

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

Protocol  
High Court

### The Scheme

1. The scheme provides “on the day” advice and advocacy for unrepresented parties in the Chancery Applications List.
2. The scheme is a collaboration between the Chancery Bar Association (“ChBA”), Advocate (“Advocate”), the RCJ Advice Bureau (“Advice Bureau”) and LawWorks.
3. The scheme has the support of the Chancellor and the Judges of the Chancery Division.

### 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; (b) a solicitor advocate with appropriate experience who has volunteered through Advocate. For each sitting day during term, up to two Participants are on duty and on call.
5. The duty rota, for which Participants can volunteer, is administered and organised by the Chancery Bar Association. 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 encourage their members to participate.
6. Once a Participant has volunteered, this constitutes a professional commitment, and must be treated as such. Participants are responsible for ensuring their clerks

are aware of the commitment and it is marked in their diaries. 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.
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 such as companies or clubs) intending or due to appear before the Chancery Applications Court, and who is unable to afford legal representation.
11. If a LIP is identified before the hearing day:
  - 11.1. If the LIP is identified by the Court ahead of the day on which their application is to be heard, the Court should provide the LIP with the contact details of the Participant on the rota for the day on which their application is due to be heard, and the Participant should then be copied into any communication between the Court and the LIP.
  - 11.2. The LIP should then be provided with a copy of the Explanatory Note by the Participant and asked to read it. The Explanatory Note contains a data protection notice. The LIP should also be asked by the Participant to provide a copy of the hearing bundle ahead of their hearing, should the Participant wish to see it.
12. If a LIP comes to Court before the hearing date:

- 12.1. The LIP should go to the Advice Bureau at the Royal Courts of Justice.
- 12.2. Where possible an initial review consultation will be undertaken by an Advice Bureau Legal Assistant. Among other things the initial consultation will identify whether the matter appears to be one that is appropriate for the Interim Applications Court, and if not, what other appropriate assistance can be made available to the LIP.
- 12.3. If the case might be suitable for help from a Participant, the LIP will be provided with a copy of the Explanatory Note and a case note will be made. This will be provided to either Advocate or the Court to share with the Participant on the rota for the day of the hearing. The LIP may also be asked to provide a copy of their hearing bundle to Advocate or the Court to provide to the Participant prior to their hearing. If this is not possible, the LIP may leave a copy set of the papers at the Advice Bureau before 2pm the day before the hearing.
- 12.4. The LIP will be asked to go to Court 10 in the Rolls 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.
- 12.5. The Advice Bureau will contact either Advocate or the Court, who will then inform the Participants if there are case notes or copy papers to collect and the Participant should collect these prior to the hearing. The Participants should confer (by telephone) and divide the matters suitably between themselves.
13. If it is the day of the hearing:
  - 13.1. If it is already the day of the hearing, the LIP should go to the area outside Court 10 in the Rolls Building and ask the Court Clerk or Usher to introduce him or her to the Participants.
  - 13.2. The LIP will then be introduced to the Participant and be given a copy of the Explanatory Note by the Participant and asked to read at least the boxed text. As above, the Explanatory Note contains a data protection notice.
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. Conference Room 18 (outside Court 10) is designated for the use of CLIPS. It will be available for the Participants from **10am** each day and it should be manned by the Participant until the Court sits at **10.30am** and thereafter until **11am**. The Participant should return at **2pm** for the afternoon list and be available for any LIPs until **16:30pm**. The Participant may remain in Conference Room 18 for the duration of the day should they wish. If, however, there are no LIPs requiring assistance they may also return to their Chambers but must be available to return at short notice if required.
16. On arrival at the Rolls Building the Participant should report to the Usher, who will inform them whether any LIPs appearing in relation to applications have arrived, and will direct them to Conference Room 18.
17. If the interim application has not been listed by the Court, the Participant will decide whether it is appropriate to provide assistance on the day, or whether it would be more appropriate to refer the LIP to either the Advice Bureau or Advocate, based on what assistance is needed:
  - 17.1.If referring to the Advice Bureau, the Participant will provide the LIP with a referral card, which will enable the LIP to receive an initial consultation with an Advice Bureau Legal Assistant.
  - 17.2.If referring to Advocate, the Participant will provide details of how the LIP is able to apply for Advocate's assistance, either by directing them to apply via the online form, by providing a paper copy of the application form that the LIP will be able to submit by post (Advocate at 2nd Floor Lincoln House, 296-302 High Holborn, London WC1V 7JH) or by providing them with the appropriate email address ([applications@weareadvocate.org.uk](mailto:applications@weareadvocate.org.uk)).
18. If referring a LIP to either the Advice Bureau or Advocate, the Participant should also draft a brief note detailing the reasons they are referring and what assistance they believe is needed, and provide a copy of this to the appropriate service

informing them of the referral. This should be provided via email either to the Advice Bureau ([civiltriage@rcjadvise.org.uk](mailto:civiltriage@rcjadvise.org.uk)) or Advocate ([clips@weareadvocate.org.uk](mailto:clips@weareadvocate.org.uk)).

19. If the interim application has been listed by the Court for that day and a Participant is already present, the Court Associate or Usher will make the necessary introduction.
20. If a Participant is not present at 10:15am the Court Associate or Usher will (i) inform the Judge and (ii) contact the Participant or their Chambers to make enquiries and ensure a Participant will attend the Court as soon as possible. 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.

### **Role of Participants**

21. On or before the day of hearing, in listed and unlisted matters, the duty Participant will:
  - 21.1. offer such advice to the LIP as is possible and professionally appropriate in the immediate circumstances;
  - 21.2. 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.
22. Participants must take into account their professional obligations and their competence when deciding what assistance, if any, 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.
23. If a Participant deems that an issue is not suitable for assistance through the scheme, they should inform the LIP of the reasons for this and, if appropriate provide details of how to access alternative support either through the Advice Bureau or through Advocate, as detailed above.

24. 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:
- 24.1. the LIP may request the duty Participant to appear to make only part (rather than all) of the argument;
  - 24.2. equally the duty Participant may inform the LIP that he or she is prepared to make only part of the argument;
  - 24.3. 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.
25. At the end of the work undertaken on that day for the LIP, the Participant will complete a form summarising what has happened and what needs to happen next (the "Concluding Letter"). A copy of the Concluding Letter should be given to the LIP and a further copy kept by the Participant. A final copy should be provided by email to the Advocate ([clips@weareadvocate.org.uk](mailto:clips@weareadvocate.org.uk)) for record keeping.
26. Participants are also encouraged to retain copies of any notes they make.

## **Costs**

27. Participants are encouraged to seek pro bono costs orders 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 Conference Room 18 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. 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 with Advocate by either telephone or email ([clips@weareadvocate.org.uk](mailto:clips@weareadvocate.org.uk)) as soon as possible.
29. 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, the duty Participant is not required to appear (although they 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 Advocate for further assistance. If the Participant is in any doubt, they should refer to Advocate ([clips@weareadvocate.org.uk](mailto:clips@weareadvocate.org.uk)) before proceeding further.

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

30. The Participant is not able to provide ongoing assistance to the litigant under the licensed access provided by Advocate.
31. If the LIP wishes to apply for further assistance from Advocate (for example, detailed advice, or appearance at a subsequent hearing), they should be referred to complete the online application form available on the Advocate website (<https://weareadvocate.org.uk/apply-for-help/how-our-service-works.html>). If the applicant cannot complete the online form for any reason, they should be provided a paper copy of the Advocate application form available in the CLIPS room and directed to complete and post this to Advocate at 2nd Floor Lincoln House, 296-302 High Holborn, London WC1V 7JH. The Participant may, 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 then send the completed application form to Advocate via email.
32. 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.

33. 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.
34. When briefing Advice Bureau staff or another Participant, the duty Participant:
  - 34.1. should note any relevant observations made by the Court at the hearing;  
and
  - 34.2. 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**

35. If the unrepresented person or a duty Participant wishes to raise any comment, concern or complaint they should, in the first instance, write to the Chief Executive of Advocate (Advocate at 2nd Floor Lincoln House, 296-302 High Holborn, London WC1V 7JH).

### **Reporting**

36. Advocate will monitor various aspects of the scheme and may request assistance in this from Participants and/or the ChBA.
37. Advocate will provide quarterly reports recording:
  - a. How many volunteers are listed

- b. How many people have attended for help from CLIPS
  - c. How many people have been accepted for help from CLIPS
38. The Chancery Bar Association will provide a yearly report on the impact of the scheme on the court process by consulting court staff and/or the Judiciary hearing these cases including, where available, information about:
- a. Time saved by volunteer involvement
  - b. Cost of the time saved
  - c. Anecdotal comments from the Judiciary or court staff