

The Birmingham Litigant in Person
Support Scheme (“B-CLIPS”)

Protocol

**The Birmingham Litigant in Person Support Scheme (“B-CLIPS” or “the Scheme”)**

1. B-CLIPS provides advice and advocacy for unrepresented parties in the Business and Property Courts’ B-CLIPS List held on nominated Fridays at the Birmingham Civil and Family Justice Centre (Priory Courts, 33 Bull Street, Birmingham, B4 6DS). Cases listed onto the B-CLIPS List will include applications, injunctions, Part 8 Directions/Disposal Hearings and FDRs.The list will not include Final Hearings, Trials, or CCMCs.
2. The Scheme is a collaboration between Business and Property Courts (“BPC”) practitioners at the local Bar, the Midland Chancery and Commercial Bar Association (‘MCCBA’) and Advocate.
3. The Scheme has the support of the Business and Property Court Judges in Birmingham, Advocate, the Midlands Circuit, the MCCBA, and the Local Bar.

**Participants in the Scheme**

1. “Participant” means a pro bono advocate who is a barrister who has post-pupillage Business and Property work experience. On nominated Fridays, there will be one or two Participants on duty (depending on demand).
2. The duty rota, for which Participants can volunteer, is administered and organised by MCCBA. Participants can access the rota and volunteer for slots via Advocate’s pro bono duty schemes website, [www.probonodutyschemes.org.uk](http://www.probonodutyschemes.org.uk). If there are any issues in relation to the rota, Participants should contact Alex Pritchard-Jones at apj@no5.com, copying in Advocate at birmingamprobono@weareadvocate.org.uk. A copy of the rota will be provided to the Court each Term, with any updates or amendments being provided to the Court as they occur.
3. 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 only withdraw in exceptional circumstances and are responsible for providing a replacement. Participants should contact Alex Pritchard-Jones at apj@no5.com, copying in Advocate at birmingamprobono@weareadvocate.org.uk, to make them aware of the change.
4. Participants are responsible for ensuring 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 and provide advice, in the event that the Participant has had limited time to prepare the LIP’s case).
5. If there is a LIP on each side in a case, and both LIPs would like assistance from a pro bono advocate, and the Participants at court do not have capacity to assist, then the local Chambers will explore whether a second barrister can make themselves available to assist. The Participant, should contact Alex Pritchard-Jones at apj@no5.com in the first instance with the subject ‘B-CLIPS: second Participant required for [date of Application List]’. If the local Chambers cannot identify a second barrister to assist the other LIP, then, unfortunately, the Participant will not advise or assist either LIP.
6. Barrister Participants are volunteers and are able to accept instructions under the licensed access auspices of Advocate.
7. Self-employed barristers are insured under their own policy with BMIF.

**Litigants in Person**

1. “LIP” (Litigant in person) means an unrepresented person (including entities such as companies or clubs) intending or due to appear before the Business and Property Courts’ B-CLIPS List and who is unable to afford legal representation.
2. On the day of the hearing, the LIP should go to the Civil Justice Centre and report to the Usher on the 2nd floor of the Building. The Usher will make the LIP aware of the B-CLIPS Scheme and enquire whether the LIP wishes to speak with the Participant. If the LIP wishes to seek assistance, the Usher will introduce the LIP to the Participant or ask the LIP to wait in the waiting area if the Participant is currently in Court or assisting another LIP.
3. The LIP will 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.
4. 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**

1. The Participant should attend the 2nd floor of the Civil Justice Centre at **09:30** on their nominated date**.** On arrival the Participant should report to the Usher and explain that they are volunteering for the B-CLIPS Scheme.
2. The Usher will direct the Participant to the conference room(s) reserved for the B-CLIPs List that day. The Participant should be available there for any LIPs until the Court sits at **10:00** and thereafter (unless the Participant is in Court) until **11:00**. The Participant should return at **13:45** for the afternoon list and be available for any LIPs until **14:30**. Between **11:00** and **13:45** and between **14:30** and **16:15**, if there are no LIPs requiring assistance, the Participant may return to their Chambers but should be available to return at short notice within those times if required.
3. If the application in relation to which the LIP seeks assistance has been listed by the Court for that day and the Participant is already present, then the Usher will direct the LIP to the Participant.
4. If a LIP appears before the Judge hearing the B-CLIPS List without the assistance of the Participant, the Judge will make the LIP aware of the Scheme and enquire whether the LIP has taken the opportunity to speak with the Participant. If the LIP wishes to make use of the Scheme, the Judge may consider it is necessary to adjourn the hearing while the LIP speaks with the Participant.
5. If the Participant is not in the Court Building, the Judge’s Clerk will make enquiries with the Participant’s Chambers as to their whereabouts. As noted at paragraph 17 above, the Participant should be able to return to the CJC at short notice.
6. On the day of the hearing, the Participant will:

	1. offer such advice to the LIP as is possible and professionally appropriate in relation to the hearing;
	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.
7. 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. As noted at paragraph 7 above, Participants are 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. However, any decision to re-list a matter will be at the discretion of the Court.
8. 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:
	1. the LIP may request the Participant to appear to make only part (rather than all) of the argument;
	2. equally the Participant may inform the LIP that they are prepared to make only part of the argument;
	3. in either situation, for the purpose of the Scheme, the Court will be asked to hear both the Participant and the LIP, on the basis that the Participant will make only part of the argument.
9. 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 should kept by the Participant. A final copy should be provided by email to Advocate (birminghamprobono@weareadvocate.org.uk) for record keeping.
10. Participants are encouraged to retain copies of any notes they make.

**Costs**

1. Participants are encouraged to seek pro bono costs orders (in appropriate cases) under section 194 of the Legal Services Act 2007 and CPR Rule 46.7. Information about pro bono costs can be found at [www.ATJF.org.uk](http://www.ATJF.org.uk) and in the notes in the White book to CPR Rule 46.7 and PD46 paragraph 4.1.

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

1. It is possible that the LIP will be accompanied by a “McKenzie Friend”. The Participant should respect this choice. Useful guidance on the exercise of the right to have the 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 a difficulty or complexity the Participant should raise the matter by telephone with Advocate as soon as possible.
2. Where the matter is of a complexity or nature that the assistance of a solicitor (not undertaking advocacy) as well as that of an advocate is necessary, even for the purpose of appearing for the unrepresented person on that day’s hearing, the Participant is not required to appear (although they may consider whether it is appropriate to apply for an adjournment to enable the LIP to take further advice), and the LIP should be referred to Advocate for further assistance. If the Participant is in any doubt, they should refer to Advocate before proceeding further.

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

1. The Participant is not able to provide ongoing assistance to the LIP under the licensed access provided by Advocate.
2. 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 Advocate and the website <https://weareadvocate.org.uk/>.
3. The application will be considered by Advocate in accordance with its usual procedures. This will include a review of the ability of the unrepresented person to afford legal representation.
4. 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 in 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.
5. When briefing another Participant and/or Advocate, the Participant:
	1. should note any relevant observations made by the Court at the hearing; and
	2. is free to express any view to the other Participant and/or Advocate about the merits and nature of any further assistance.

**Comments, concerns or complaints**

1. If the LIP or a Participant wishes to raise any comment, concern or complaint he or she should write to the Chief Operating Officer of Advocate at International Dispute Resolution Centre, 1 Paternoster Lane, London, EC4M 7BQ.
2. Advocate will produce quarterly reports. These will be shared with the Senior BPC Judge in Birmingham and will record:
	1. How many volunteers are listed;
	2. How many people have attended for help (including whether any could not be seen);
	3. How many people have been accepted for help.
3. The Scheme will provide an annual 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:
	1. Time saved by volunteer involvement;
	2. Costs of the time saved;
	3. Anecdotal comments from the court staff and/or the Judiciary.