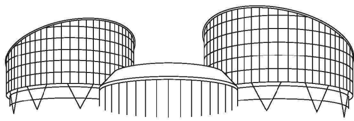


ENG - 2016/1

Application Form

About this application form

This form is a formal legal document and may affect your rights and obligations. Please follow the instructions given in the “Notes for filling in the application form”. Make sure you fill in all the fields applicable to your situation and provide all relevant documents.

> Warning: If your application is incomplete, it will not be accepted (see Rule 47 of the Rules of Court). Please note in particular that Rule 47 § 2 (a) requires that a concise statement of facts, complaints and information about compliance with the admissibility criteria MUST be on the relevant parts of the application form itself. The completed form should enable the Court to determine the nature and scope of the application without recourse to any other submissions.

Barcode label

If you have already received a sheet of barcode labels from the European Court of Human Rights, please place one barcode label in the box below.

Reference number

If you already have a reference number from the Court in relation to these complaints, please indicate it in the box below.

A. The applicant

A.1. Individual

This section refers to applicants who are individual persons only. If the applicant is an organisation, please go to section A.2.

1. Surname
Allman

2. First name(s)
John William

3. Date of birth

0	7	0	5	1	9	5	3
D	D	M	M	Y	Y	Y	Y

e.g. 31/12/1960

4. Place of birth
Northampton, England

5. Nationality
British

6. Address
70 Wimpole Street
Marylebone
London
W1G 8AX

7. Telephone (including international dialling code)
+44 7720 842242

8. Email (if any)
John_W_Allman@hotmail.com

9. Sex ◉ male ○ female

A.2. Organisation

This section should only be filled in where the applicant is a company, NGO, association or other legal entity. In this case, please also fill in section D.1.

10. Name

11. Identification number (if any)

12. Date of registration or incorporation (if any)

D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2012

13. Activity

14. Registered address

15. Telephone (including international dialling code)

16. Email

B. State(s) against which the application is directed

17. Tick the name(s) of the State(s) against which the application is directed

- [ ] ALB - Albania
- [ ] AND - Andorra
- [ ] ARM - Armenia
- [ ] AUT - Austria
- [ ] AZE - Azerbaijan
- [ ] BEL - Belgium
- [ ] BGR - Bulgaria
- [ ] BIH - Bosnia and Herzegovina
- [ ] CHE - Switzerland
- [ ] CYP - Cyprus
- [ ] CZE - Czech Republic
- [ ] DEU - Germany
- [ ] DNK - Denmark
- [ ] ESP - Spain
- [ ] EST - Estonia
- [ ] FIN - Finland
- [ ] FRA - France
- [x] GBR - United Kingdom
- [ ] GEO - Georgia
- [ ] GRC - Greece
- [ ] HRV - Croatia
- [ ] HUN - Hungary
- [ ] IRL - Ireland
- [ ] ISL - Iceland
- [ ] ITA - Italy
- [ ] LIE - Liechtenstein
- [ ] LTU - Lithuania
- [ ] LUX - Luxembourg
- [ ] LVA - Latvia
- [ ] MCO - Monaco
- [ ] MDA - Republic of Moldova
- [ ] MKD - "The former Yugoslav Republic of Macedonia"
- [ ] MLT - Malta
- [ ] MNE - Montenegro
- [ ] NLD - Netherlands
- [ ] NOR - Norway
- [ ] POL - Poland
- [ ] PRT - Portugal
- [ ] ROU - Romania
- [ ] RUS - Russian Federation
- [ ] SMR - San Marino
- [ ] SRB - Serbia
- [ ] SVK - Slovak Republic
- [ ] SVN - Slovenia
- [ ] SWE - Sweden
- [ ] TUR - Turkey
- [ ] UKR - Ukraine

C. Representative(s) of the individual applicant

An individual applicant does not have to be represented by a lawyer at this stage. If the applicant is not represented please go to section E.

Where the application is lodged on behalf of an individual applicant by a non-lawyer (e.g. a relative, friend or guardian), the non-lawyer must fill in section C.1; if it is lodged by a lawyer, the lawyer must fill in section C.2. In both situations section C.3 must be completed.

C.1. Non-lawyer

18. Capacity/relationship/function

19. Surname

20. First name(s)

21. Nationality

22. Address

23. Telephone (including international dialling code)

24. Fax

25. Email

C.2. Lawyer

26. Surname

27. First name(s)

28. Nationality

29. Address

30. Telephone (including international dialling code)

31. Fax

32. Email

C.3. Authority

The applicant must authorise any representative to act on his or her behalf by signing the first box below; the designated representative must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated above to represent me in the proceedings before the European Court of Human Rights concerning my application lodged under Article 34 of the Convention.

33. Signature of applicant

34. Date

D D M M Y Y Y Y

e.g. 27/09/2015

I hereby agree to represent the applicant in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

35. Signature of representative

36. Date

D D M M Y Y Y Y

e.g. 27/09/2015

D. Representative(s) of the applicant organisation

Where the applicant is an organisation, it must be represented before the Court by a person entitled to act on its behalf and in its name (e.g. a duly authorised director or official). The details of the representative must be set out in section D.1.

If the representative instructs a lawyer to plead on behalf of the organisation, both D.2 and D.3 must be completed.

D.1. Organisation official

37. Capacity/relationship/function (please provide proof)

38. Surname

39. First name(s)

40. Nationality

41. Address

42. Telephone (including international dialling code)

43. Fax

44. Email

D.2. Lawyer

45. Surname

46. First name(s)

47. Nationality

48. Address

49. Telephone (including international dialling code)

50. Fax

51. Email

D.3. Authority

The representative of the applicant organisation must authorise any lawyer to act on its behalf by signing the first box below; the lawyer must indicate his or her acceptance by signing the second box below.

I hereby authorise the person indicated in section D.2 above to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

52. Signature of organisation official

53. Date

D D M M Y Y Y Y

e.g. 27/09/2015

I hereby agree to represent the organisation in the proceedings before the European Court of Human Rights concerning the application lodged under Article 34 of the Convention.

54. Signature of lawyer

55. Date

D D M M Y Y Y Y

e.g. 27/09/2015

Subject matter of the application

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the six-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the Institution of proceedings as well as the "Notes for filling in the application form".

E. Statement of the facts

56.

1. My name is John William Allman. My date of birth was 7th May 1953. I worked for the majority of my career in software development. I am now retired.

2. I was widowed on 26th May 2006. I have four grown-up children born, from 1976 to 1986, and eight grandchildren. My fifth child Noah Cornelius David Allman (S), my second son, was born on 27th May 2010, out of wedlock, to a woman Amanda Denise Palmer (M) whom I had met in 2009, and whom I then expected to marry soon after the birth.

3. Between our discovering that M was pregnant, and S's first birthday, S was referred to social services on five occasions, because the police, the community midwife, and a consultant psychiatrist all had safeguarding concerns because of M's apparent mental health issues.

4. In 2010, because of M's characteristic sense of being conspired against, M and I made a subject access request of Cornwall Council for the social work records of S. When these arrived, they were so heavily redacted that we complained to the Information Commissioner's Office. That complaint was upheld in the ICO's adjudication, but Cornwall Council still refused to release the redacted information, so M and I sued together for an injunction compelling release of the information that had been redacted. Cornwall defended that claim.

5. In late 2012 and early 2013, M began to become paranoid about me, believing that I was stalking her, along with all the unknown stalkers whom (I had come to realise) she had been imagining.

6. By then I realised that I had been wrong to father S, but still wanted S to have the benefit of married parents if possible. Failing that, at least of shared parenting.

7. On Easter Sunday 31st March 2013, the children's worker at the church informed me that M had knocked on her door the previous Maundy Thursday evening, 28th March, in an emotional state. The children's worker warned me to "watch my back", because (she predicted) M would soon be making a false allegation against me of some sort of child abuse, as pretext for stopping contact between S and me. (I was never given the opportunity to explain this background.)

8. On Wednesday 3rd April 2013, M did not bring S to the town square for the hand-over, as per the written agreement M and I had (on M's recent insistence) as to which parent should care for S when during each week. M's solicitor and I spoke on the telephone in the afternoon, confirming that M had stopped all contact between S and me until further notice. I telephoned the health visitor, who advised me to make a referral of S to social services myself. I did so that afternoon, expressing concerns that S was being abused, in part by being coached to make a false allegation against me.

9. The facts upon which my claim in A v Cornwall really hang begin at this point. I referred S to social services on 3rd April 2013, expressing serious safeguarding concerns, and asking social services to contact me, to discuss what could be done to make S safe. I was allowed no meaningful contact with social services until 23rd May. By that time, social service had already decided that S should never see me, his father, again. I say that this violated the English Common Law principle of Natural Justice, audi alteram partem. (My barrister will expand on the significance of this in terms of the Convention.)

10. The detailed written evidence in the trial bundle proved that there ensued a completely one-sided investigation on the part of social services, which the trial judge agreed had been unfair.

11. By the meeting of 23rd May 2013, my first opportunity to discuss my concerns with the social worker, social services had already decided that the smacking allegation was true. Every effort should be made to ensure that S never saw me again, but not because the finding of fact, before the meeting, that I had smacked my son presented an "insurmountable obstacle", but rather because of "concerns" about my "parenting style", based upon my "beliefs", which had been inferred by reading my blog, http://JohnAllman.UK (q.v.). (I am morally opposed to abortion and to homosexual behaviour.)

Statement of the facts (continued)

57.

12. Before my first meeting with the social worker following my referral of my son, on 23rd May 2013, the social worker communicated this situation to M in emails that were in evidence at trial of my eventual claim. At the meeting, in express words ("we think you did it", "on the balance of probabilities", "not insurmountable", "concerns about your parenting style", "because of your beliefs") the social worker explained her decisions, already taken before the meeting. She then questioned me about blog posts of mine against abortion and against homosexual behaviour, including same sex marriage. My beliefs seems to be all that she wanted to talk about at that meeting. His lordship found at trial, almost four years later, that there had been a theoretical possibility that, had I responded to this inquisition differently, the social [worker] might have relented. To this day, I do not believe that there is anything that I could have said at the meeting that was likely to have changed the social worker's already made-up mind, more effective than what I did say. (See final paragraph.)

13. During the agonising period between 3rd April and 23rd May 2013, I had started private family proceedings, but the first directions appointment wasn't until 29th May 2013, six days after the meeting at which I realised I had accrued a human rights claim against the council by the end of the meeting. At this time, Cornwall was still the defendant in a claim under section 7 of the Data Protection Act brought jointly by myself and M, for subject access to the social work records.

14. The social work undertaken between 3rd April and 23rd May breached my human rights. The social work was one-sided and unfair. I was unjustifiably interrogated about my beliefs against abortion and homosexuality. The council breached the Public Sector Equality Duty to have due regard to the needs to foster good relations between men and women, a need that is especially pressing when the man and the woman concerned are the parents of the same child, or between those with and without other protected characteristics, such as my own non-negotiable and strong moral beliefs against abortion and homosexuality.

15. The defendant produced the Welfare Report for the family proceedings, rather than declaring that it could not lawfully do this because of its conflict of interest, as both defendant of both parents in Data Protection Act proceedings, and supposedly neutral expert witness in the family proceedings. The defendant also exploited its position as the authority mandated to produce the Welfare Report, in order to gain advantage in the defended Data Protection Act proceedings. This is evidenced by emails disclosed in A v Cornwall that were in the trial bundle in the High Court.

16. During the few weeks following the meeting on 23rd May 2013 at which I first realised that a human rights claim had accrued to me, I made several written complaints to the defendant about its treatment of me, which I said was different from the treatment that would have been given to the appropriate comparator, and less favourable. I said I had been treated differently because of my beliefs, as reflected in the contents of my blog. Despite having a statutory complaints procedure in place, the defendant did not address my complaints using that complaints procedure, but rather ignored my complaints, except for one, which (the defendant told me via email) it had forwarded to i[t]s legal department. The correct and advertised procedure would have been to forward all of my complaints to the defendant's Complaints Manager.

16. To whatever extent the trial judge in A v Cornwall exonerated the defendant, because (it emerged at trial) it had conducted a one-sided social work investigation at the request of the police, I say that in the ECtHR, my complaint is against the high contracting party itself, the United Kingdom, which is responsible for the roles of both the council and the police in the facts of April thru June 2013. The UK is not exonerated in the matter of procedural impropriety, even if the council was in the High Court, merely because the police had told the council to behave as it did.

17. Specific questions that I was asked at the meeting were as follows:

(a) How I would react if my son, when he was 14, told me that he was gay and had a boyfriend, and I was violently opposed to this? I relied not to be daft, silly or ridiculous (I forget the exact word I used), as to ask such an irrelevant question, because my son was only two.

(b) If one of my three grown-up daughters told me that she had had an abortion, how would I feel? I replied that I would feel devastated. The social worker asked why. I said because the child killed in that abortion would be my son or grandson, and my own daughter would have been complicit in that homicide.

Statement of the facts (continued)

58.

(There is a longer statement of the facts, which amplifies this statement of the facts, included as the most recent, and therefore the first, additional document accompanying this form.)

F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments

59. Article invoked	Explanation
Articles 8+9 read together with Article 14	I have been deprived of access to my son, in large part because of a damaging social work enquiry undertaken by the Cornwall Council. The actions of the Council violated my Convention rights in a four-fold manner: (a) Their assessment was largely done out of animus towards my moral and Christian views; (b) their assessment was done concurrently to a prolonged legal battle I had with the same Council making any appearance of impartiality illusory; (c) the actions of the Council breached their Public Sector Equality Duty in maintaining good relations among and between protected characteristics, including between men and women; (d) The actions of the Council were found in the English High Court to have been unfair. The social work was one-sided, biased in favour the mother so completely that the enquiry benefited from almost no input from myself at all. I believe that the Council undoubtedly acted against my son's best interests. These arguments are set out in full in the annexed memorandum.
Article 6	The Cornwall Council, and by extension the Respondent State, have breached my article 6 rights with regard to their obligations of independence and impartiality. After issuing my claim, A v Cornwall, I defeated two strike-out applications of my claim that were based upon the contention that the facts pleaded did not disclose a breach. In the High Court, I proved, essentially, all the facts which I had pleaded were all the facts which I needed to prove, in order prove a breach of my Convention rights. It may readily be seen from the pleadings in A v Cornwall, the judgment of the High Court, the appeal bundle that I submitted to the Court of Appeal, and the response of the Lord Justice denying me permission to appeal, that I have never been given a comprehensible explanation as to why, having proven the main facts I pleaded, in a claim that wasn't struck out because those facts disclosed no breaches, I could have failed to have proved a breach of my Convention rights.

Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)

60. Article invoked	Explanation

- Please ensure that the information you include here does not exceed the pages allotted -

G. Compliance with admisibility criteria laid down in Article 35 § 1 of the Convention

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the six-month time-limit.

<table>
<tr><th>61. Complaint</th><th>Information about remedies used and the date of the final decision</th></tr>
<tr><td>The unlawfulness of the manner in which the social work was performed following my referral of my son to Cornwall Council with safeguarding concerns</td><td>The claim that became A v Cornwall, issued in 2014. I pleaded that my rights had been breached, and therefore implicitly for at minimum a finding that this was so. I also pleaded for remedies as follows:

13. I am bringing this Claim under the Human Rights Act 1998 section 7(1)(a), seeking such reliefs and remedies as the court considers “just and appropriate” pursuant to HRA s8(1). In order to provide to me, a person with the necessary Convention and HRA victim status, with just satisfaction, I wish these reliefs and/or remedies to include financial compensation in the sum of £10,000.

14. Insofar as the council proves that statute obliged certain of its conduct that is found nevertheless to have been incompatible with my Convention rights, i.e. that HRA s6(2)(a) or s6(2)(b) applies, then I seek any necessary Declarations of Incompatibility, pursuant to HRA s4.

The claim reference was A88YJ875.

The trial was held over three days, from 6th to the 8th March 2017. Judgment was handed down on Friday 28th April 2017.

The order of the Court of Appeal refusing permission to appeal was sealed on 14th September 2017.

The appeal reference was A2/2O17/1574/PTA.

CPR 52.5 and section 54(4) of the Access to Justice Act 1999 prohibit appeal to the Supreme Court against a refusal, on the papers, in the Court of Appeal, of permission to appeal against a judgment in the High Court. It follows that my routes to a domestic remedy became exhausted on my receipt of the order refusing me permission to appeal, on Saturday 16th September 2017.</td></tr>
</table>

62. Is or was there an appeal or remedy available to you which you have not used?

- ○ Yes
- ● No

63. If you answered Yes above, please state which appeal or remedy you have not used and explain why not

H. Information concerning other international proceedings (if any)

64. Have you raised any of these complaints in another procedure of international investigation or settlement?

- ○ Yes
- ● No

65. If you answered Yes above, please give a concise summary of the procedure (complaints submitted, name of the international body and date and nature of any decisions given).

66. Do you (the applicant) currently have, or have you previously had, any other applications before the Court?

- ● Yes
- ○ No

67. If you answered Yes above, please write the relevant application number(s) in the box below.

Unknown

I. List of accompanying documents

You should enclose full and legible copies of all documents. No documents will be returned to you. It is thus in your interests to submit copies, not originals. You MUST:

- **arrange the documents in order by date and by procedure;**
- **number the pages consecutively; and**
- **NOT staple, bind or tape the documents.**

68. In the box below, please list the documents in chronological order with a concise description. Indicate the page number at which each document may be found.

No.	Document		Page
1.	A more detailed statement of the facts	p.	(E-)* 1 - 9
2.	The order of 14th March 2017 refusing permission to appeal in A v Cornwall	p.	10 - 11
3.	Appeal grounds in A v Cornwall	p.	12 - 20
4.	Appeal skeleton argument in A v Cornwall	p.	21 - 44
5.	Appellant's supplementary bundle in A v Cornwall appeal including claimant's (applicant's) skeleton argument at trial	p.	45 - 68
6.	Judgment in A v Cornwall	p.	69 - 88
7.	Pleadings in A v Cornwall - final Amended Particulars of Claim (showing differences from original Particulars of Claim in red), Amended Defence, Amended Reply to Defence with original Reply to Defence annexed and original Defence	p.	89 - 126
8.	The Gay Revolutionary (also called The Homosexual Manifesto) - a 1987 essay by M Swift which I parodied in 2013	p.	127 - 128
9.	Blog posts on my JohnAllman.UK blog, which were made during or before the relevant period, potentially prompting the complained-of discrimination against me on the grounds of my Christian moral beliefs	p.	129 - 233
10.		p.	
11.		p.	
12.		p.	
13.		p.	
14.		p.	
15.		p.	
16.		p.	
17.		p.	
18.		p.	
19.		p.	
20.		p.	
21.		p.	
22.		p.	
23.		p.	
24.		p.	
25.		p.	

Any other comments

Do you have any other comments about your application?

69. Comments

* The page numbers that are referred to at question 68 above are prefixed with "E-" on the documents themselves, to distinguish these from any other page numbers on the documents.

Declaration and signature

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

70. Date

1	3	0	3	2	0	1	8
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

The applicant(s) or the applicant's representative(s) must sign in the box below.

71. Signature(s) ● Applicant(s) ○ Representative(s) - tick as appropriate

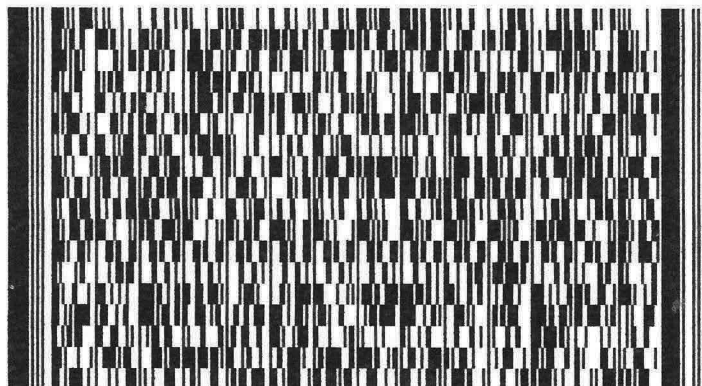
Confirmation of correspondent

If there is more than one applicant or more than one representative, please give the name and address of the one person with whom the Court will correspond. Where the applicant is represented, the Court will correspond only with the representative (lawyer or non-lawyer).

72. Name and address of ○ Applicant ○ Representative - tick as appropriate

The completed application form should be signed and sent by post to:

The Registrar
European Court of Human Rights
Council of Europe
67075 STRASBOURG CEDEX
FRANCE



893669e1-66ca-4653-b9e0-2de2561a694b

John Allman v. the United Kingdom

Statement of Violations

I. Introduction

1. The Applicant's complaint concerns the unlawful manner in which the respondent High Contracting Party's public authorities conducted social work, in 2013. The effect which the social work inflicted was the avoidable exclusion of the applicant from any meaningful role in the day-to-day upbringing of the youngest of his four offspring, from 3rd April 2103 to the present day, and for the foreseeable future absent remedial action.

2. The 1959 UN Declaration on the Rights of the Child, Principle 6, declares:

> **The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security …**

Both parents. Every child. Wherever possible. That is the gold standard set out in Principle 6, for the raising of a child. It is every child's right to grow up under the care and responsibility of his or her natural parents, plural, *both* of them, *except* where it is not *possible* for a *particular* child to have that best possible upbringing.

3. Incontrovertible evidence came to light, in domestic proceedings brought by John Allman that became known as *A v Cornwall Council*, of a certain admitted policy of the social services department's manager, to whom the relevant social worker reported. In cases where there were two parents estranged from one another, one of whom wanted to exclude the other altogether from parenting of the child they had had when together, the council's policy was to begin from the premise that in such cases, shared parenting, the gold standard of Principle 6, was bound to be *impossible*, and therefore the *only* task for social services was to decided *which* of the two estranged parents would have *sole* care of the child.

4. There is a fallacy behind this thinking. Empowerment of the mother (in this case, more generally the possessive or belligerent parent) and disempowerment of the father (i.e. the peaceable parent, who wanted parenting to be shared) would be bound to result in the exclusion of the peaceable parent. However, there was every chance that an alternative never even considered, namely empowerment of the father and

disempowerment of the mother, would not have resulted in the exclusion of the *mother*. That is because all the motivation that the child should have only one parent involved in his upbringing, was on the mother's side, none of it on the father's side. The council never bothered to find out if that was the situation. We now know it never does.

5. This assymetry, where one parent is belligerent and the other peaceable, is, unfortunately, not a rare situation in the UK. Complaints that social workers do not even try to resolve such conflicts in a such positive way, which honours Principle 6, are legion. Such complaints, for example, led to the formation of the registered charity Families Need Fathers, over forty years ago.

6. It is a premise of this application, that the Convention demands *exactly* the same diligence in social work that may lead to the state procuring the exclusion of one of a child's two natural parents from that child's upbringing, as is required in social work that may lead to the institution of care proceedings. Indeed, these are not two separate types of social work at all. They are simply two different possble outcomes of many, at the end of social work tasks that begin in exactly the same way, with the outcome necessarily unforseeable at the outset, if the social work is to be fair and impartial.

7. It follows that legal precedents in the EctHR that relate to care proceedings (depriving a child of both natural parents, or the second of two), are capable of informing the court of the correct approach to use in this case, which involves the state participating in depriving a child of only one of his two natural parents, leaving him to be cared for by the other.

8. On 31st March 2013, John Allman was warned to expect the mentally ill mother of his son to set out to begin preventing all contact between father and son, by making a false accusation against him. On 3rd April 2013 (and every day since that day) that prediction was fulfilled. At all subsequent times, the UK state has at least acquiesced in this prevention of contact between father and son. To some extent, the UK state has promoted this, even to the extent of putting pressure, from time to time, upon the mother to continue in this prevention of contact, on peril of care proceedings, of which she has long been terrified. It has even misled the mother and others to the effect thatt the mother is not allowed to allow the child contact with the father, even if she wants to, and that others must seek to prevent any such contact.

9. Admittedly, in 2014, a family court eventually found, on the balance of probabilities, that Mr Allman had smacked his son, leaving a mark. However, the UK state itself is vicariously responsible for the affect of the testimony, in the UK's own family court, of an expert witness it employed, a social worker, whose conduct in 2013, long before she procured this outcome with her testimony, had already been impugned as incompatible with the Convention rights of Mr Allman. Furthermore, it has always been common ground between Mr Allman and the public authority he sued, Cornwall Council, that this allegation of child abuse, vehemently denied but eventual believed by the family court (as at least 51% likely to be true based on what the expert witness told the court), wasn't an "insurmountable obstactle" to Mr Allman's son having both parents in his life, as per Principle 6.

10. When the mother of Mr Allman's son started breaking the written agreement, which she had insisted on formalising in writing using the services of a solicitor, the agreement that governed when Mr Allman should care for his son, Mr Allman became worried about his son's welfare and safety. Under United Kingdom law, he has had parental responsibility for his son since the birth was registered, a few days after the birth in 2010. But the actions of the child's mother, culminating in the complete ending of all contact with effect from 3rd April 2013, now prevented him from exercising that parental responsibility. So he contacted social services on 3rd April 2013, making urgently what was the sixth safeguarding referral of his son. It was Mr Allman's only referral of the boy, the earlier referrals all having been made by professionals who had expressed concerns about the impact of the mother's poor mental health upon the child.

11. In that referral, Mr Allman expressed grave concerns for the safety and welfare of his son. He was trying to get help from the state with a problem that he realised he could not solve on his own. He *invited* the state to interfere in his private and family life.

12. His expectation, in making the referral he did, was wise, skilled, compassionate and *lawful* intervention on the part of the British state. Intervention, that is, which was informed by the aforesaid Principle 6, his own Convention rights and those of his son (and, indeed, those of his son's mother), the statutory Public Sector Equality Duty (including the duty to have due regard to the need to foster good relations between men and women - a need that is especially pressing when a particular man and woman in question are the two parents of a particular child), and the two rules of Natural

Justice of English Common Law: *Nemo Judex in Causa Sua* and *Audi Alteram Partem*.

13. What actually happened in the aftermath of that referral of 3rd April 2013 was that nobody at all from the British state observed Mr Allman caring for his son, in order to reach informed conclusions about his parenting style. In fact, nobody even met Mr Allman to debrief him about his safeguarding concerns that had led to his making the referral.

14. There has been some attempt, to some extent successful in the English High Court, to deflect the blame for this omission from the council, the public authority Mr Allman eventually sued, towards the police force whom Mr Allman did not think to sue as joint defendant with the council. The police were found to have told the council to make this omission. It is not clear on what legal basis the council might not have been at liberty to disobey the police, and to have obeyed the Convention instead. In any case, in the EctHR, the passing of the buck from one public authority to another like this, does not deflect blame from the high contracting party as a whole, which remains vicariously responsible for both the council and the police, and indeed for the UK courts, which have failed to render this omission judiciable to date, without explaining adequately why this omission appears not to be judiciable.

15. It is clear from the judgment of Dingemans J that before 23rd May 2013, a police officer had read the blog of Mr Allman, http://JohnAllman.UK, in which he expressed strong beliefs about abortion and homosexuality. The police officer suggested the social worker read it too. (The two women work in the same building.) This reading of the blog by both pubic authorities clearly played the major part in procuring the disastrous early social work decisions that led to the present *status quo*.

16. The social worker had already made, before the meeting of 23rd May 2013, a finding of fact ("on the balance of probabilities") that Mr Allman had smacked his son. This finding was made without ever discussing the allegation with Mr Allman. However, the social worker did not consider this alleged smacking incident to be an "insurmountable obstacle" to her deciding that it would be impossible for the child to have a normal, Principle 6 upbringing, one delivered by *both* of his natural parents.

17. Before 23rd May 2013, the social worker had also already decided that the child should live solely with his mother, *and have no direct contact at all with his father*.

She had communicated that decision to the mother in an email (quoted in the High Court judgment) and boasted in that email that she could usually get the family courts to decide whatever she herself had already decided. All this without even meeting once with Mr Allman himself, to hear his side of the story.

18. On 23rd May 2013, the social worker was finally willing to meet with Mr Allman, the police by then having decided that there wasn't evidence enough to charge Mr Allman with any criminal offence.

19. At the meeting of 23rd May 2013, Mr Allman insists that he was *still* not given an adequate opportunity to express his concerns for his son's safety in the light of his mother's mental illness, which Mr Allman considered had become a lot worse lately. There was no discussion of reuniting father and son. Instead, the High Court found, Mr Allman was interrogated about his beliefs, as expressed on his blog. These (it was implied) presented an obstacle to his son having a Principle 6 upbringing that *was* insurmountable, unlike the accusation of smacking that *had not* been insurmountable.

20. The council more-or-less ignored Mr Allman's subsequent written complaints about his interrogation about his beliefs at the meeting of 23rd May, despite having a “statutory” complaints procedure that it was *obliged by statute* to deploy whenever a complaint of this nature was made, and *however* the complaint was made.

21. The council, soon after, had no qualms about producing a Welfare Report under section 7 of the Children Act, to inform the private family law proceedings brought by Mr Allman in a family court. This notwithstanding that, at the time, the council was still the defendant of both parents in the County Court, where the parents were seeking an injunction compelling subject access to the family's social work records under the Data Protection Act (DPA) section 7. And also notwithstanding that Mr Allman had made more than one complaint against the council that had yet to be investigated. The council produced that Welfare Report without obtaining any fresh input from Mr Allman, who had requested in writing a further meeting, to clear up errors of fact that the earlier Section 47 report had contained, and misunderstandings brought to light at the meeting of 23rd May.

22. Nor had the council any qualms about exploiting the conflict between the parents, which it ought to have sought to resolve rather than to escalate, in order to gain

advantage in the DPA proceedings. This amounted to a further procedural impropriety. *Nemo judex in causa sua.*

23. Mr Allman's expection, when applying for social work, was that the social work undertaken would be fair (Natural Justice), peace-making (the Public Sector Equality Duty) and non-discriminatory (rather than involving an inquisition into his Christian, moral and political views, expressed on his blog). He expected this because he knew that social work of the type for which he had applied, would be an interference (albeit one that he *wanted*, provided it was done properly) with his Article 8 right *per se*.

24. Such social work, even though he had asked for it, must be "in accordance with the law" (Article 8.2). Mr Allman did not think that he was opening himself up to the risk of one-sided and unfair social work, that only heard one side of the story, broke the Equality Act, and involved, on the grounds of his beliefs, treatment of him that was different from, and worse than, treatment that would have been meted out to somebody with less politically incorrect beleifs, or less *strong* beliefs, than his. He considered that such defects in the social work he received, if they appeared, would ensure that the social work could not be held to have been "in accordance with the law". He therefore did not bargain for these unlawful defects when he humbled himself to apply to the state for helpful and *lawful* interference with his untidy private and family life, in the form of workmanlike social work fit for a good purpose.

II. Victim Status

25. The Court looks at victim status independently from other admissibility criteria such as *locus standi* or exhaustion of domestic remedies.[1] The Applicant meets this criteria by being directly affected by the facts that constitute the interference with he and his son's Article 8 family rights.[2] Additionally to his and his son's right to mutual enjoyment of each other's company, he claims victim status because of Cornwall Council's lack of impartiality in its enquiry. Furthermore, he has retained victim status for the purposes of Article 34 of the Convention, as the national authorities

1 *Sanles Sanles v. Spain* (Dec 48335/99, ECHR 2000-XI; *Gorraiz Lizarraga and Others v. Spain*, No. 62543/00, § 35, ECHR 2004-III; *Tourkiki Enosi Xanthis and Others v. Greece*, no. 26698/05, § 38, 27 March 2008.

2 *Norris v. Ireland*, 26 October 1988, § 31, Series A no. 142; *Open Door and Dublin Well Woman v. Ireland*, 29 October 1992, § 43, Series A no. 246-A; *Otto-Preminger-Institut v. Austria*, 20 September 1994, §§ 39-41, Series A no. 295-A; *Tanrıkulu and Others v. Turkey* (Dec.), No. 40150/98, 6 November 2001. *SARL of the Blotzheim Activity Park v. France*, No. 72377/01, § 20, July 11, 2006.

have at no point acknowledged wrongdoing, either expressly or in substance, and then afforded redress for breaching his Convention rights.[3]

III. Article 8: Unlawful Violation of Right to Family

26. With regard to this Court's jurisprudence, it has been very clear that any removal of a child from one or more of his natural parents is a *de facto* interference with the mutual enjoyment of parents with their children guaranteed by Article 8 of the Convention.[4] This right constitutes a fundamental element of family life.[5] In other words, the state ought not to impede a Principle 6 upbringing for children "wherever possible". It is an interference of a very serious order to separate a family.[6] Such a separation must be supported by sound and weighty considerations in the best interests of the child; as the Court had previously noted that it is not enough that a child would be better off if placed under a care order.[7] The Court requires extreme diligence in resolving custodial takings because of the danger of irreversible harm to the family and the child.[8]

27. In the present case, the state itself has not removed a child from both of his parents, or the only parent looking after the child. However, the state had been asked to help to restore and to uphold a Principle 6 family life for a child in peril of losing that family life, in circumstances that are far from unusual nowadays. Circumstances, that is, in which one parent (more often the mother, but sometimes the father), is seeking, often harmfully, to impose upon the child an upbringing by only one of his or her two parents, often inflicting behaviour calculated to alientate the child from the excluded parent.

28. Alas, more than occasionally, the state connives at this wrong-doing on the part of the parent who wants the child all to herself, for which the informal term parentectomy and the more offical term "parental alienation" have been coined. The criticism of the state has been legion, especially in English-speaking societies like the UK, for the state's historic connivance at parental alienation, regardless of ample scholarly

---

3 *Scordino v. Italy (no. 1)* [GC], application no. 36813/97, judgment of 29 March 2006, § 180; *Gäfgen v. Germany* [GC], application no. 22978/05, judgment of 01 June 2010, § 115; *Nada v. Switzerland* [GC], application no. 10593/08, judgment of 12 September 2012, § 128.

4 *Olsson v. Sweden (No. 2)*(1992) 17 EHRR 134, [1992} ECHR 13441/87 ECtHR.

5 ECHR, *Elsholz v. Germany*, Decision of 13 July 2000, Report of Judgments and Decisions 2000-VIII, §43.

6 ECHR, *Olsson v. Sweden*, 11 Eur. H.R. Rep. 259, p. 72.

7*Id.*

8 ECHR, *H. v. the United Kingdom*, Judgment of 8 July 1987, Series A No. 120, pp. 59-63, § 85.

research that has demonstrated that parental alienation is seldom in children's best interests.

29. Too often, it is said, the state intervenes to *support* the alienating parent in her (or his) efforts to exclude the other parent from the family. Occasionally parentectomy may be necessary, when a parent is exceptionally dangerous, but the state's support of parentectomy is always every bit as much an intervention in which the state effectively *takes a child away from a parent*, as the more obvious example of this, when the the state takes public law "care" proceedings to take a child away from the only surviving parent or both parents and to raise the child itself, temporarily or permanently, or to offer the child for adoption without the consent of surviving natural parent or parents.

30. In the present case, there was evidence that the state had to some extent put pressure on the alienating parent to continue and to intensify the aliention, even if she became less minded to continue it as her mental health began to recover, and her paranoid delusional ideation about the Applicant subsided. Be that as it may, for the state to support parentectomy is a draconian intervention that should not be taken any more lightly than taking a child into care. It is an intervention that should be undertaken only after the most careful, and scrupulously fair and impartial, investigation, as a last resort, when all else fails.

31. Although other factors than the suspicion of corporal punishment were predominant in the state's decisions, it is as well to note that smacking *per se*, without regard to an analysis of the severity, the circumstances, age, health and vulnerability of the victim, is <u>not</u> a violation of either Article 3 or Article 8.[9] In fact, only 23 States globally have banned corporal punishment of children entirely, including in the family.[10] That means more than 88 percent of counties globally allow for some form of corporal punishment within the family. If corporal punishment is not a violation, then it is not necessary to remove a child from a parent who uses corporal punishment "for the protection of the rights of others" (i.e. the child's rights) under Article 8.2. The principle of "reasonable chastisement" is not incompatible with either Article 3 or 8 of the Convention.[11] Importantly, Mr. Allman has 4 grown-up children, born between 1976 and 1986, none of whom have ever suggested that they were subjected to

9 ECHR, *Costello-Roberts v. the United Kingdom* judgment of 25 March 1993, Series A no. 247-C, p. 59, § 30.
10 See: Council of Europe, Commissioner for Human Rights, *Children and Corporal Punishment*, CommDH/Issue Paper (2006) 1REV, updated January 2008.

physical abuse. Given the well documented mental instability of "M", and her history of delusional behaviour, balanced against the lack of any previous allegations of abuse against Mr. Allman by his 4 older children, a weighty rebuttable presumption of innocence should have been afforded the Applicant in relation to smacking allegations. More important than this, the accusation should have been put to him, and his denial listened to, and his grown-up children listened to, before the state jumped to the conclusion that accusation was true. *Audi alteram partem.*

32. In any event, the state conceded on 23rd May 2013, that day on which Mr Allman decided he could and should sue Cornwall Council, that the accusation of smacking, which Mr Allman has always denied, did not present an "insurmountable obtacle" to the restoration of direct contact between Mr Allman and son. Rather, the social worker considered something *else* to be an obstacle that apparently *was* insurmountable: namely, "concerns" the social worker said she had about Mr Allman's "parenting style", because of his "beliefs". (Or "views".)

33. In his referral, and in subsequent emails and telephone calls, Mr Allman had begged the council to *observe* his parenting style, something which the council had *refused* to do. When he pointed this out, at the meeting of 23rd May 2013, he was led to conclude that there were concerns about the parenting style he had been *assumed* to have, "because of your beliefs". When immediately he asked, "What beliefs", the social worker had replied that Mr Allman published a blog, and had proceeded to question Mr Allman about what he had published on that blog.

34. For example, the social worker asked Mr Allman how he would react, if, at the age of 14, his son, who was then 2, told him that he was gay, and that he had a boyfriend, and Mr Allman was violently opposed to this. He relied, "He's only 2."

35. The social worker also asked Mr Allman how he would feel, if one of his grown-up daughters told him she had had an abortion. He replied that he would feel "devastated", because the child killed in that abortion would have been his grandson or granddaughter, and his daughter would have been complicit in the homicide concerned.

36. Interference with the right to family, and in particular the separation of children from their parents, can only be justified when three criteria are met concurrently: (a) that

11 *Cf.* ECHR, *Case of Neulinger and Shuruk v. Switzerland* [Grand Chamber], Judgment of 06 July 2010, application no. 41615/07, § 41.

the interference was "in accordance with the law"; (b) that it pursued a legitimate aim and (c) that the action taken was necessary in a democratic society.

(a) In accordance with the law

37. There are qualifications of several of the Convention rights, namely the rights of Article 5, 9, 10 and 11, which permit interferences with the exercise of those rights that are "prescribed by law". The social work undertaken, even though it is now complained of as unfair (contrary to Natural Justice), antagonistic towards the fostering of good relations between men and women (contrary to The Equality Act s149) and discriminatory on the grounds of belief (contrary to Article 14), was possibly prescribed by law, namely the Children Act. For example, it soon became social work expressly pursuant to section 47 of the Children Act, and a Section 47 Report was prepared. But the Children Act does not prescribe the *manner* in which the social work must be done. The manner of social work is governed by *different* laws, including both laws that are older and those more recent than the Children Act, but which are just as binding. In particular, the manner in which social work must be conducted, in order to be "in accordance with the law", is governed by the Equality Act 2010, the Principles of Natural Justice of English Common Law, and the Human Rights Act 1998, which last-mentioned gives effect in English law to Article 14 of the Convention, the article prohibiting certain discrimination.

38. Uniquely amongst the Articles of the Convention, the qualified right of Article 8 is qualified using different wording from Articles 5, 9, 10 and 11. Instead of any interference merely needing to be "prescribed by law", the wording used in Article 8.2 refers to any interference needing to be "in accordance with the law", a much more stringent requirement. The fact that some interference or other with the Article 8 right may have been prescribed by the Children Act, was not sufficient to bring the *particular* interference wrought in Mr Allman's family life, within the scope of the qualification of Article 8.2. For the particular interference actually wrought in this case to have been *in accordance with the law* (as only an Article 8 interference must be), it would have been necessary for the interference to comply with the *whole* of the law, which it clearly didn't.

39. An Article 8 interference is quasi-judicial in character, if (as in the present case) it makes and communicates a finding of fact tantamount to a criminal offence (unsafe

smacking), albeit only on the balance of probabilities, not beyond reasonable doubt, and with the tribunal of fact a social worker, not a court. Social work is also quasi-judicial if it makes life-changing, adverse findings of fact that a parent has a parenting style that is a source of safeguarding concerns so severe that the parent should be excluded altogether from his son or daughter's upbringing.

40. To comply with the with the whole of the law of England, the Article 8 interference (the quasi-judicial social work) should therefore have been conducted with procedural propriety, in accordance with the two Principles of Naural Justice. This social work failed to comply with that aspect of English Common Law. **That is a fact which the English High Court found.** A breach of Mr Allman's convention rights should have been inferred immediately from this finding, that there had been unfairness in the social work. The High Court's judgment fails to explain its failure to make that inference comprehensibly.

41. Further, to be in accordance with law, an Article 8 interference that is the function of a public authority, must comply with the Public Sector Equality Duty, set out in s149 of the Equality Act. That means that the manner of the social work must be such that due regard is had to the need to foster good relations between men and women. The High Court seems to have overlooked completely, in the judgment handed down by Dingemans J, that this was pleaded, argued in Mr Allman's skeleton argument at trial, and addressed in the evidence of the social worker under cross-eaxamination, when she was asked what regard she had had to the need to foster good relations between Mr Allman and the mother of his son, and she had replied to the effect that she had had no such regard, because her function was only governed by the Children Act, (i.e. not at all by the Equality Act), which is plainly a self-misdirection on the social worker's part, and on the part of the judge too, who appears to have missed completely the significance of this exchange in reaching his judgment.

42. This said, because rights other than the Article 8 right are engaged, to which the “prescribed by law” test applies, in the alternative, it is argued that perhaps the social work that was undertaken, wasn't even *prescribed by law* (let alone in accordance with law, the more stringent requirement only applicable in the case of the Article 8. infringement). The ECHR utilises a high level of scrutiny when analyzing interference with fundamental rights such as the protection of family life.[12] In order to be

12 *Cf. Müller v. Switzerland,* 133 Eur. Ct. H.R. (ser. A) at 19 (1988).

prescribed by law, the law in question must be accessible and foreseeable in its effects.[13] It thus cannot suffer from vagueness. The "quality" of the law must clearly and precisely define the conditions and forms of any limitations on basic Convention safeguards and must be free from any arbitrary application.[14]

43. In *Metropolitan Church of Bessarabia v. Moldova*, this Court held that domestic law, to meet the clarity requirement, must afford a measure of legal protection against arbitrary interferences by public authorities with the rights guaranteed by the Convention:

> **In matters affecting fundamental rights it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for a legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion and the manner of its exercise.**[15]

44. Precisely stated, for the general public regulations regarding custodial takings must be accessible and foreseeable in their effects. It is the Applicant's position that the same accessibility and foreseeability of regulation is just as necessary when, rather than taking custody of a child itself, the state supports the efforts of one parent to exclude the other. Mr Allman could not possibly have realised, when he publihed his beliefs about abortion and homosexuality on a political blog, that losing contact with his son, with the support of the state, would have become a consequence of his outspokenness. One of the roles of the judges of this Court, therefore, is to assess the "quality" of a law, ensuring that the law has the requisite precision in defining the conditions and forms of any limitations on basic safeguards.[16] That "quality" is clearly lacking in the instant matter.

45. The appearance of independence for a tribunal as required by Article 6 § 1 is of importance.[17] What is at stake is the confidence which the courts in a democratic society must inspire in the public, and above all those accused of wrongdoing.[18] The

---

13 *Sunday Times*, 30 Eur. Ct. H.R. (ser. A) at 31.

14 *Olsson v. Sweden*, 130 Eur. Ct. H.R. (ser. A) at 30 (1988); see also *S.W. v. United Kingdom*, 335 Eur. Ct. H.R. 28, 42 (1995) (discussing how the development of criminal law by the courts should be reasonably foreseeable).

15*Metropolitan Church of Bessarabia v. Moldova*, 2001-XII Eur. Ct. H.R. 81, 111.

16*Sunday Times*, 30 Eur. Ct. H.R. (ser. A) at 31.

17*See* Section VI below, §§53-62, for a detailed treatment of the Applicants' Article 6 arguments.

18 ECHR, *Şahiner v. Turkey*, application no. 29279/95, judgment of 25 September 2001, § 44.

Applicant's doubts about the independence and fairness of the system he has found himself in is objectively justified.[19] This "objective observer" standard is one of the judicial litmus tests by which the Cornwall Council fails.

46. It is clear that Cornwall Council acted against Convention principles in exercising an unfettered discretion in seeking to prevent access for Mr. Allman to his son, notwithstanding that the mechanism employed to remove access was not the taking of care proceedings in this case, because the co-operation of the mother in the council's agenda, or the council's adoption of the mother's agenda, whichever way one looks at it. Given that the two main grounds used by the Council, those being smacking allegations (which the Applicant vehemently denies, and which the council has always conceeded were not an insurmountable obstactle), and his political and moral views (views to which he has a right to express under Articles 9 and 10 of the Convention), there was an absolute lack of foreseeability in the outcome that the council was diligent to procure, and which the council had told the mother it would have sought to procure using a care order unless she co-operated, as the social worker admitted on 23rd May 2013. No reasonable person would have been able to guard their actions against such a capricious intervention on the part of the state. Mr Allman was entitled to expect a wholly different response from the council, when, on 3rd April, he asked for the council's help in restoring to his son the Principle 6 normality that the child had enjoyed from birth on 27th May 2010, up to and including 2nd April 2013, the last day on which Mr Allman was allowed to have care of his son.

(b) Legitimate Aim

47. The second prong of the analysis for interference is whether the interference in question pursues a legitimate aim. Restrictions on rights guaranteed by the European Convention on Human Rights must be narrowly tailored and must be adopted in the interests of public and social life, as well as the rights of other people within society.[20] The Court must look at the "interference" complained of in the light of the case as a whole and determine whether the reasons adduced by the national authorities to justify it are "relevant and sufficient."[21] The Applicant here only notes that any legitimate aim sought in the instant matter was irreparably tarnished through

---

19 ECHR, *Incal v. Turkey*, application no. 22679/93, judgment of 09 June 1998, § 71.
20 *See e.g.: Thoma v. Luxemborg*, 2001-III Eur. Ct. H.R. 67, 84.
21*Id,* §85. (*citing Fressoz & Roire v. France*, 1999-I Eur. Ct. H.R. 1, 19–20).

systematic breaches of procedure and prejudices relating to the him, his Christian faith and his published opinions on morally sensitive matters.[22]

48. Where a legitimate aim is being used to justify discriminatory treatment and bias, the Court is bound to look beyond the intimated aim to the actual intent of the public decision maker. The Cornwall Council does not like Mr. Allman. They find his published blogs loathsome and have made no qualms that his opinions played a role in their decision. Furthermore, the Council was embroiled at around the same period in a protracted legal battle with Mr. Allman, a battle which the Council ultimately lost. This court battle was premised on the Council refusing to provide unredacted versions of records it had been keeping about the Applicant and "M", records which already indicated its distaste for the Applicant. Any ability of the Council to provide Mr. Allman a fair, independent, and unbiased enquiry into his parenting had been irreparably tarnished by this point.

(c) Necessary in a Democratic Society

49. The ECHR has stated that the typical features of a democratic society are pluralism, tolerance, and broadmindedness.[23] For such an interference to be necessary in a democratic society, it must meet a "pressing social need" while at the same time remaining "proportionate to the legitimate aim pursued."[24] The ECHR defines proportionality as being the achievement of a fair balance between various conflicting interests. The notion 'necessary' does not have the flexibility of such expressions as 'useful' or 'desirable.'"[25]

50. In the case of *Kutzner v. Germany*, the Court reiterated that: "in order to determine whether the impugned measures were "necessary in a democratic society", it has to consider whether, in the light of the case as a whole, the reasons adduced to justify them were relevant and sufficient for the purposes of paragraph 2 of Article 8 (see, among other authorities, *Olsson (no. 1)*, cited above, p. 32, § 68; *Johansen*, cited

22 Section IV below, §§29-48.

23 *Handyside v. United Kingdom*, 24 Eur. Ct. H.R. (ser. A) at 23 (1976); accord *Dichand*, App. No. 29271/95 § 37; *Marônek*, 2001-III Eur. Ct. H.R. at 349; *Thoma*, 2001-III Eur. Ct. H.R. at 84; *Jerusalem v. Austria*, 2001-II Eur. Ct. H.R. 69, 81; *Arslan v. Turkey*, App. No. 23462/94 § 44(i) (Eur. Ct. H.R. July 8, 1999); *De Haes v. Belgium*, 1997-I Eur. Ct. H.R. 198, 236; *Goodwin v. United Kingdom*, 1996-II Eur. Ct. H.R. 483, 500; *Jersild v. Denmark*, 298 Eur. Ct. H.R. (ser. A) at 23 (1994); *Thorgeir Thorgeirson v. Iceland*, 239 Eur. Ct. H.R. (ser. A) at 27 (1992); *Oberschlick v. Austria*, 204 Eur. Ct. H.R. (ser. A) at 25 (1991); *Lingens*, 103 Eur.Ct. H.R. at 26; *Sunday Times v. United Kingdom*, 30 Eur. Ct. H.R. (ser. A) at 40 (1979).

24*Sunday Times*, 30 Eur. Ct. H.R. (ser. A) at 38.

25 *Svyato-Mykhaylivska Parafiya v. Ukraine*, App. No. 77703/01 ¶ 116 (Eur. Ct. H.R. June 14, 2007), http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81067.

above, pp. 1003-04, § 64; *Olsson (no. 2)*, cited above, p. 34, § 87; *Bronda*, cited above, p. 1491, § 59; *Gnahoré*, cited above, § 54; and *K and T. v. Finland*, cited above, § 154). It will also have regard to the obligation which the State has in principle to enable the ties between parents and their children to be preserved."[26]

51. The margin of appreciation to be accorded to the competent national authorities will vary in the light of the nature of the issues and the seriousness of the interests at stake, such as the importance of protecting the child in a situation in which its health or development may be seriously at risk and the objective of reuniting the family as soon as circumstances permit.[27]Cornwall Council has failed in both duties, grossly overstating any risk to which the Applicant posed to his son, as well as frustrating the reunification process to which is was legally and morally bound to pursue as a matter of urgency.

52. In *Wallova and Walla v. the Czech Republic*[28], the Court found that while there were relevant reasons to take the children into care (in that case it was as a result of the family's living conditions and the hygiene of the children), the reasons for separating the family were not sufficient.[29] Although the council did not deprive Mr Allman of contact with his son using care proceedings, the effect it wrought by siding exclusively with the mother was just as draconian, so the same principles should be applied in the present case. The key principle established in *Wallova and Walla*, and applicable in the instant Application, is that relevance alone cannot sustain a care order (or the present equivalent) from the Respondent Council. While gathering *de minimus* evidence, not supported in fact, the Respondent did not have sufficient grounds to order the separation of Mr. Allman from his son. Equally important, the authorities had the possibility to monitor the family situation rather than immediately deprive the Applicant of contact with his son, a far more proportionate and less drastic measure than those which were taken, to guarantee the well-being of his son.

53. During the painfully long period from 3rd April 2013 to 18rd May 2013, the council applied a blanket policy, of seeking to prevent any and all contact between the father

---

26 *Kutzner v. Germany*, App. No. 46544/99, judgment of 26 February 2002, § 65.

27*Id.*, § 67.

28 No. 23848/04, 26 October 2006.

29 *Id.*, § 78. "Eu égard à l'ensemble de ces éléments, la Cour considère que si les raisons invoquées par les autorités et juridictions nationales étaient pertinentes, elles n'étaient pas suffisantes pour justifier cette grave ingérence dans la vie familiale des requérants qu'était le placement de leurs enfants dans des établissements publics."

and the son. The council pleaded and/or argued that it was compelled to do this, because this was the blanket policy, not of itself, but of the police. Six long weeks is how long it took the police to decide that there was insufficient evidence to charge Mr Allman with any offence. In the High Court, the council argued that it *had* to do what the police *told* it to do. That is why no effort was made to debrief Mr Allman about his safeguarding concerns, over which he had referred his son. That is why it had not been possible to observe Mr Allman with his son, to observe his *parenting style*, before concluding that his parenting style (because of his "beliefs") presented an "insurmountable obstacle" to his having any future role in the upbringing of his own son, or any direct contact with him before his sixteenth birthday. The High Court seems to have accepted all this at face value. Mr Allman had not made the police a co-defendant of his claim against the council under the Human Rights Act, so he couldn't cross-examine the police on whether this police blanket policy, which was an interference in his Article 8 right, was the *least necessary interference* in order not to prejudice a police investigation that was painfully slow, notwithstanding that it was a foregone conclusion from the outset that the investigation would end in a decision that Mr Allman should not face criminal charges over the alleged smacking of his son. However, the UK is vicariously liable, and answerable to the EctHR, for the entire process in which the police and the council worked together. The EctHR should now ask the UK, for the first time, to defend its blanket policy, of abruptly stopping all contact of a child with a parent whom the other parent has accused of smacking the child, whenever this situation arises, as the proportionate response to the legitimate aim of the criminal investigation of the alleged smacking of children.

IV. Article 8 + 9 Taken Together With Article 14: Freedom from Discrimination

54. Article 14 of the Convention reads: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

(a) Animus Based on Religion

55. The instant complaint meets the ambit requirement by being intimately tied to both the Applicant's Article 8 rights and Article 9 rights. Prejudice towards Mr. Allman's Christian faith and opinions as published on his blog, which the Cornwall Council has

cited as grounds for questioning his fitness to parent, has been evident throughout the entire process and unlawfully influenced the attitude of the Council.

56. This Court has also stressed that Article 14 is an "autonomous" provision and can be violated even where the substantive article relied upon to invoke Article 14 has not been violated.[30]

57. Article 9 protects the *forum externum*, on the basis that "bearing witness in words and deeds is bound up with the existence of religious convictions."[31]. The restrictions imposed on freedom to manifest all of the rights inherent in freedom of religion call for very strict scrutiny by the European Court of Human Rights[32] The list of restrictions of freedom of religion, as contained in Articles 9 of the Convention, is exhaustive and they are to be construed narrowly, within a limited margin of appreciation allowed for the State and only convincing and compelling reasons can justify restrictions on that freedom.[33]

58. Central to all of this is the principle that the State has a duty to remain neutral and impartial towards the religious beliefs of individuals and faith communities, since what is at stake is the preservation of pluralism and the proper functioning of democracy, even when those views may be irksome to State authorities.[34]

59. The Court has therefore protected the right of religious beliefs, even those seen by some as unorthodox, in its parental rights jurisprudence. With regard to Mr. Allman and this Application, the Court should again re-affirm this foundational jurisprudence.

60. In *Hoffman v. Austria*,[35] the husband of the Applicant converted from Roman Catholicism to become a Jehovah's witness. Shortly thereafter the Applicant filed for divorce and sought full custody of the children on the basis that their two young children would be subjected by her husband to educational principles of his religion which would make them hostile to society and otherwise isolate them. The Court rejected this argument on the basis that Article 8 must be read in conjunction with Article 14's prohibition against discrimination, which includes religion as a protected

30*Belgian Linguistic case* (1968) 1 EHRR 252, 283.
31*Kokkinakis v. Greece*, (14307/88) [1993] ECHR 20 (25 May 1993), § 31.
32 ECHR, *Manoussakis and Others v. Greece*, Reports 1996-IV: AFDI, 1996, p. 749, § 44.
33 ECHR, Wingrove v. the United Kingdom, judgment of 25 November 1996, Reports of Judgments and Decisions 1996-V, p. 1956, § 53.
34 ECHR, 30 January 1998, United Communist Party of Turkey and Others v. Turkey, Reports 1998-I, p. 25, § 57.
35 ECHR, *Hoffman v. Austria,* Judgment of 23 June 1993, application no. 12875/87.

class. The Court assessed that Mr. Hoffman's parenting abilities could not be judged differently from those of his ex-wife solely on the basis of his religious affiliation or the beliefs held therein.[36]

61. Similarly, in *Palau-Martinez v. France*[37], the ECHR held in favour of a mother who was Jehovah's Witness, overruling the Spanish courts which had ruled that full custody should go to the father, even though he was held 100 percent responsible by the same court for the dissolution of the marriage. The Court in *Palau-Martinez* ruled that while it is a legitimate aim to pursue the protection of children's best interests, that there must be a reasonable and objective justification to limit parental rights. Religious belief was held not to fulfill that reasonable and objective criteria, but was instead evidence of discrimination against the mother's religious affiliation.

62. Finally, in *Vojnity v. Hungary*[38], the Hungarian courts removed a father's access to his children, giving full custody to his wife, on the basis that he belonged to the Congregation of the Faith denomination. Because of his strong affiliation with the Congregation of the Faith, the domestic courts found him unfit to have custody on the basis that he would aggressively proselytize his children with views which were irrational and dangerous.

63. The European Court overruled the domestic courts holding that the removal of access rights to his children had essentially been based on Mr Vojnity's religious beliefs, which constituted a difference of treatment with other parents placed in a similar situation but who did not have any strong religious conviction. In accordance with the Court's jurisprudence, such a difference of treatment had to have an objective and reasonable justification, otherwise it was discriminatory. In the *Vojnity* case removal of access rights based solely on the Applicants' religious beliefs for the protection of the best interests of his two children was disproportionate to both the Applicants' parental rights and his right to hold religious convictions of his choice.

64. The wealth of precedent this Court has generated on the matter of religious faith and child rearing is clearly pertinent in the instant matter and sufficient to give rise to a violation of the Applicant's Convention rights. Mr. Allman's views stem from his, and his church's understanding of the Bible. Pursuant to Section 13 of the Human

---

36 *Id.,* §30*ff.*

37ECHR, *Palau-Martinez v. France*, Judgment of 16 December 2003, application no. 64927/01.

38 ECHR, *Vojnity v. Hungary*, Judgment of 12 February 2002, application no. 29617/07.

Rights Act[39], because the Council's decision would affect not only Mr. Allman, but others within his congregation who hold the same beliefs and their ability to peacefully raise their children, that a heightened level of scrutiny was required to secure Mr. Allman's Article 9 rights. The Council, pursuant to its public sector equality duty[40], also owed a further duty to promote tolerance and respect towards the protected characterise of religion or belief held by Mr. Allman, no matter how distasteful they found his Christian beliefs to be. This same duty, to foster good relations between different people, also extends to relations between the different sexes (perhaps even more so with regard the mother and father of the same child). The Council wilfully disregarded this duty as it has conducted its social work in the instant case.

VI. Article 6: Right to a Fair Trial

65. An alternative way of arguing Mr Allman's points concerning Natural Justice, is to argue the same points within the framework of Article 6, impartiality and independence.

66. After issuing his claim, A v Cornwall, Mr Allman defeated two strike-out applications of his claim that were based upon the contention that the facts pleaded did not disclose a breach. In the High Court, he proved, essentially, all the facts which he had pleaded were all the facts he needed to prove, in order prove a breach of his Convention rights. It may readily be seen from the pleadings in A v Cornwall, the judgment of the High Court, the appeal bundle that Mr Allman submitted to the Court of Appeal, and the response of the Lord Justice denying Mr Allman permission to appeal, that Mr Allman has never been given a comprehensible explanation as to why, having proved the main facts he pleaded, in a claim that wasn't struck out because those facts disclosed no breaches, he could have failed to have proved a breach of his Convention rights.

---

39 13(1): "If a court's determination of any question arising under this Act might affect the exercise by a religious organisation (itself or its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right."

40 Equality Act 2010, ss. 149*ff.*

VII. Conclusion

67. The Applicant calls upon this Court to find the High Contracting Party of the United Kingdom, the Cornwall Council, and all other state actors involved in the separation of Mr. Allman from his son to be in violation of Article 8 of the Convention, Article 8+9 when taken in conjunction with Article 14 of the Convention, and Article 6 of the Convention. The Council has, contrary to Mr. Allman's parental rights and against his son's best interests, unjustly separated the two, not based upon the highly dubious allegations of smacking (which it admitted were not an "insurmountable obstacle"), but rather based to a great extent upon animus towards his moral and political views, about which Mr Allman was interrogated inappropriately, missing the opportunity to debrief him on his safeguarding concerns that had prompted his referral of his son. The Council lacked independence, taking on this social work in the first place, instead of outsourcing it when the referral was passed to it by MIRAS, because it was the defendant in litigation in which it eventually paid monetary damages to the Applicant for breaching his rights under the Data Protection Act 1998. The council ignored the need to observe Natural Justice, and breached its Public Sector Equality Duty, a duty in effect, where possible, to sow harmony where it found discord. The council treated the applicant less favourably because of his strong Christian beliefs (even if this was, as it has been said, only because of the strength of his beliefs rather than the content). The council sought to gain advantage in the Data Protection Act proceedings brought jointly by the father and the mother before they became estranged. Finally, the mother was threatened, in effect, with care proceedings, if she did not continue to prevent contact between father and son.

In the European Court of Human Rights

Between

Mr John William Allman

Applicant

and

The United Kingdom of Great Britain and Northern Ireland

High Contracting Party

Facts of and behind A v Cornwall

written by the applicant John Allman, on 8/3/18

---

1. My name is John William Allman. My date of birth was 7th May 1953. I worked for the majority of my career in software development. I am now retired.

2. I was widowed on 26th May 2006. I have four grown-up children born, from 1976 to 1986, and eight grandchildren. My fifth child (S), my second son, was born on 27th May 2010, out of wedlock, to a woman (M) born in 1966, whom I had met in 2009, and whom I then expected to marry soon after the birth. I was present at the birth of S.

3. I had first met M in the summer of 2009. She contacted me via email, asking me to accompany her on a visit to her GP, as moral support. She was seeking a letter from her GP, stating that she was not mentally ill. She wanted this because she had discovered, by making a subject access request under the Data Protection Act, that the computerised police logs had many references to her "mental illness". These entries were made on the many occasions on which she had contacted the police since about 2006, complaining that she was being stalked by multiple stalkers unknown to her, reports which the police considered implausible and attributed to M's paranoia.

4. M had a history of making suicidal gestures before I met her, which she blamed upon the stress inflicted on her by those persons unknown whom she believed were “stalking” her.

5. M made romantic advances to me soon after we met. She also professed to be interested in converting to Christianity, my own religion, and regret that she had no children. I emailed her setting out my standards, and in particular the importance to any child of any marriage being raised where possible by both of his or her natural parents.

6. M became pregnant with S very quickly. M and I were never legally married. This should not have happened, but I was pleased to be a father of a baby again regardless, and fully intended to marry M as soon as possible.

7. M and S were discharged to home from maternity hospital, and I lived at M’s home with her more-or-less continually for the first ten months or so after that.

8. During the pregnancy, there were two safeguarding referrals of S to social services, by a police officer and by M’s community midwife, who were both concerned that M’s mental health condition posed a risk to S. I had not realised that this risk was as great as I now realise it to have been.

9. On the day following S’s birth, a consultant psychiatrist made a further safeguarding referral of S to social services, because of her conclusion that M was suffering from a delusional disorder that caused her to imagine that she was being stalked. Her express worry was that patients such as M became dangerous to their children when their children became incorporated into their delusional belief systems. I have copies of this correspondence, and of an NHS clinical alert specifically about this special risk that delusional parents pose to their children when the children become incorporated in the parents' delusional belief systems.

10. At the same time, and independently, M's community midwife made a further safe guarding referral of S, for the same reason.

11. Cornwall Social Services investigated the various referrals. I assured them that if I ever began to believe that M's mental health condition posed a serious risk to S from which I would not be able to protect him, I would refer him to social services myself. In the event, that is what I did do, in 2013, when that situation first arose, but with an entirely unexpected outcome that has dismayed not just me, but both sides of S's extended family and those of my faith community aware of the facts of the matter.

12. There was a further referral of S, in the autumn of 2010, by a police officer who investigated further spurious stalking allegations on the part of M. This occurred at a time when I was an in-patient in hospital, following a heart attack on 31st August 2010.

13. In March 2011, I rented a flat in Okehampton. M had by then started to incorporate me in her delusions more than at first, beginning to believe more often and for longer that I was one of her many stalkers and harassers myself. However, I only stayed there when M sent me away, because of temporary delusional beliefs that I was doing her some dort of harm clandestinely, typically by what she called "gas lighting".

14. M and I continued to raise S together, apart from these occasional and temporary absences when M believed (delusionally) that I had "gas lighted" her. Typically, she would come to her senses in a day or two, and accept me back, until the next psychotic episode.

15. In 2010, because of M's characteristic sense of being conspired against, M and I made a subject access request of Cornwall Council for the social work records of S. When these arrived, they were so heavily redacted that we complained to the

Information Commissioner's Office. That complaint was upheld, but Cornwall Council still refused to release the redacted information.

16. In 2011, as joint claimants, M and I sued the council for an injunction compelling release of the social work records that had been redacted. Cornwall defended.

17. That claim dragged on until 2013, when, in separate *family* proceedings, release of the social work records unredacted was ordered, ensuring that any victory in the proceedings under the Data Protection Act would be Pyrrhic. This led, eventually, to a settlement of those proceedings with a consent order, and very modest damages for myself for the breach of my subject access rights. By then, the defendant had persuaded M to discontinue the proceedings, leaving me as sole claimant, because I had promised not to discontinue without M. The negotiations – evidenced at trial of A v Cornwall by emails between M and the council over the DPA proceedings - which led to M withdrawing in exchange for no costs, whilst I continued as claimant alone and potentially liable for costs, had been clandestine.

18. In late 2011, on the advice of the health visitor appointed to safeguard S because of M's perceived mental health problems, S and I decided to have a second child. However, when he or she had been conceived, M's paranoia kicked in. She began to believe that mental health professionals and the council would intervene to take S and the new child off her if she continued the pregnancy. To my horror, M therefore proposed to have an abortion. I took legal advice from the Christian Legal Centre, only to discover that I had no legal standing to intervene to save the life of my new son or daughter.

19. In late 2012 and early 2013, M began to become paranoid about me, believing that I was stalking her, along with all her unknown (and probably imaginary) stalkers. By then, I had given up my flat in Okehampton, and rented one in Launceston, to be nearer to S and M.

20. For the first time, I was spending more nights sleeping at my rented flat than at M's house as part of a cohabiting nuclear family. M obtained a solicitor and a formal contact arrangement was agreed in writing. Before the 18th March deadline, I made an application for Legal Aid to bring private family proceedings, because M was becoming so controlling, frequently not complying with the contact agreement that she herself had wanted formalised in writing.

21. By then I realised that I had been wrong to father S, but I still wanted S to have the benefit of married parents if possible. Since that look only remote prospect, I was willing instead merely to co-operate with M, to share the parenting of S.

22. At this stage, I was supposed to have S on Tuesdays, Wednesdays and Sundays, coinciding with child-friendly church activities to which I took S most days I had him, accounting for some of the time I had him on each of those days.

23. On Easter Sunday 31st March 2013, the children's worker at the church informed me that M had knocked on her door the previous Maundy Thursday evening, in an emotional state. She warned me to "watch my back", because she suspected that M would soon be making a false allegation against me of some sort of child abuse. Subsequently, I learnt that one of M's paranoid delusions was that I was having an affair with this children's worker. I arranged to have a meeting with the minister at my home the following Wednesday about this situation. Ordinarily, S would have been present.

24. On Tuesday 2nd April 2013, I took S to the seaside on the bus, instead of taking him to toddler group, then to my flat. I still have the bus ticket, because it ought to have functioned effectively as documentary proof of an alibi to an allegation made against me.

25. After I returned S to his mother at 15:45 on 3rd April, she telephoned me, complaining of a mark on S's face, which I now realise was his eczema rash, which she had photographed, but on one side of his face only, so as to make it

look like a red mark if printed with poor print quality. She put S onto the telephone, and I heard him say, several times, as though reciting a learnt script, "Daddy smack, in daddy's flat." (That was impossible. I had the bus ticket to prove it.)

26. On Wednesday 3rd April 2013, M did not bring S to the town square for the hand-over. The meeting with the minister went ahead at lunch time. M's solicitor and I spoke on the telephone in the afternoon, confirming that M had stopped all contact between S and me until further notice. I telephoned the health visitor, who advised me to make a referral of S to social services myself. I did so that afternoon, expressing concerns that S was being abused, by being coached to make a false allegation against me.

27. The facts upon which my claim in A v Cornwall really hang begin at this point. I referred S to social services on 3rd April 2013, expressing serious safeguarding concerns, and asking social services to contact me, to discuss what could be done to make S safe.

28. The detailed written evidence in the trial bundle proves that there ensued a completely one-sided investigation on the part of social services, which the judge agreed had been unfair.

29. By the meeting of 23rd May 2013, my first contact with the social worker, social services had already decided that the smacking allegation was true. Every effort should be made to ensure that S never saw me again, but not because the finding of fact, before the meeting, that I had smacked my son presented an "insurmountable obstacle", but rather because of concerns about my parenting style, based upon my "beliefs", inferred by reading my blog.

30. At the meeting of 23rd May 2013, the social worker communicated this situation, in those words, attributing her decision to concerns she had about my "parenting style", which she considered must be unacceptable because of my "beliefs". She

questioned me about blog posts of mine against abortion and against homosexual behaviour, including same sex marriage.

31. The impression given at this meeting was that I was in a hopeless situation, in trying to re-establish contact with my son, because the public sector would do all it could to prevent this, because of antagonmism towards my beliefs. When my claim was tried, that was what the judge found to be the case, except that he found that it had been the strength of my beliefs that was the problem, not the content of my beliefs, and that if I had been more willing to "co-operate" during the inquisition into my beliefs, the social worker might have relented.

32. During the agonising period between 3rd April and 23rd May 2013, I had started private family proceedings, but the first directions appointment wasn't until 29th May 2013, six days *after* the meeting. At this time, Cornwall was still the defendant in a claim under section 7 of the Data Protection Act brought jointly by myself and M, for subject access to the social work records. I had therefore hoped that the court would order CAFCASS to prepare the Welfare Report, when I explained that Cornwall Council had a conflict of interests. However, I did not get a proper opportunity to speak to the judge, who therefore ordered Cornwall Council to produce the welfare report, because the council was already involved with the family, because (more fool me) I had made the final safeguarding referral of my son on 3rd April.

33. The social work undertaken between 3rd April and 23rd May breached my human rights, as argued in the skeleton argument I prepared for the three day trial. (This is an important document. It is included as the first item in the Appellant's Supplementary Bundle, amongst the documents annexed to this application to the EctHR.

34. The facts that I pleaded when I sued the council under the Human Rights Act, in A v Cornwall, including that the social work was unfair, and that I was interrogated about my beliefs against abortion and homosexuality, and that no regard was had for the Public Sector Equality Duty were, by-and-large, facts that

were found by the trial judge. Most of what I claimed actually happened, in my various witnessed statements, the judge agrees did happen, subject to certain obvious and quite minor errors on his part due to his apparently not having read all the writttten evidence. That conclusion is more-or-less compelled by the written evidence of the social work records in the bundle which was provided by the defendant. The judgment, however, does not explain why those facts do not compel the finding of breach in my convention rights that I expected would follow automatically, if I proved those facts.

35. At the meeting of 23rd May 2013, that day on which I realised that I had the human rights claim that became A v Cornwall, the following blog posts that related to either abortion or homosexuality had been published:
Stop giving tax-payers' money to the Terrence Higgins Trust
Burning the poppy
The mild misgiving that dare not speak
B*ggers CAN be choosers!
Lost Brother
The mumbo-jumbo of choice
Thinking outside the botch
Giving evolution a helping hand
Catherine Schaible's right to choose
British judge okays "Don't ask, don't tell"

36. The defendant produced the Welfare Report for the family proceedings, rather than declaring that it could not lawfully do this because of its conflict of interest, as both defendant of both parents in Data Protection Act proceedings, and neutral expert witness. The defendant also exploited its position as the authority ordered to produce the Welfare Report, in order to gain advantage in the defended Data Protection Act proceedings.

37. The social worker's witness statement admits that she read my blog before the meeting of 23rd May 2013, and had decided on that basis that my "parenting style" was a cause for concern, because of my beliefs.

38. On 29th May 2013, using the pseudonym Gagged Dad, I posted about the meeting of 23rd May on my blog, at
Two year-old's contact stopped with "homophobic" dad

39. On 17th June 2013, I posted on my blog:
The homophobic manifesto

40. When the defendant produced the Welfare Report for the family proceedings, it annexed to it eleven pages of my blog, including
The homophobic manifesto
Two year-old's contact stopped with "homophobic" dad
Catherine Schaible's right to choose
British judge okays "Don't ask, don't tell"
This Welfare Report, redacted, was included in the trial bundle in A v Cornwall.

41. During the few weeks following the meeting on 23rd May 2013 at which I realised that a human rights claim had accrued to me, I made several written complaints to the defendant about its treatment of me, which I said was different because of my beliefs, as reflected in the contents of my blog. Despite having a statutory complaints procedure in place, the defendant did not address my complaints using that complaints procedure, but rather ignored my complaints, except for one, which (the defendant told me via email) it had forwarded to is legal department. The correct and advertised procedure would have been to forward all of my complaints to the defendant's Complaints Manager. This has *still* not happened.