

The Chancery Bar Litigant in Person Support Scheme
(“CLIPS”)

Q&A FOR PARTICIPANTS
Central London County Court

Thank you for volunteering. Those thanks come from HHJ Dight and the Judges of the Central London County Court, the Chancery Bar Association (“ChBA”), the RCJ Advice Bureau (“Advice Bureau”), the Personal Support Unit (“PSU”), the Bar Pro Bono Unit (“Unit”) and LawWorks.

In addition to this note, please do make sure you read:

- the Protocol;
- the Explanatory Note (given to those attending the Chancery Applications List in the Thomas More Building without representation); and
- the Concluding Letter given to unrepresented parties at the conclusion of a day’s assistance.

These are all available on the website, as is the monthly rota.

Am I obliged to provide assistance in every case?

- You must always take into account your professional obligations and your competence when deciding what assistance you are able to offer, and it is your responsibility to satisfy yourself it is appropriate to act.
- You are free to decline to provide assistance, and to decide the scope of any assistance you do provide.
- The Court will respect your decision in these matters, and although the decision will be at the discretion of the Court, you are also free to make reasonable requests (for example, that the Court takes a matter further down the list in order to give you sufficient time to consider the case).

What about insurance?

- Barrister Participants must be tenants at a set of chambers (or practising on their own account) with insurance cover under the Bar Mutual Insurance scheme, and members of the ChBA, COMBAR, TECBAR or ELBA. They will volunteer under the licensed access auspices of the Unit, and are therefore covered by the Bar Mutual Insurance scheme.

- Solicitor Participants must be employed by a firm of solicitors with appropriate insurance. They will volunteer under the licensed access auspices of the Advice Bureau, and are therefore covered by insurance arranged by the Advice Bureau.

What if I find that I am no longer available on a day for which I have volunteered?

- A CLIPS shift constitutes a professional commitment, and must be treated as such.
- You should withdraw only in exceptional circumstances, and you are responsible for providing a replacement.

On my duty days am I on standby or do I turn up outside the Court?

- You must be at the conference room in the ground floor reception area at **9.30am** on your duty days. Please make yourself known to the Usher or Associate as soon as you arrive.
- When the list is called on at **10am** please go into court whether or not any litigant in person has already contacted you. There may be a person without representation inside whom you can assist, or the Court may know that one is due to appear later.
- You must then remain outside the Court until **11am** but if there is no one who requires your assistance you may return to Chambers / your place of work. You must return at 2pm for the afternoon list (which will generally be before a different Judge from the morning's list), but you are free to return to Chambers after 2.30pm if assistance is not required.
- However, you are **on duty** until the end of the Court day, and you do need to be by a telephone in Chambers / at work.
- You may receive a call from the Advice Bureau or the Judge's clerk at any time between 10am and 4.30pm asking you to attend the Court. You should then attend the Court room in question as soon as possible, and in any event no more than 30 minutes should elapse between the call and your attendance at Court.
- If you are contacted by one of the Court staff rather than the Advice Bureau you **must** let Shucre Musa at the Advice Bureau know immediately (on smusa@rciadvice.org.uk) that you have been called and that you are on your way to court.

What should I do to prepare?

- Please read the Protocol, Explanatory Note and Concluding Letter in order to inform yourself about the scheme.
- Sometimes copy papers in a listed matter will have been left by the unrepresented person at the Advice Bureau the day before. There may also be case notes prepared by the Advice Bureau. If so, you will be contacted by the Advice Bureau.
- Please collect any copy papers or case notes from the Advice Bureau the day before your duty day between 3 and 4.30pm. You can contact Shucre Musa, the Advice

Bureau's staff member for Interim Applications Schemes, on smusa@rcjadvic.org.uk to arrange to collect these.

What practical steps should I take on the day?

- A conference room in the ground floor reception area will be set aside for you for the purpose of speaking confidentially to the litigant in person. This is the middle conference room on the ground floor. The code for the room is **C24689**. The CLIPS File is in this room. Please put the CLIPS banner outside the room when you arrive.
- The Usher or Associate will, if they can, refer parties without representation to you, but you should also keep an eye out for individuals who may need the scheme's assistance.
- Whenever you leave the conference room, please lock the door.
- At the end of the day, leave the CLIPS File (containing all of the useful documents) in the conference room, put the banner back inside and lock the door.
- Please give all unrepresented parties a copy of the Explanatory Note. They may have difficulty reading and digesting the whole of the note, but please draw their attention to at least the boxed text.

What about the question whether the person seeking help could afford to pay?

- For practical reasons please simply assume that the unrepresented person is unable to afford legal representation. If in doubt, phone the Advice Bureau and ask for their help.

What type of help am I expected to give?

- You are able to assist in any case listed before HHJ Dight (Court 58) or HHJ Walden-Smith (Court 60).
- You are under no obligation to provide any, or any particular, assistance. (See "Am I obliged to provide assistance in every case?", above.)
- There are 3 types of help you might provide: (a) advice (b) representation and (c) providing details (if needed) for an application to the Unit for further assistance at a later date.
- You should always try, if appropriate, to advise. It is understood that you are new to the case, that the conditions are not ideal and that time is limited. Please offer such immediate advice to the unrepresented person as is possible in the circumstances.
- The scheme also contemplates that you will be ready, if requested and if proper to do so, to appear for the unrepresented person on that day's hearing.
- At the end you should (so far as possible) advise the unrepresented person what to do next.
- If an unrepresented person does not have a case listed that day, you should decide whether it is appropriate for you to assist, and you may decide that they should instead be referred to the Advice Bureau. There will be referral cards available for you to give the unrepresented party.

What if there are several points but I consider one to be a hopeless point or one that I consider may not properly be advanced?

- You should inform the unrepresented person that you are prepared to make only part (rather than all) of the argument. You should explain why.
- If he or she insists that the point is advanced, you should say that he or she will have to advance that point him- or herself, and you should ask the Court to hear both you and the unrepresented person, on the basis that you will make part of the argument and the unrepresented person will make the remainder of the argument.
- You should inform the unrepresented person that they will not (usually) be asked to comment on or add to any arguments that you have presented to the court.
- You can also suggest that the unrepresented person seek (further) advice from Advice Bureau and/or the Unit.

What if the matter is nearing the limit of my competence or too complicated to be able to manage on the day?

- As explained above, you are responsible for ensuring it is professionally appropriate and within your competence to assist. However, please do not be deterred from providing assistance where you can, because the unrepresented person will often be better placed with what help you can give, than without that help.
- There will be resources in the conference room, including a “phone a friend” list.
- Consider whether it may be in the interests of the unrepresented person if the matter could be adjourned, with an application then made to the Unit to bring in a more experienced advocate or one with specific expertise (if appropriate) on a future occasion or to arrange detailed advice.
- Where any application to the Unit for assistance may be involved please remember to make clear to the unrepresented person that the application may not be successful and that it will take some time to be processed except in cases of real emergency.

What about costs?

- In appropriate circumstances, you may be able to secure a pro bono costs order under s. 194 of the Legal Service Act 2007 and CPR 46.7. Information about this will be available in the conference room and can be found at www.ATJF.org.uk.
- Although a written statement of costs is usually required, obviously this will not be possible where you first became involved with the case on the day you are volunteering (rather than having received papers ahead of time). In those circumstances, you might consider reminding the Court that you were engaged only that day and that the requirement for a written statement is in a Practice Direction (and is not a Rule). You could inform the Court orally of the time you have spent and your hourly rate (or if you

consider the case could have been handled by someone significantly junior to you, suggest an appropriate hourly rate).

What should I do at the end of a case?

- At the end of a day's work for an unrepresented party, you must complete a Concluding Letter (copies can be found in the CLIPS File), which will summarise what happened and what needs to happen.
- One copy of the Concluding Letter should be given to the unrepresented person and one copy should be sent to the Advice Bureau. If it is not possible for the unrepresented person to wait for you to copy the letter, you could consider taking an email address so that you can send a copy to the unrepresented person on your return to Chambers or (if you are comfortable that you have the appropriate level of security on your phone) you could consider taking a photograph of the Concluding Letter. However, please make every effort to provide a copy to the unrepresented person and to retain a copy for the Advice Bureau.
- The Concluding Letter should be provided urgently the same day in the event that the LIP's matter is returning to court the following day. In that case, if you are not continuing with the case (which you are under no obligation to do), you should ensure that the Concluding Letter fully briefs the Advice Bureau on the stage that has been reached in the hearing, and if appropriate and possible you should try to speak to the Participant who will be taking the matter over the next day, in order to ensure continuity. They will be identifiable from the rota in the CLIPS File and on the ChBA website.
- If you wish to volunteer to assist on the case going forward on a pro bono basis please let the Advice Bureau know.

What if the unrepresented person is struggling to cope with the stress of the occasion and might benefit from some trained (non-legal) company?

- Consider asking the unrepresented person to go to the PSU office in the Thomas More Building entrance, or contact Shucré Musa at the RCJ Advice Bureau yourself (020 7947 7120; please use this number for urgent requests only) to ask her to see whether a PSU representative can be made available.
- If a PSU representative is made available, please make them feel welcome.
- The involvement of a PSU representative might be valuable in many cases, but particular examples include (a) where you will need to concentrate on advocacy and the unrepresented person will find it difficult to be left alone, (b) where the matter is complex and trained (non-legal) company will help the unrepresented person to concentrate or to take in what is happening or what you are telling them, (c) where the unrepresented person suffers from a material disability, and (d) where there is hostility or mistrust between the other side or their lawyers and the unrepresented person.

- The unrepresented person may be accompanied by a “McKenzie Friend”. If that is the case please respect the choice, but in case of difficulty contact the Advice Bureau or the Unit. Sometimes this is another situation in which a PSU representative may be of help.
- A list of useful telephone numbers is available in the CLIPS File, and there is a telephone in the conference room (see below).

What if I need more time on the day to read the papers or to take instructions or to research a point?

- You could consider asking the Judge or the Associate or Usher (involving the other side if present) whether the matter can be taken at a later time that day (by asking for it to be mentioned at a convenient moment) or at a lower point in the list.
- In a complex case you may sometimes conclude that the merits and suitability of seeking an adjournment will need to be considered.

What resources are available within the Thomas More Building to help me prepare for a hearing?

- Please bring your own procedure books, and any texts that are known to be needed from any pre-reading in a listed matter.
- In the conference room, there is a telephone and a broadband connection with a wireless router and a printer/copier.

What should I do once I have got on top of the matter?

- It may be that there are copies of documents that need to be made available to the Judge’s clerk, e.g. an application notice that you have helped to complete, or a witness statement or supporting documents, or even a note summarising the points that arise. If the Judge’s clerk is not present in the Court, he or she may be contacted on the number shown in the list of numbers in the CLIPS File.
- Although your primary duty is to the unrepresented litigant, you are also there to help the court to serve the interests of justice, so please consider how you can help the Judge and the court staff to deal with the application most effectively.

As a barrister, am I entitled to act alone, without a solicitor? Or what if the matter is of a complexity or nature that more assistance is needed?

- Barristers are entitled to act alone, without a solicitor, because they are acting under the auspices of the Unit, which has a special licence.
- Where the matter is of a complexity or nature that the assistance of a solicitor as well as the barrister is necessary you are not required to appear (although you may consider whether an application for an adjournment to enable the unrepresented person to take

further advice is appropriate) and the unrepresented person should be referred to the Advice Bureau for further assistance.

- You should never act in circumstances or to an extent where your own competence will be exceeded. Examples of a matter of this complexity might be (a) the case where an unlisted matter needs both a statement to be taken there and then and advocacy prepared; or (b) the case where a detailed record and note of advice about the giving of a cross undertaking in damages, or the giving of undertakings in place of an injunction, needs to be taken at the same time as the advice is actually given rather than by a note to be prepared afterwards.
- If you are yourself in any doubt please refer to the Unit before proceeding further.

I understand that 3 weeks' notice is required for an application for further assistance from the Unit. What if the case needs further assistance within a shorter period?

- Please make Advice Bureau staff aware of this and they will consider whether an emergency request for assistance to the Unit is appropriate.