not attend as matter was before a higher Court and has neither recieved a Court order

Fareham Magistrates Court August 13th 2004

Hearing allegedly taken place which cannot be confirmed as Applicant did not attend as matter was before a higher Court and he was never informed of it, neither has any Court order been issued

Fareham Magistrates Court August 27th 2004

Page 5 Number 18. I know of no other remedy or Avenue available to me and hence have not used it having had final decision made at the House of Lords.

List of Documents provided

Section A: House of Lords (HOL) decisions and communications

Letter dated July 28th 2005 from the House of Lords 1

The report from the Appeal Committee dated 28th July 2005 refusing the Application 2

House of Lords Minutes of proceedings July 28th 2005 3-4

Letter from the House of Lords dated 20th May 2005 5

House of Lords Minutes of proceedings dated 18th May 2005 6

House of Lords letter dated 4th May 2005 7

The petition to the House of Lords 8-28

Section B: Decisions and orders of the Court of Appeal

The order of LJ Sedley amended under the slip rule dated 1st March 2005 1

Letter dated 1st March 2005 faxed to Court Manager 2

The order of LJ Sedley dated 24th February 2005 3

Section C: Notes of the Appeal hearing taken by my McKenzie friend John Bannon

Notes of the Judgement 1

Notes of the hearing 2

Court Service record of the hearings in Courtroom 63 that day 3

Section D: The up-dated skeleton argument sealed by the Civil Appeals office

Up-dated skeleton argument 1-22

Attachments 23-32 including:-

Letter dated 29th June 2004 from Borough Solicitor 23

Letter dated December 20th 2004 from Bailiffs 24

Letter dated 6th January 2005 from the bailiffs 25

Letter dated 6th January 2005 from the bailiffs 26

Letter to the Court Manager dated 26th June 2004 27

Letter dated 24th June 2004 re bundles served and enclosing more 28-29

Letter dated 11th June 2004 to Council reminding of their failure to disclose 30

Gosport Council receipt dated 24th June 2004 31

Record of an early Administrative hearing and per-trial review including time estimate 32

Section E: Appeal index and Decisions and also orders of the Administrative Court (High Court) on refusal of judicial review

Index for the Appeal 1

Appellant's notice 1 A-8

The grounds for the Appeal 9

Skeleton argument for the Appellant 9a-9v

Order of the High Court dated 22nd October 2004 10-11

The Judgement of the High Court Mr. Justice McCombe 12-15

Application notice 16-19

Notice of renewal 20

Grounds for renewal 21

The reasons for refusal on paper ordered by Sir Richard Tucker 22

Section F: The transcript of the hearing on oral appeal for leave to apply for judicial review

Transcript of the hearing on 22nd October 2004 1-28

Section G: The Council as interested parties defence

The Borough Solicitor's defence as interested party 1-3

Section H: The Appeal bundle documents

The index 19-20

Judicial review claim form 21-39

Skeleton argument of the Applicant 40-120

Skeleton argument of the Council 121-159

Costs breakdown of the Council 160

Portsmouth Evening news article dated 5th July 2004 Dad goes on the run 161

Refused Appellant's notice 162

Letter from the Council dated April 14th 2004 apologising for stating there was a liability order 163

Letter and attachments to Judge Woollard dated 24th May 2004 pages 164-170 (including the fact that the Council had stated in writing that if a skeleton argument was to be produced it would be provided in plenty of time 167)

Proof of service to Fareham Magistrates Court and the Council 171-172

Letter dated 12th July 2004 ignoring the Judicial review served and continuing with proceedings 173

Letter dated 12th July 2004 stating that there was an arrest warrant out, that the liability order had been made and the enquiry into conduct and means had been adjourned until 13th August 2004!! 174

Letter confirming hearings in Magistrates Courts are not recorded 175

Magistrates Court Human Rights Policy 176

Hansard notes 1994 confirming the Council are expected to Police themselves 177

Council press release 'Fraud doesn't pay.' 178

Responsibility of the Council to represent the public interest 179-185

The defence to the Judicial review by the Head of Legal services Julia Oakford 186-188

The statements by the witnesses 189- 205

Section I/J : Miscellaneous relating to Council tax and harassment by the Council

Letter dated 12th July 2004 warning from the Council of another hearing and I would be arrested if I did not go 1

Confirmation that proceedings in Magistrates Courts are not recorded on tape 2

Letter dated from Council to law centre dated 4th August 2004 refusing offer of payment from some elderly person who offered to part pay in settlement 3

Letter dated 9th August 2004 referring to the offer from a client of the law centre 4

Letter from bailiffs referring to a liability order issued by the Council! 5

Letter dated 1st September 2004 of further action to be taken by the Council 6

Important notes accompanying above letter on imprisonment 7

Letter dated 1st March 2005 from the Council answering various questions 8

Final notice of committal proceedings 3rd March 2005 9

Another Final notice of committal 10

Times article dated 29th September 2005 Judges condemn higher fees 11

Evening news article dated October 20th 2004 Ex-Councillor to pay £5 per week 12

Re: O Applicant's Appeal on the grounds of the bias of HHJ Milligan April 28th 2005 13-14

Summons to Council tax defaulter rubber stamped by the Head legal advisor 15

STATEMENT OF THE OBJECTIVE OF THE APPLICATION AND PROVISIONAL CLAIMS FOR JUST SATISFACTION

1. The idea that ‘Individuals have international duties which transcend the national obligations of obedience ... Therefore [individual citizens] have the duty to violate domestic laws to prevent crimes against peace and humanity from occurring. --The Nuremberg Tribunal 1945-1946’ is well-known. **All I ask is that justice be done and be seen to be done.**
2. In order not to cast any doubt to the independence, impartiality or bias of the judiciary, and to achieve the highest human rights international standards there is no reason why I should not have the matter properly heard as this is a matter of great public importance and as per Lord Atkins in the UK Court ***has both the power and the duty to remedy it’ in justice.***
3. The Applicant requests that the Council either withdraw from pursuing the Applicant now or ever despite for payment of Council tax; demanding full payment when they knew that Applicant had serious concerns to raise when despite stating that they were not wholly unsympathetic refuse to amend their ways or if not the Applicants case be heard in full before a Jury to protect Applicant’s rights under article 6.
4. For Isitfair to be given intervenor status and able to put the views of a group who are suffering as a whole in the UK with the Council tax and whom have little voice as they are not big businesses or Government bodies.
5. For the Court to examine individually and/ or combined violations of articles 3, 5, 6, 7, 10, and 13, article 1 taking into account 6, article 1 of protocol 1 and article 17 ECHR.
6. I also request an undertaking that this application and the complaints put to the Court not be used in order to limit my career as a teacher or blacklist me after the State abuses I have suffered.
7. Pecuniary and non-pecuniary damages for the aforementioned violations.

8. I also request that if this application is refused for that of the grounds on which the application is refused by a Judge of the court as is my right under the European convention of Human Rights article 6.