

## The Chancery Bar Litigant in Person Support Scheme (‘CLIPS’)

### Protocol

#### COUNTY COURT AT CENTRAL LONDON

**This Protocol has been amended in bold type to provide for remote participation in CLIPS during the period of lockdown caused by the Covid-19 pandemic. Participants during this period are therefore directed in particular to the amendments which set out some of the practical effects of the operation of CLIPS in remote hearings.**

#### The Scheme

1. The scheme provides “on the day” advice and advocacy for unrepresented parties in the Business & Property Applications List held on Fridays in the County Court at Central London County Court (“CCCL”).

**During remote sittings: Although the CCCL Friday List is currently being conducted remotely, the intention is for CLIPS to maintain its “on the day” characteristic during this period.**

2. The scheme is a collaboration between the Chancery Bar Association (“ChBA”), the RCJ Advice Bureau (“Advice Bureau”), Advocate (“Advocate”), the Personal Support Unit (“PSU”) and LawWorks
3. The scheme has the support of the Chancellor and the Judges of the CLCC.

#### Participants

4. “Participant” means a pro bono advocate who is either (a) a barrister who has post-pupillage Chancery experience and who is a member of the ChBA, COMBAR, TECBAR, ELBA or PBA or (b) a solicitor advocate with appropriate experience who has volunteered through the Advice Bureau. Each Friday sitting day during term, up to two Participants are on duty and on call.

**During remote sittings: the initial intention is to seek one Participant per day during the period of remote sitting.**

5. The duty rota, for which Participants can volunteer, is administered and organised by the Advice Bureau. A link to the rota can be found in the weekly ChBA newsletter, or in the CLIPS section of the ChBA website. Participants volunteer and are instructed under the licensed access auspices of Advocate. The ChBA, COMBAR, TECBAR, ELBA and PBA encourages its members to participate.

**During remote sittings: The e-mail addresses of Participants who sign up during the period of remote hearings shall be provided to the clerk to the relevant CCCL Judge to enable the Participant to be invited to join the remote court session and/or to be contacted if an LIP seeks assistance during the course of the day. It may also be necessary to provide a phone number as some hearings are conducted by phone using the BT Meet Me system.**

6. Once a Participant has volunteered, this constitutes a professional commitment, and must be treated as such. Participants should withdraw only in exceptional circumstances and are responsible for providing a replacement.
7. Participants are responsible for ensuring that they act at all times within their professional obligations and their competence. Participants are free to decide whether, and if so, how, they can assist. The Court will respect a Participant's decision on these matters and will be receptive to reasonable requests (for example, that a matter is taken further down the list in order to allow the Participant sufficient time properly to consider the matter).
8. The barrister Participants are able to accept instructions under the licensed access auspices of Advocate, the working name for the Bar Pro Bono Unit.
9. Self-employed barristers are insured under their own policy with BMIF. Employed barristers are insured via Advocate's policy with BMIF.

## **LIPs**

10. "LIP" (Litigant in Person) means an unrepresented person (including entities) intending or due to appear before the Business & Property Applications List, and who is unable to afford legal representation.

**During remote sittings: As a Participant will not be able to meet face-to-face with an LIP, particular care should be taken to ensure that the Participant is taking instructions from the LIP and not from a third party.**

11. If it is a day before the hearing day:
  - 11.1. The clerks to HHJ Dight CBE and HHJ Johns QC will email the Advice Bureau at [CLIPS@rcjadvice.org.uk](mailto:CLIPS@rcjadvice.org.uk) that afternoon with their Business & Property Applications lists for the following Friday and indicate, if possible, any cases where a LIP may be expected.
  - 11.2. The LIP should go to the Advice Bureau at the Royal Courts of Justice.
  - 11.3. Where possible an initial review interview will be undertaken by an Advice Bureau legal assistant. Among other things the initial review will identify whether the matter appears to be one that is appropriate for the Business & Property Applications List, and if not what other appropriate assistance can be made available to the LIP.
  - 11.4. If the case might be suitable for help from a Participant, a case note will be made. The LIP may also leave a copy set of the papers at the Advice Bureau before 2pm the day before the hearing.
  - 11.5. The LIP will be asked to contact the clerk to HHJ Dight CBE or the clerk to HHJ Johns QC in the Thomas More Building on the hearing day at least half an hour before the time listed for the hearing and ask the Court Clerk or Usher to introduce him or her to the Participants.
  - 11.6. The Advice Bureau will contact the Participants if there are case notes or copy papers to collect. The Participants should arrange to collect these from the Advice Bureau between 3pm and 4.30pm the day before they are on duty, in order to prepare as appropriate. The Participants should confer (by telephone) and divide the matters suitably between themselves.
12. If it is already the day of the hearing, the LIP should go to the Thomas More Building and ask to see the Clerk to HHJ Dight CBE or the clerk to HHJ Johns QC to introduce him or her to the Participants.

**During remote sitting: The process described in paragraphs 11 and 12 above is unlikely to be possible while the List is operated remotely.**

13. The LIP will be given a copy of the Explanatory Note by the Participant and will be asked to read at least the boxed text. The Explanatory Note contains a data protection notice.

**During remote sittings: Participants should provide a copy of the Explanatory Note to an LIP by electronic means.**

14. The scheme is designed only for persons unable to afford legal representation. For practical reasons, no “means test” will be carried out on the day, but on any application to Advocate for further assistance after the day of the hearing, there will be a review of the ability of the unrepresented person to afford legal representation.

### **Practicalities**

15. Cases are generally listed to be heard at **10am** or **2pm** with each part of the list containing one or more cases. Participants will usually be contacted by email from the clerk to the relevant CCCL Judge with a copy of the relevant list on the Thursday afternoon before the Friday for which they have volunteered.
16. A conference in the ground floor reception area of the Thomas More Building is designated for the use of CLIPS. The code to the CLIPS room is **C24689**. It will be available for the Participants from **0930am**.
17. On the Friday morning each Participant should, between **9:30 and 9:45am**, report to the clerk to HHJ Dight CBE and/or HHJ Johns QC (as appropriate) outside their courts where they will be directed to any LIPS appearing in relation to applications or directions in 10am section of the Business & Property Applications List (which may include CMCs or PTRs in that list). The List may be being heard by another Circuit Judge specialising in Business & Property work.
18. If there are any LIPs in relation to which an interim application has not been listed by the Court, a Participant will decide whether it is appropriate to assist on the day, or whether it would be more appropriate to refer the LIP to the Advice Bureau. If the latter, the LIP will receive an Advice Bureau referral card, which will enable the unrepresented person to receive an initial review interview from an Advice Bureau legal assistant.
19. If a Participant is not present the clerk to HHJ Dight CBE and/or HHJ Johns QC will phone the Advice Bureau’s staff member for Interim Applications Schemes (James Cairns) on 020 7947 7585. The Advice Bureau will then call one of the Participants who will attend outside the Court as soon as possible. In cases of urgency the Court Associate or Usher or Judge’s clerk may contact the Participant directly but the Participant should then immediately inform the Advice Bureau. No more than 30 minutes should elapse

between the call and the Participant's attendance at court. Meanwhile the LIP should return to the area outside the Court to wait for the Participant.

20. If there are no LIPs for the Participant to assist in relation to the 10am section of the List, the Participant(s) should man the conference room referred to above until at least **11am**.
21. Each Participant should repeat the procedure outlined above in respect of the **2pm** section of the List by first reporting to the clerk to HHJ Dight CBE and/or HHJ Johns QC (as appropriate) between **1:30 and 1:45pm** and then, if there are no LIPs to assist at that stage, by manning the conference room until at least **3pm**.

**During remote sittings: As no conference room is available during the period of lockdown, participants should be available remotely from 9:30am (until 4pm). They will require access to a computer or other device which can run the Skype for Business and BT Meet Me conferencing systems which are used to conduct the List remotely. Participants will be contacted by email directly by the clerk to the relevant CCCL Judge rather than through the Advice Bureau.**

**The usual process is that the clerk to the relevant CCCL Judge will send an email (usually the day before the hearing) inviting all parties to applications listed for 10am to join between 9:30 and 10:00am.**

**The clerk will also send an email (usually the day before the hearing) inviting all parties to applications listed for 2pm to join between 1:30pm and 2:00m.**

**Unless released in advance by the Judge/Judge's clerk, Participants should join these court sessions the details which will be provided by the clerk to the relevant CCCL Judge. Participants should also monitor their emails regularly between 10am and 4pm on the day of their participation so as to ensure that they are able to respond in the event that an LIP seeks assistance during the day. Participants should contact the clerk to the Applications Judge within 45 minutes of receipt of an email from him/her.**

**It is likely that the relevant introduction will take place during the sessions referred to above. If an LIP lacks the technology to join the session by video, they may dial in by telephone only.**

**The Judge's clerk may also provide the volunteer with documents such as the other side's skeleton and any draft order to assist the volunteer.**

Participants are encouraged to emphasise to any LIP that the fact that the introduction has come through the Court/Judge's clerk does not impact on the independence of the Participant.

**Additional considerations for remote sittings:**

- **Once introduced to an LIP, a Participant will need to contact the LIP outside of the court session.**
  - **If Participants do not wish to share their professional email address with an LIP they may wish to consider obtaining a fresh email used solely for the purposes of their CLIPS volunteering.**
  - **Likewise, if Participants do not wish to share their telephone number with an LIP they may wish to use the "Hide caller ID" function or similar when communicating with the LIP by telephone.**
  - **Participants are reminded to ensure that proper regard is had to the usual requirements of confidentiality, privilege and data protection when working remotely.**
22. Sometimes HHJ Dight CBE and/or HHJ Johns QC will be sitting at Mayor's and City County Court. If that happens, the Participant should follow the same procedure for applications in the Business & Property Applications List in the CCCL save that:
- 22.1. The clerk to HHJ Dight CBE and/or HHJ Johns QC will make the Advice Bureau aware that the Business & Property Applications List will be heard in Mayor's and City County Court at least two days before the hearing.
  - 22.2. Not less than two days prior to the hearing the Participant will receive an email from the Advice Bureau informing them that they will be required to attend Mayor's and City County Court.
  - 22.3. The Participant should collect the spare CLIPS folder from the Advice Bureau prior to **1600pm** on the day before the hearing (no CLIPS folder is kept at Mayor's and City County Court).
  - 22.4. The Participant must attend Mayor's and City County Court instead of the CCCL. Unlike the CLCC at Thomas More Building there is no designated conference room for CLIPS.

- 22.5. The Participant should return the spare CLIPS folder to the Advice Bureau once they have completed their work and by no later than **1600pm** on the following Monday.

## Role of Participants

23. On the day of hearing, in listed and unlisted matters, the duty Participant will:
  - 23.1. offer such advice to the LIP as is possible and professionally appropriate in the immediate circumstances;
  - 23.2. be ready, if requested and if content that it is professionally appropriate to do so, to appear for the LIP on that day's hearing.
24. Participants must take into account their professional obligations and their competence when deciding what assistance they are able to offer. Participants are free to decline to provide assistance, and to decide the scope of any assistance they do provide. Although the decision will be at the discretion of the Court, Participants are also free to request that the Court takes a matter further down the list in order to give the Participant sufficient time to consider the case.
25. As regards appearing for the LIP on that day's hearing, normally the Participant will appear to make the whole of the argument that is required. However:
  - 25.1. the LIP may request the duty Participant to appear to make only part (rather than all) of the argument;
  - 25.2. equally the duty Participant may inform the LIP that he or she is prepared to make only part of the argument;
  - 25.3. in either situation, for the purpose of the scheme the Court will simply be asked to hear both the duty Participant or the LIP, on the basis that the Participant will make only part of the argument.
26. At the end of the work undertaken on that day for the LIP the duty Participant will complete a form summarising what has happened and what needs to happen next (the Concluding Letter). A copy of the form should be given to the LIP and a copy sent by email to the Advice Bureau (CLIPS@rcjadvise.org.uk).

## Costs

27. Participants are encouraged to seek pro bono costs order under s. 194 of the Legal Service Act 2007 and CPR 46.7 where appropriate. Information about pro bono costs will be made available in the CLIPS Conference Room, and can be found at [www.ATJF.org.uk](http://www.ATJF.org.uk). The notes in the White Book to CPR 46.7 and at PD46 4.1 are also helpful.

### **Additional assistance on the day of the hearing**

28. Where the assistance of a representative from the PSU is considered desirable, the Participant should contact the Advice Bureau on the number in paragraph 18 above to arrange support. In any particular case the Advice Bureau may already have arranged this support before the Participant meets the LIP.
29. It is possible that the LIP will be accompanied by a “McKenzie friend”. The Participant is asked to respect this choice. Useful guidance on the exercise of the right to have assistance of a lay person is contained in *Practice Note (McKenzie Friends: Civil and Family Courts)* [2010] 1 W.L.R. 1881). In the event of difficulty or complexity the Participant should raise the matter by telephone with the Advice Bureau or Advocate as soon as possible.
30. Where the matter is of a complexity or nature that the assistance of a solicitor (not undertaking advocacy) as well as of an advocate is necessary even for the purpose of appearing for the unrepresented person on that day’s hearing (for example, an ex parte hearing), the duty Participant is not required to appear (although the duty Participant may consider whether it would be appropriate to apply for an adjournment to enable the LIP to take further advice) and the LIP should be referred to the Advice Bureau for further assistance. If the Participant is in any doubt he or she should refer to Advocate before proceeding further.

### **Further assistance after the day of the hearing**

31. The Participant is not able to provide ongoing assistance to the litigant under the licensed access provided by Advocate.
32. If the LIP wishes to apply for further assistance from Advocate (for example, detailed advice, or appearance at a subsequent hearing), he or she should be referred to the Advice Bureau, where application forms to Advocate are kept. The duty Participant will, if requested by the LIP or by Advice Bureau staff, brief Advice Bureau staff, who will help to complete one of the application forms. The Advice Bureau will send the completed application form to Advocate.

33. The application will be considered by Advocate in accordance with its usual procedures, to include a review of the ability of the unrepresented person to afford legal representation. Where appropriate (for example if solicitor assistance is required) the application will also be considered by LawWorks under its In-Depth Assistance scheme.
34. Where a hearing will continue or judgment will be delivered on a later day when the Participant will not be on duty, the Participant should ensure that sufficient information about what happened at the hearing is included on the Concluding Letter and/or that the Participant on duty on the next hearing date is adequately briefed orally. There is no expectation that a Participant will attend at the next hearing date, but the Participant is free to do so if the Participant considers it appropriate.
35. When briefing Advice Bureau staff or another Participant, the duty Participant:
  - 35.1. should note any relevant observations made by the Court at the hearing; and
  - 35.2. is free to express any view to the Advice Bureau (including for communication to Advocate) about the merits and nature of any further assistance.

### **Comments, concerns, or complaints**

36. If the unrepresented person or a duty Participant wishes to raise any comment, concern or complaint he or she should, in the first instance, write to the Advice Bureau (attn. the Chief Executive) (RCJ Advice Bureau, Royal Courts of Justice, Strand, London WC2A 2LL). If he or she prefers, the matter may be raised with the Chief Executive of Advocate (National Pro Bono Centre, 48 Chancery Lane, London WC2A 1JF).
37. The Advice Bureau will monitor various aspects of the scheme and may request assistance in this from Participants and/or the ChBA.

### **Reporting**

38. CLIPs will provide quarterly reports to Advocate:
  - 38.1. How many volunteers are listed;
  - 38.2. How many people have attended for help from CLIPs; and
  - 38.3. How many people have been accepted for help from CLIPs.

36. CLIPs will provide a yearly report to Advocate on the impact of the scheme on the court process by consulting court staff and/or the Judiciary hearing these cases including:
  - 36.1 Time saved by volunteer involvement;
  - 36.2 Cost of the time saved; and
  - 36.3 Anecdotal comments from the Judiciary or court staff.