

A Charter for Effective Participation and Communication between Solicitors and Litigants in Person in Northern Ireland

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Introduction

This Charter is intended for the people involved in court proceedings in Civil or Family law or employment proceedings in tribunals in Northern Ireland where one party does not have legal representation. We refer to someone in this position as a Litigant in Person.

Contact between a Litigant in Person and the solicitor for the other party is vital to the smooth running of a case and can result in agreement between the parties, saving time, costs and stress.

Research shows that a Litigant in Person may be unaware they can deal directly with the solicitor to resolve a legal issue, or they may lack confidence or not know how to move discussions forward or reach agreements. Solicitors may have had difficult interactions with a Litigant in Person in the past and might be cautious of direct contact or they may sense that a Litigant in Person is defensive about dealing directly with them.

These guidelines present ways to promote cordial and conciliatory professional communication between solicitors and LIPs in the interests of justice. It contains suggested actions and conduct for solicitors and LIPs to follow to promote fairness, effective participation, and mutual respect. In cases where there is a LIP, all parties are asked to be guided by and adopt the actions and conduct in this Charter. The judge hearing the case may ask all parties whether they have read the document and whether they agree to be guided by it.

This Charter recognises that disabled LIPs and LIPs with additional needs, including neurodivergence, mental ill-health and age-related needs, may need specific reasonable adjustments to participate. These accommodations incorporate statutory duties that must be considered by

the Parties and the court or tribunal. This Charter recognises and supplements those considerations.

The purpose of this Charter

The court and tribunal system is required to protect the right to a fair trial and solicitors have a professional duty to the court to protect the rule of law and the administration of justice. For Family proceedings, all parties have an additional duty to prioritise the best interests of the child or children in the case.

Where one party is representing themselves in a case, we describe this person as a Litigant in Person (shortened to 'LIP'). A Litigant in Person can sometimes find it difficult to participate in their hearings. For this reason, cases that involve someone representing themselves against a represented party can require solicitors and judges to take a different approach than if both parties were represented. A Litigant in Person should not be compared to how legal representatives conduct their case. A Litigant in Person may feel stress not just from being in legal proceedings but also from not being familiar with the court process.

This Charter promotes **effective participation** for all parties, including LIPs with disabilities or additional needs. Effective participation means parties understand procedure, can follow it (with reasonable adjustments where needed), and have equal opportunities to present their case.

The Charter applies to court proceedings in Civil or Family law and to employment proceedings in tribunals in Northern Ireland where one party is a LIP. It applies in principle to other court and tribunal cases where one party is a LIP.

The Charter outlines the actions and conduct by solicitors and LIPs that can help to promote fairness, effective participation, and mutual respect. The Charter also covers circumstances when a Litigant in Person is assisted by a non-legally qualified person, such as a McKenzie Friend. The Charter may also be of assistance to solicitors' clients, barristers, Court Children's Officers, McKenzie Friends and court staff.

The Charter covers the points where solicitors and LIPs may interact in a case:

- a) Through emails, phone calls and letters.
- b) Discussions outside the court or tribunal room when agreeing matters, clarifying matters or narrowing down issues before seeing the judge.
- c) During the hearing.
- d) When the judge asks the solicitor to draft the court Order which the Litigant in Person will be given to review.
- e) In Family Proceedings cases, in discussions with the Court Children's Officer.

Judges and solicitors should proactively consider whether a Litigant in Person requires reasonable adjustments and implement any adjustments agreed or directed.

This Charter has been written by solicitors, LIPs, McKenzie Friends, other people with lived relevant experience and researchers at Ulster University. It includes 'pain points' as examples of issues that can arise.

Promoting effective participation

Effective participation can be promoted by parties following these points of conduct:

- a) All parties act with honesty, integrity, and civility throughout all interactions.
- b) All interactions are empathetic, dignified and respectful. Abusive or disrespectful behaviour from either party is not acceptable.
- c) A LIP's lack of familiarity with legal proceedings is acknowledged and they are not made to feel marginalised or excluded.

- d) When a Litigant in Person has disabilities or additional needs, they can request reasonable adjustments at application or at any time. Other people involved in the case should consider and, where appropriate, implement reasonable adjustments, such as extra time, breaks, simplified directions, remote or hybrid attendance, communication support.
- e) Good communication should contribute to a constructive approach to reaching a swift and fair outcome.
- f) Where written materials are provided, parties should supply them in accessible formats on request, such as in large print or as screen-reader compatible.
- g) In Family cases, the best interests of the children in the case are prioritised. In Civil and employment cases, enabling the court or tribunal to deal with the case justly is prioritised.

Conduct between people in a case involving a Litigant in Person

Communication between solicitors and Litigants in Person

Pain Points:

Solicitors and Litigant in Person have to deal directly with each other. Correspondence and interactions from a solicitor to a Litigant in Person can be perceived as intimidating or discouraging when a Litigant in Person is unfamiliar with legal language.

A Litigant in Person may see the solicitor as ‘the enemy’ and may avoid contact.

A Litigant in Person may expect solicitors to respond to their communications quickly when this is not always possible.

These hindrances to communication can deepen disputes and cause delay.

A solicitor and a Litigant in Person have to be able to communicate to facilitate information flow. A solicitor may be in the difficult position of having to relay messages between the two parties: for example, in Family cases, about changes in arrangements for contact with the child. It is vital that all parties enable this flow of information through polite, respectful, cordial and timely communication. If communication is hostile or rude, the progress of the case may be harmed:

- a) To aid efficient communication, a Litigant in Person should provide an email address for service and contact. If a Litigant in Person agrees to service by email, it should be recorded in writing.
- b) Solicitors often have a heavy caseload, and it may take time for them to respond to a call or email. It is good practice to agree a timeframe for returning a call or email, for example, two working days to acknowledge receipt of an email; five working days to reply.
- c) A solicitor should understand that LIPs are likely to be unfamiliar with how cases are managed and should alter their approach to communicating with a LIP. For example,
 - i. use plain English, define necessary legal terms the first time they appear, and avoid unexplained abbreviations or Latin terms.
 - ii. recognise that a Litigant in Person may be at a disadvantage and may feel intimidated and antagonised by formal, legal language.
 - iii. avoid using inflammatory words or phrases and avoid personal opinions which could deepen a dispute.
- d) All parties should avoid using inflammatory language and maintain respectful communications.
- e) Where there is an agreement for an adjustment to communications, such as written not phone contact or large font, the other party should communicate in that format.

Vulnerability and reasonable adjustments

Pain Points:

The complicated, unfamiliar and sometimes intimidating court setting can make a Litigant in Person feel vulnerable and off-balance. They may not even be able to recognise this or explain it to the solicitor or the court. This can prevent them from participating effectively in their case.

A Litigant in Person may have disabilities or additional needs which are not visible, such as neurodivergence, learning difficulties or mental ill-health. They may not feel comfortable raising them with the court or tribunal.

In a cross-examination, a Litigant in Person may be questioning a vulnerable witness.

- a) A Litigant in Person may require additional support from the court or tribunal or the solicitor of the opposing party because they may not understand the proceedings. Parties and the court or tribunal should consider, at the earliest opportunity, whether any party requires reasonable adjustments to participate effectively, such as extra time, breaks, remote or hybrid attendance, sign-language or communication support, accessible formats.
- b) A Litigant in Person may inform the court or tribunal of any disabilities or additional needs they have and request reasonable adjustments at application or at any time in the proceedings. This is confidential and will be treated as confidential by the court or tribunal. The court should record any adjustments granted.
- c) If a Litigant in Person has a McKenzie Friend (see under [section 9](#) below), the McKenzie Friend can identify reasonable adjustments in their application to the court or tribunal and to the solicitor.
- d) Where a Litigant in Person is questioning a vulnerable witness, the solicitor should bring this to the attention of the judge.
- e) Where a solicitor is aware that a Litigant in Person is vulnerable and their needs when participating in the proceedings have not been recognised, they should bring this to the attention of the judge.

Discussions outside of the court or tribunal

Pain Points:

A Litigant in Person may not be aware that they can discuss the case outside the court or tribunal with the solicitor. A Litigant in Person may feel suspicious of the solicitor approaching them or not understand their intention. A solicitor's client too may not be aware that their solicitor may talk directly to a Litigant in Person outside court or tribunal.

Discussions outside of the court or tribunal hearing room, whether in the building or elsewhere, are an opportunity for a Litigant in Person and solicitor to agree on issues related to the case. These discussions can be used to clarify or agree issues or settle the case. Reaching a swift agreement may reduce the length of the case and, in Family Proceedings, reduce the harm to the children caused by a lengthy court case.

- a) All parties should be open to discussions outside of the court or tribunal.
- b) If a settlement is proposed, it should be explained, and sufficient time should be allowed for its implications to be considered.
- c) A solicitor and Litigant in Person can discuss and agree on any issues in the case and inform the judge that they have reached agreement on these issues.
- d) Discussions outside of the court or tribunal are 'without prejudice' which means that a settlement offer or concessions that are not accepted cannot then be shown to the judge. If discussions are intended to be 'open' and can be referred to, this should be agreed.
- e) A solicitor and Litigant in Person can agree on process, such as who will address the judge first when the Litigant in Person is the applicant, and this can then be communicated to the judge.
- f) Parties should consider Alternative Dispute Resolution, such as mediation, where appropriate and record any agreement to pursue ADR in the case management note or Order.

Chances to review difficult relationships

Pain Point:

If the relationship between a solicitor and a Litigant in Person is so hostile that they cannot communicate directly, the case may take longer and in Family cases may harm the children.

If the relationship between a solicitor and a Litigant in Person is hostile, a chance to roll back and de-escalate should be requested. Either side can signal their desire to review the relationship, seeking the support of a third party, if necessary.

Court procedures

Pain Points:

A Litigant in Person may not be familiar with the approach that a court or tribunal may take to hearing a case. In Civil and Family cases, a Litigant in Person may not know that they should make themselves known to the court or tell the other party that they are present for a hearing. In Family cases, a Litigant in Person remains outside in the waiting room during the call-over (where the judge checks on the list of cases to be heard that day). A Litigant in Person will not know what is happening inside the courtroom and may feel sidelined from their case. When a Litigant in Person is called into court, they may be shocked to see many solicitors in the room and find it difficult to speak.

Cases across courts and tribunals can differ in how they are run. Solicitors will likely be familiar with how different judges conduct their proceedings and how they will hear cases involving LIPs. However, the Litigant in Person may not be familiar with the approach that a judge may take and may lack confidence to ask for procedural actions. This can cause confusion and uncertainty. It can impact on a LIP's participation, and slow down proceedings. Improving fairness and participation can be achieved through

improved communication on court procedures. For clarity and consistency, it is highly recommended that:

- a) A Litigant in Person looks for the solicitor representing the other party and lets them know they are present for the hearing. Similarly, the solicitor looks for the Litigant in Person to make themselves known to them.
- b) Where possible, the solicitor goes through the hearing running order with the Litigant in Person prior to the hearing and identifies the LIP's views on the running order so that this can be communicated to the judge – for example, agreeing who speaks first in the hearing. When a Litigant in Person is the applicant, they may expect to address the judge first and may not be prepared to respond if the judge asks the solicitor to speak first.
- c) Where a barrister (referred to as 'counsel') is instructed, the communication route with a Litigant in Person should be clarified via the instructing solicitor to avoid confusion.
- d) Before a Family Proceedings hearing, the solicitor should explain the call-over process, who will be present, and invite the LIP's views on requesting a cleared courtroom. If a Litigant in Person indicates anxiety or a disability-related need, the solicitor should assist and inform the judge of this where possible.
- e) Where a specialist protocol or pre-action procedures apply, a Litigant in Person will be subject to the same obligations as a represented party. Where reasonable, solicitors should send a copy or link to the relevant protocol to the Litigant in Person in advance of the hearing as this may help the overall case process and management.
- f) In Family Proceedings cases, the Litigant in Person can be directed to sources of information, such as [Ulster University's Family Court Information website](#). This website provides useful templates, information and meanings of legal terms which may be relevant to other Civil proceedings.
- g) The hearing should, where reasonable, take account of adjustments that have been identified.

Access to case documents

Pain points:

A Litigant in Person does not have access to the case documents which are held on the court service tracking system called ICOS. This means they cannot access Interim Orders or see the date for the next hearing. They may not have been able to make a note of the judge's directions during the hearing, so will have to wait to receive the directions in the post. When case documents are served on a Litigant in Person immediately before a hearing, it may confuse them, and they may not know how to respond. In Family Proceedings cases, a Litigant in Person might not receive the Court Children's Officer's (CCO) report directly. There is no consistent practice in how a Litigant in Person can access the report, some may have to go to the CCO's office to view it while others may have to rely on hearing the CCO's oral submission to the court.

Delay in receiving documents or reports can threaten fairness and delay hearings in a case. This may be contrary to the 'overriding objective' to deal with cases justly and in a timely manner. In Family cases, it may be contrary to the best interests of the child and the 'no delay principle':

- a) Unless the court or tribunal directs otherwise, parties must avoid serving documents on a Litigant in Person on the day of the hearing. They should be served at least three working days before the hearing to allow time to read and respond.
- b) Where a report is not made available to a LIP, the parties should communicate on this and inform the court where necessary so it can be made available in advance of the hearing. The solicitor should alert the court or tribunal promptly if access cannot be arranged in good time.
- c) In the case of a CCO report in Family cases, the solicitor can inform the Litigant in Person that the CCO report is available and that the Litigant in Person can contact the CCO office to obtain access to it.
- d) A solicitor needs to appreciate this lack of access and anticipate a LIP's difficulties in obtaining information. They can send reminders or

copies of documents from the ICOS system directly to the Litigant in Person to promote the flow of information.

- e) As a matter of good practice, a solicitor should check the Litigant in Person has an accurate record of the judge's directions and any agreed future hearing date after a hearing.
- f) A Litigant in Person can also request the court or tribunal office to provide them with Orders and dates via telephone.
- g) Parties should use an agreed protocol for emailing documents to the LIP.

Procedural guidance

Pain Points:

LIPs are often unfamiliar with court and tribunal process and procedures. They can become confused, easily led or unable to participate effectively. This can extend the length of a case. The judge may ask the solicitor to draft an Order, prepare the case bundle or provide the Litigant in Person with information about the judge's directions. The solicitor's client may see this as unfair or not in their interest.

A solicitor should anticipate information gaps and support a Litigant in Person with information on procedure or where to find it.

- a) The solicitor should provide appropriate assistance to the court or tribunal and a LIP.
- b) Documents should be filed within the timeframe directed by the judge. If there is going to be a delay, time must be allowed for the receiving party to consider the late document. This means the other party must be informed of a delay or an extension of time can be requested.
- c) Where a solicitor can see that a Litigant in Person is heading towards non-compliance with a court direction, they should consider bringing this to the attention of the Litigant in Person in a cordial way.
- d) If documents are submitted on the day of a hearing, the receiving Litigant in Person will need time to consider them and may seek an

adjournment. The parties should confer and explain any agreed position to the judge.

- e) A Litigant in Person should be aware that solicitors are under no obligation to help a Litigant in Person run their case or take any action on the LIP's behalf, unless it falls within their duty to the court or tribunal or, in Family cases, as part of ensuring the best interests of the child.
- f) A solicitor is required to behave professionally towards a Litigant in Person and not to use tactics that take advantage of a LIP's lack of familiarity with litigation, for example by misleading them or withholding information.
- g) A Litigant in Person should be aware that a solicitor using the law and procedure effectively against an opponent, whether qualified or a LIP, is not necessarily taking an unfair advantage.
- h) A solicitor may need to explain their duty to the court to their client – see [Appendix A – Note to clients](#).

Judicial approach

Pain points:

Judges can take time to explain procedure or what will happen next in the case to a LIP. This may make the hearing longer than if both parties were represented. Solicitors and their clients may misconstrue the explanations as the judge giving an unfair advantage to the LIP.

All parties are under an obligation to help the court or tribunal to deal with cases in a balanced way which promotes fairness and helps the process to run more smoothly.

- a) A solicitor may need to inform their client that this is standard practice when there is a Litigant in Person in a case – see [Appendix A – Note to clients](#).
- b) A solicitor should be prepared to suggest steps or actions to the court or tribunal if they believe it would be helpful to the case.

- c) If there is a breakdown in the behaviour or comprehension of the LIP, the judge can be asked to intervene to offer a pathway to allow the proceedings to continue.

McKenzie Friends

Pain Points:

Many LIPs may find it difficult to navigate a court, tribunal or legal process without help. There is a presumption that LIPs can be assisted by non-qualified persons called McKenzie Friends, but difficulties can arise for both a solicitor and a Litigant in Person in respect of procedure, confidentiality and communications. A solicitor may not know that a Litigant in Person has a McKenzie Friend until the first hearing.

A Litigant in Person may get help from a non-qualified person called a McKenzie Friend to navigate a court, tribunal or legal process. There is guidance from the Lady Chief Justice relating to McKenzie Friends in all court business in Northern Ireland which the parties must consider. This is contained in [Practice Note 3/2012 \(Revised 7 June 2024\) McKenzie Friends](#).

The Practice Note requires a Litigant in Person to inform the judge as soon as possible of their wish for a McKenzie Friend to accompany and support them in their case. The Practice Note sets out the role of McKenzie Friends, a code of conduct and the form to be completed by a McKenzie Friend.

Parties should be provided with the McKenzie Friend application form and code of conduct with the first Notice of Hearing. The Litigant in Person should file and serve any application at least five working days before the hearing where possible.

McKenzie Friends may have no previous court or tribunal experience, or they may be well-informed and well-placed to assist a Litigant in Person which can smooth the conduct of proceedings. To promote effective participation:

- a) Where possible, a Litigant in Person should advise the solicitor that they will be assisted by a McKenzie Friend.
- b) As with each other, parties should treat a McKenzie Friend with courtesy and respect. McKenzie Friends should treat the parties with courtesy and respect.
- c) A solicitor and Litigant in Person recognise that a McKenzie Friend may read the papers for the court case and be present during out of court discussions, unless the court indicates otherwise.
- d) A McKenzie Friend must observe strict confidentiality in relation to any documents they have sight of and any information they hear in relation to the proceedings.
- e) Both the solicitor and Litigant in Person understand that a McKenzie Friend may attend the hearing of the case, unless the court or tribunal indicates otherwise.
- f) If the Litigant in Person wishes the solicitor to communicate directly with their McKenzie Friend, this must be confirmed by the Litigant in Person in writing. Otherwise, communications should be addressed to the LIP.
- g) A solicitor should ensure that documents are served on a Litigant in Person in good time to enable them to seek the assistance of a McKenzie Friend in advance of any hearing or meeting.
- h) A McKenzie Friend can assist a Litigant in Person to identify reasonable adjustments in the LIP's application to the court or tribunal.

Confidentiality

Pain Points:

A Litigant in Person may not realise that court and tribunal case documents are strictly private and that they cannot share them with others without permission of the judge.

Documents arising from Civil, Family and tribunal cases are generally private and subject to data protection regulations. They should not be shared or made public. Specifically, because of the involvement of children in Family Proceedings, there is a need for strict confidentiality under the rules of court. For that reason, Article 170 of the Children (Northern Ireland) Order 1995 makes it a criminal offence to publish any material which is intended, or is likely, to identify any child as being involved in any proceedings.

- a) All parties must acknowledge this and ensure no documents or other information related to the case are shared with anyone not involved in the case.
- b) If a Litigant in Person is supported by a McKenzie Friend, the documents can be shared with the McKenzie Friend, but only once the judge has directed that the McKenzie Friend can be involved in the case.

Awareness that a party is a LIP

Pain Points:

A solicitor might only learn that their opposite party is a Litigant in Person on receipt of the notification of a hearing or at the court or tribunal when they appear. This means opportunities for previous communications or engagement, including opportunities to narrow or agree issues or reach a settlement, can be lost. A Litigant in Person may not know they can make direct contact with the solicitor in the case, or they may not know how to do so.

- a) Where possible, a Litigant in Person and solicitor should be in direct contact to aid communication.
- b) A Litigant in Person should inform the solicitor that they will be representing themselves and whether they will seek the assistance of a McKenzie Friend.

- c) On becoming aware that they are or will be a LIP, a party should promptly notify the other side and provide preferred contact details, stating whether they agree to service by email.

Represented clients

Pain Points:

Represented clients may not understand why their solicitor speaks directly to a Litigant in Person and their McKenzie Friend. They might misinterpret as unfair the judge's accommodations for a Litigant in Person or the extra work the solicitor is asked to do to assist a LIP.

In court, a solicitor's client may be surprised that the Litigant in Person speaks directly to the judge when they do not. They might also question why they were not present in court when the Litigant in Person and/or their McKenzie Friend were present, or why the judge is spending more time on the Litigant in Person with explanations or questions.

- a) A solicitor should explain to their client why they are providing assistance to a LIP. The assistance can include explaining procedure or what a Litigant in Person needs to do to follow the judge's direction.
- b) It can also be part of a solicitor's professional duty to the court or tribunal to provide a Litigant in Person with some procedural assistance. Clients can be advised of the potential benefits of this assistance, such as avoiding delay and costs.
- c) [Appendix A – Note to clients](#) provides an example note to a client which explains how a solicitor will deal with the other party who is a LIP.
- d) A Litigant in Person should be aware that solicitors have a duty to their client.
- e) Where a judge asks a solicitor to undertake tasks that assist a LIP, such as preparing the bundle or drafting clear directions, the solicitor

should explain to their client the rationale, likely time and cost, and the proportionality safeguards the court applies.

A Charter for Effective Participation and Communication between Solicitors and Litigants in Person in Northern Ireland

Appendix A – Note to clients

This note explains how your solicitor will handle interactions with the other side in a court or tribunal case if they do not have their own solicitor. In such cases, the unrepresented party is called a “Litigant in Person” (LIP). This document reflects the principles in [‘A Charter for Effective Participation and Communication between Solicitors and Litigants in Person in Northern Ireland,’](#) promoting fairness, respect, and clarity. It explains how your solicitor’s actions are guided by professional obligations to you, to the court or tribunal, and to the administration of justice, ensuring fairness and efficiency in proceedings involving Litigants in Person.

Understanding the Role of Your Solicitor

1. Professional Duties

- a) Your solicitor has a duty to act in your best interests but is also bound by professional responsibilities to the court or tribunal and the administration of justice.
- b) This means your solicitor must help the case proceed fairly and efficiently, which may involve fulfilling the judge’s requests that do not align with your preferences.

2. Interaction with the LIP

- a) Your solicitor cannot provide legal or tactical advice to the LIP. However, they may be asked by the judge - or required by their duties

- to explain procedures to ensure the Litigant in Person understands and follows the rules.

b) This assistance ensures fairness in the proceedings and supports the court or tribunal in maintaining efficiency.

3. Professional Conduct

a) Your solicitor must treat the Litigant in Person with respect and courtesy. They are prohibited from taking advantage of the LIP's lack of legal knowledge, such as by withholding important information or providing misleading statements.

How a Case with a Litigant in Person May Differ

1. Additional Time Requirements

a) Hearings involving LIPs may take longer because the judge may need to explain legal points and procedures to the LIP.

b) Your solicitor may also need to spend additional time on tasks, such as explaining procedures or addressing the judge's queries, to ensure the case runs smoothly.

2. Practical Support for the LIP

a) To reduce delays, your solicitor may be asked by the judge - or may voluntarily offer - to handle practical matters such as preparing bundles of case documents for the court or tribunal and the LIP.

b) These actions can prevent unnecessary delays and reduce overall costs by ensuring the case proceeds without interruptions.

3. Cost Implications

a) Additional tasks required by the court may increase your solicitor's time spent on the case, which could affect your legal costs.

- b) Your solicitor will explain the potential impact on fees and how these tasks help streamline the process, potentially saving time and money overall.

End of document.