

**PROTOCOL**

**Family BarLink: the CFC Pro Bono Duty Scheme (or “the Scheme”)**

1. The Scheme provides advice and advocacy for unrepresented parties in the Central Family Court (“CFC”, First Avenue House, 42-49 High Holborn, London, WC1V 6NP) each Thursday (dependent on volunteer availability). The Scheme covers applications listed for 1/1.5 hours or less (e.g. FHDRAs, DRAs, First Appointments, and interim applications).
2. The Scheme is a collaboration between specialist family law barristers and Advocate, and has the support of the Judges sitting at the CFC.

**Participants in the Scheme**

1. “Participant” means a pro bono advocate who is a barrister who has post-pupillage family law experience. Every Thursday, there will be a Participant on duty and further Participants on call.
2. The on-duty and on-call rota, for which Participants can volunteer, is administered and organised by the Scheme. Participants can volunteer by contacting the Scheme at familybarlink@weareadvocate.org.uk.
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.
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 CFC 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).

1. Participants are volunteers and are able to accept instructions under the licensed access auspices of Advocate. Participants will be covered by their own BMIF policy.

**Litigants in Person**

1. “LIP” (litigant in person) means an unrepresented person intending or due to appear before the CFC’s list and who does not have legal representation.
2. LIPs will be referred to the Scheme by the Judge hearing their case, who will provide them with a leaflet directing them to attend the room at the CFC allocated for the Scheme’s use to check in with the on-duty Participant. The leaflet contains a data protection notice.
3. The Scheme is designed for persons unable to afford legal representation and for applications listed for 1/1.5 hours or less. 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 on-duty Participant should arrive the room at the CFC allocated for the Scheme’s use on the Thursday morning at 09:00 and should be available there for any LIPs until the Court sits at 10:00 and thereafter (unless the Participant is in Court) until 13:00. The Participant should return at 13:30 for the afternoon list to be available for any LIPs until 16:00.
2. On-call Participants should remain available to attend a hearing at short notice (either in-person or remotely) throughout the volunteer slot that they have signed up for: 9am-2pm if they have signed up for a morning/AM slot, and 2pm-5pm if they have signed up for an afternoon/PM slot.
3. If a LIP appears before a Judge, the Judge will make the LIP aware of the Scheme and enquire whether the LIP has had the opportunity to speak with the on-duty 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 on-duty Participant.
4. The Judge, if they decide to refer the LIP to the Scheme, will provide the LIP with a leaflet directing them to attend the room at the CFC allocated for the Scheme’s use to check in with the on-duty Participant.
5. The on-duty 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; or
	3. arrange for an on-call Participant to advise the LIP/appear for the LIP on that day’s hearing.
6. 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 6 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.
7. 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.
8. 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 be kept by the Participant. A final copy should be provided by email to familybarlink@weareadvocate.org.uk for record keeping.
9. Participants are encouraged to retain copies of any notes they make.

**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 LIP 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 auspices of 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 Scheme will not be available, the Participant should ensure that sufficient information about what happened at the hearing is included in the Concluding Letter. 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 2nd Floor Lincoln House, 296-302 High Holborn, London WC1V 7JH .