

Advice on False Allegations

Vincent Mc Governs Advice on False Allegations. Section 1 and Section 2.

N.B. You can go straight to Section 2 for how to deal with false allegations. Section 1 deals with the many questions we get from Dads regarding their shock at discovering they are not in an equal system.

About me:

I'm Vincent McGovern, Chair of Central and North London Branches of Families need Fathers since 2011. I have also been successful with 5 Ombudsman Investigations, 3 of which were Parliamentary and Health Service Ombudsman. 2 PHSO investigations were into Cafcass. I have also presented twice to the European Parliament Petitions Commission in 2014 on its motion: Systemic Failings in the UK Family Court System. I have attended over 350 hearings either as a LIP (Litigant in Person) or as a McKenzie Friend (Lay Adviser in Family Court). I hope my credentials are to your satisfaction!

The following are regularly quoted to me in various forms:

Quoting the United Nations Convention on the Rights of the Child.

Article 9 (1)

States Parties shall ensure that a child should not be separated from his or her parents against their will, except where competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.

Article 9 (3)

States Parties shall respect the right of a child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

I am also regularly informed about Article 6 and Article 8 of the European Convention on Human Rights. Article 6 is the right to a fair trial. Article 8 is the right to family life.

Most important is the Paramountcy Principle Children Act 1989.

What is the paramountcy principle Children Act 1989?

The **Paramountcy Principle**. The **Paramountcy Principle** is that the child's best interest and welfare is the first and paramount consideration. The Care of **Children Act** outlines things a Judge must take into consideration when making orders around care and protection of **children**: Protecting the safety of the child.

In effect where the UK is concerned, everything is subservient to the Paramountcy Principle. It is where your focus has to be. If still in doubt, read on!

The above is the good news, now for the bad news!

Section 2 (4) of the Children Act 1989

The rule of law that a father is the natural guardian of his legitimate child is abolished.

For the many fathers who complain about how they have been treated etc; In 2015 a parliamentary Justice Select Committee held an inquiry into the impact of changes to civil legal aid under LASPO. In its submission to the inquiry the MoJ summarised the types of evidence needed to activate the DV gateway as follows,

- a conviction, police caution, or ongoing criminal proceedings for a domestic violence offence;
- a protective injunction;
- an undertaking given in court (where no equivalent undertaking was given by the applicant);
- a letter from the Chair of a Multi-Agency Risk Assessment Conference (MARAC);
- a finding of fact in court of domestic violence;
- a letter from a defined health professional (which includes a doctor, nurse health visitor or midwife);
- evidence from social services of domestic violence; and,
- evidence from a domestic violence support organisation of a stay in a refuge.

As you can see, the system is designed to be 'gamed.' The implementation and interpretation of the rules for legal aid are completely different dependent on gender. Before you complain too much or too noisily about this unfairness, 1st question? What have you ever done to prevent such a system from happening:

2nd question, now that you know how the system disadvantages fathers so much from co-parenting their children, what are you going to do about it!

Families Need Fathers is a shared parenting charity. Sadly 95% of the forced out parents are fathers. Hence our name. Shared parenting means both parents!

Section 2.

When subject to false or exaggerated allegations the following applies:

- Under no circumstances make your situation worse.
- If arrested on false or exaggerated grounds, DO NOT accept a caution. A caution is an admission of guilt and you have harmed yourself. Insist on a duty Solicitor being present during the interview.
- Despite the hurt and provocation, not to mention the shattering impact some suffer when booted from the family home on spurious grounds, remain calm and focus on survival.
- Now that you have been 'introduced' to the system prevailing, work out how to remain in your children's lives.
- Join Families Need Fathers, read their website, contact a family law solicitor if you can afford to, believe in yourself as a parent who loves his children and as a person of substance.
- If you have not been arrested and bailed, try meditation with professional assistance to come to a shared parenting agreement.
- If arrested and bailed, or the recipient of a non molestation ex-parté order (ex-parté means without notice) then make an application to the family court. Go online to HMCTS website, download a C100 application for a Child Arrangement Order.
- Before you get to Court, you will be contacted by an organisation called Cafcass as part of their safeguarding duty. Keep very child focused here, defend yourself against false or wild allegations, but insist on remaining a part of your children's future.
- When attending court, be prepared for all sorts of provocation from the mothers counsel outside of the courtroom, especially if legal aid is involved. The process is adversarial, and horrible. If represented or with a professional McKenzie Friend, let them do the talking for you outside of the courtroom. Otherwise, control your temper, keep your mouth shut, have confidence in yourself and the evidence you can present to the court. In court be polite but firm of stance.

- The first hearing is called a FHDRA (First Hearing Dispute Resolution Appointment), usually lasts between 30-45 minutes. It is NOT a contested hearing, i.e. no party will be in the dock giving evidence.
- If unrepresented, as sadly so many are, have a position statement of no more than 2 pages already given to the other side and the court clerk. A copy for yourself also, use it as an 'aide memoire.'
- Where false allegations are dominant, request either a Finding of Fact Hearing, (Fof) (which is certainly contested and usually lasts for a day or more. 10 days is the highest that I know of, very exceptional). If the court determines there is no need for a Fof hearing, then ask that the false or wild allegations be set aside and no longer allowed in proceedings.
- This entire business is legalised cage fighting. Do not underestimate the impact it can have on the parties. Children sadly, usually suffer the most. Both of you are parents and have a huge responsibility to protect and co-parent your children.
- Try to clear your name as quickly as possible, albeit in a very slow and laborious process. Defend yourself against the false allegations is a must, but also keep yourself whole as a person, job, family, friends etc. An unemployed depressed dad is not the way forward.
- Never ever refuse contact with your children while the process is going on, a contact centre may be your best chance in the interim, grab it and make good use of it.
- You are not unique, this process happens to many thousands of parents every year. Control yourself despite the hurt and pain, think of your children, keep focused and effective until you get back in their lives. Your marriage/relationship is over, get over it and concentrate on the children and what is best for them in the circumstance.
- Above all, drop any delusions of hurting the mother by exposing her less than positive aspects in court unless you have professional evidence, you are the weaker party here, you bring the solutions or you will most likely be uninvolved in rearing your children.
- If still in doubt about why or how you are the weaker party, read Section 1 again.