

FREEDOM TO PROTEST CONFERENCE, 23/10/05

Defending Cases In Court (workshop 3)

Within a week of people being arrested or having received 'Particulars of Claim' from a company, hold a defendants meeting for defendants and supporters to discuss how to deal with the case. It is useful to have a sympathetic lawyer or someone with knowledge of the law to attend to answer people's questions on legal procedure, what needs to be done, likely outcomes, legal aid etc. But it is the defendants who should make the final decisions on how the case is run.

Meeting up in this way and knowing there is support increases the likelihood of people feeling able and willing to fight the case and reduces feelings of isolation and fear. Supporters can take on jobs such as tracking down potential witnesses, dealing with the media, organising protests and ensuring that there are supporters in court.

When deciding whether and how to fight the case, also consider how the case could be used to further your cause:

- If your aim is to expose injustice, oppression or exploitation, then media campaigns and reaching out to other groups can be a very useful way of turning the trial around to bring greater attention on the issues that you are fighting.
- There may be opportunities to expose the company you are up against as the chance to question them in the witness box, and rules on disclosing documents, may force them to come clean on issues and provide useful information.
- You may want to agree that you carried out an act that you are accused of, but argue that it was done with honest intent or justified to protect others or prevent a greater crime. This defence can work in certain circumstances, more likely when in front of a jury.
- Be realistic about the legal system, both the law and the courts are not always logical.

Decide whether you want to be represented by a solicitor or to represent yourself. There are advantages to both, for example solicitors have experience and may be more likely to be listened to, but you have the beliefs and may be able to put these across better in court. If there are a lot of defendants then tactically it is good to have some represented and some not.

1. Defending using a solicitor

- Always find a good solicitor who will understand your situation and needs
- Do not depend on solicitors to do all the work for the trial; it is your freedom at stake so you should chase them up, and put in work to ensure success.
- Ensure defendants / supporters meetings take place and people are working together, including lawyers.
- If you have a choice and are pleading not guilty, crown court is normally a better option than magistrates .
- There is a duty for deals to be discussed and they

can be a valid option, but don't feel pressured to accept them.

- Some cases can be used to challenge the laws themselves or to highlight issues through the media.
- Listen to your lawyer's advice, but don't let them drown out yours and other campaigners views
- You can change your lawyer if you wish.

2. Defending yourself in person

- Preparation is key
- Define your objectives – what you want to achieve and when to cut losses.
- A case can be more than just a legal hearing, it can be used for outreach/campaigning.
- Make sure you research or get advice on the legal procedures to be followed such as disclosure of documents – or you could miss out on vital evidence
- Be professional and persistent in your approach. Make a note of deadlines and make sure you follow things up in time – ask for more time if you need it.
- Work on your presentation both in person and in your documents / communication.
- Be ready for personal criticism and very difficult questions.
- Be aware of the risks of costs being awarded against you if you lose, these could be significant.
- Taking on a case takes a lot of time and effort, and can also be a financial burden. Ensure a support group is set up to help out with preparation and fund raising
- It can be empowering to speak out in court, cross-examine witnesses and challenge what a company is doing – make the most of the opportunity!
- Do not be intimidated by a court system designed to do precisely that. If in doubt ask the court to explain things. As a litigant in person the courts and opposition should give some leeway in expecting you to do things exactly by the book or within usual time limits.
- You have the right to have a friend to help you in court, or sometimes even represent you – known in legal terms as a 'Mackenzie' friend.
- For 'accountable actions' eg ploughshares, prepare your defence before the action as it is less likely to succeed if left until after the arrest.
- The law is not fixed in stone, but is based on decisions in previous cases, so there can be different interpretations and room for manoeuvre.
- In the civil courts, process can be very important so learn about this as well as the actual law itself.

Prepared for the Freedom To Protest Conference, 23rd October, 2005 – www.freedomtoprotest.org.uk

For more info & resources see the longer legal briefing prepared by freeB.E.A.G.L.E.S. - www.freebeagles.org