The South West Litigant in Person
Support Scheme (“SW-CLIPS”)

Protocol

**The South West Litigant in Person Support Scheme (“SW-CLIPS” or “the Scheme”)**

1. SW-CLIPS provides advice and advocacy for unrepresented parties in the Business and Property Courts’ Applications List held each Thursday at the Bristol Civil and Family Justice Centre (2 Redcliff Street, Bristol BS1 6GR).
2. The Scheme is a collaboration between BPC practitioners at the local Bar and Advocate.
3. The Scheme has the support of the Business and Property Court Judges in Bristol, Advocate, the Western Circuit, 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. Each Thursday sitting day during term, there will be a Participant on duty and on call.
2. The duty rota, for which Participants can volunteer, is organised by the local Chambers. Participants can volunteer via the online portal on the Chancery Bar Association’s CLIPS scheme webpage: [insert link here]. 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.
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 if both LIPs would like assistance from a pro bono advocate, then the local Chambers will explore whether a second barrister can make themselves available to assist. Advocate, or otherwise the Participant, should contact charlotte.mallinmartin@guildhallchambers.co.uk in the first instance with the subject ‘SW-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. Employed barristers must ensure they are insured under their own policy with BMIF, or that of their employers.

**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’ Applications List and who is unable to afford legal representation.
2. If the LIP is identified by the CJC’s Office ahead of the Thursday on which the application will be heard, the CJC Office should provide the LIP with the Participant’s contact details. The Participant should be copied to any email which the CJC Office send to the LIP.
3. The LIP will then be sent a copy of the Explanatory Note by the Participant and asked to read it. The Explanatory Note contains a data protection notice.
4. On the day of the hearing, the LIP should go to the CJC and speak to the Usher on the first floor of the Building. The Usher will introduce the LIP to the Participant.
5. If the LIP has not yet been put in touch with the Participant, the LIP will be given a copy of the Explanatory Note by the Participant on the day of the hearing. As above, the Explanatory Note contains a data protection notice.
6. 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 arrive at the conference room in the CJC 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 **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.
2. On arrival at the CJC the Participant should report to the Usher where they will be directed to any LIPs appearing in relation to applications in the Business and Property Courts’ Applications List.
3. If the interim 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 Applications 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 or before 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 () 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 (southwestprobono@weareadvocate.org.uk) 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 2nd Floor Lincoln House, 296-302 High Holborn, London WC1V 7JH .
2. Advocate will produce quarterly reports. These will be shared with the Senior BPC Judge in Bristol 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.