
From: John Boumphrey
Sent: 22 April 2021 00:18
To: Rohini Teather;
Subject: Re: Justice Select Committee and All-Party Parliamentary Group on Legal Aid
Attachments: Signed Reply MC86361.pdf

Dear Rohini, Karl and David

I write to you each, and together, as I understand that you are involved in either the Justice Select Committee or the All-Party Parliamentary Group on Legal Aid.

I do not know what stage your investigations may have reached but I think it important to bring your attention to a situation that has arisen with a client of mine.

I am not giving you names, or the court involved for reasons of confidentiality.

I am a barrister practicing in a range of work, some of which relates to data and privacy, and was initially asked to act on a direct access basis to assist a young woman whose partner (X) is being prosecuted for child pornography offences (relating to images of their daughter) and to facilitating abuse of a child (arising from a conversation he had with an undercover police officer online). My client unsurprisingly was keen to avoid publicity which might identify her other child (not a victim) or her. I elected to represent her on a pro bono basis.

The court has now ordered that there be no reporting of the criminal case at all.

In further discussions with my client, it became clear that the criminal case had given rise to a family case in which my client was keen to prevent contact between X and their children. She had managed to obtain a prohibited steps order, a non-molestation order and an occupation order by seeking the assistance of court staff (who will in due course be thanked for going beyond the call of duty during lockdown). However, it was clear that she was out of her depth and had a First Hearing and Dispute Resolution Appointment in which X would appear and in which she would be unrepresented.

I put her in touch with a reputable firm of solicitors near her who were unable to provide her with representation as her partner's very modest payments to her were too high.

I attempted to find family practitioners who might deal with the case on a pro bono basis and found that 4 or 5 had a significant pro bono case load already and would not take it on.

I had practiced family law some years ago and, in the circumstances, decided to represent her.

As the case has developed it has become clear that it was essential that someone did.

The children have been joined to the proceedings and questions were asked about whether the case should move into the Public Law jurisdiction with consideration being made about the appropriateness or otherwise of Care orders.

In the process of preparing a section 37 report Social Services have revealed information (not previously known to my client) about the conversations X is said to have had with the police which suggested that X had had an active sexual relationship with a child (possibly theirs) for some 18 months. It now transpires that this was likely to have been unfounded bragging by X, but it is difficult to see how my client might have fully understood this disclosure or why it hadn't been made earlier or dealt with it without having someone legally qualified and with appropriate experience she could legitimately talk to about her concerns.

The section 37 report also suggests that Social Services have done more to support my client and her children than she believes they have. Without representation this sort of information is unlikely to have come to the attention of the court.

The CPS/Police were ordered to provide information about the criminal case so that it might arrive before a particular hearing so that a better understanding of the case against X might occur, which might in turn avoid there being a contested hearing about the facts of his offending. The CPS (who appear to be snowed under) did not provide the material when it was expected, and it was only when my client prompted others that they seemed interested in providing any information about the likely delays. Again, this was unlikely to happen in the absence of representation and significant court time would likely have been wasted.

It is highly likely that my client will need further significant assistance when X's criminal trial takes place.

So surprised was I at the absence of Legal Aid in proceedings that are of the utmost importance for my client and her children, I wrote to my MP Julian Smith raising my concerns. After overcoming the obstacle that my client and I do not live in the same constituency, he had the decency to contact The Right Honourable Robert Buckland QC MP Lord Chancellor & Secretary of State for Justice on my behalf.

I attach above the letter he sent which really doesn't allay any concerns that I or my client might have that Legal Aid might not be extended to similar cases in the future. I do not get the impression that there will be further action arising from my concerns.

In my view it is imperative that women in the position of my client (or colourably similar positions) should have access to non means tested Legal Aid.

It is not in my view good enough to rely on the goodwill of the bar or solicitors when cases require significant input, sensitivity and some expertise.

If there are so many people in similar positions that a relatively rich country thinks it cannot afford to pay for representation for such people then that indicates there is a very serious general problem. In my view the risk of injustice, or mistakes, or damaging misunderstandings from not having Legal Aid in all such cases is too high for there not to be representation.

I would of course be happy to provide further information if that assists any of your committees in its work.

Kind regards

John Boumphrey

