

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

17 January 2025

Introduction

1. This Charter is intended for the people involved in Civil or Family Proceedings in Northern Ireland where one party does not have legal representation. We refer to someone in this position as a Litigant in Person, or ‘LIP’ for short.
2. Contact between a LIP and solicitor is vital to the smooth running of a case and can result in agreement between the parties, saving time, costs and stress.
3. Research shows that a LIP 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 LIP in the past and might be cautious of direct contact or they may sense that a LIP is defensive about dealing directly with them.
4. These guidelines present ways to promote cordial, professional contact 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.
5. 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.

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1. The purpose of this Charter

1. The court 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.
2. Where one party is representing themselves in a case, we describe this person as a litigant in person (shortened to 'LIP'). A LIP 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 LIP should not be compared to how legal representatives conduct their case. A LIP may feel stress not just from being in legal proceedings but also from not being familiar with the court process.
3. This Charter is intended to promote **effective participation** for both parties. This is when parties understand the procedure, can follow it and have equal opportunities to present their case so that they can influence the outcome.
4. The Charter applies to all Civil and Family Proceedings cases in Northern Ireland where one party is a LIP.
5. 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 LIP 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.
6. 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 courtroom 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 LIP will be given to review.
 - e) In Family Proceedings cases, in discussions with the Court Children's Officer.
7. 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.

2. 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 proceeding is acknowledged and they are not made to feel marginalised or excluded.
- d) Reasonable accommodations for a LIP's lack of legal knowledge are made.
- e) Communications support a constructive approach to reaching a swift and fair outcome.

- f) In Family cases, the best interests of the children in the case are prioritised. In Civil cases, enabling the court to deal with the case justly is prioritised.

3. Conduct between people in a case involving a litigant in person

1. Communication between solicitors and LIPs

Pain Points:

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

A LIP may see the solicitor as ‘the enemy’ and may avoid contact.

A LIP 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 LIP 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 contact arrangements. 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) A LIP should understand that the solicitor for the opposing party will 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.
- b) 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 and avoid legal jargon or technical language in all written and verbal interactions or provide an explanation where legal terms cannot be avoided.
 - ii. recognise that a LIP 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.
- c) A LIP should also avoid using inflammatory language and maintain respectful communications.

2. Vulnerability

Pain Points:

The complicated, unfamiliar and sometimes intimidating court setting can make a LIP 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 LIP may come with additional needs that they may not feel comfortable raising with the court.

In a cross-examination, a LIP may be questioning a vulnerable witness.

- a) A LIP may require additional support from the court or solicitor because they may not understand the proceedings. This may mean that some reasonable accommodations are needed to help them participate, for example, breaks so they can gather their thoughts, or longer hearings to allow for explanations.
- b) A LIP may inform the court of any additional needs they have and ask for reasonable adjustments to the court process. This is confidential and will be treated as confidential by the court. This can be at the application stage or at any point in the proceedings.
- c) If a LIP has a McKenzie Friend (see under [section 9](#) below), the McKenzie Friend can identify reasonable adjustments in their application to the court and to the solicitor.
- d) Where a LIP is questioning a vulnerable witness, the solicitor should bring this to the attention of the judge.
- e) Where a solicitor is aware that a LIP is vulnerable and their needs when participating in the proceedings have not been recognised, they should bring this to the attention of the judge.

3. Out of court discussions

Pain Point:

A LIP may not be aware that they can discuss the case outside the court with the solicitor. A LIP 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 LIP outside court.

Discussions outside of the courtroom, whether in the court building or elsewhere, are an opportunity for a LIP 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 out of court discussions.
- 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 LIP can discuss and agree on any issues in the case and inform the judge that they have reached agreement on these issues.

- d) It is important that a LIP understands that discussions outside of the court are ‘without prejudice’ which means that an offer or suggestion made by one party which is not accepted cannot then be raised in court or shown to the judge.
- e) A solicitor and LIP can agree on process, such as who will address the judge first when the LIP is the applicant, and this can then be communicated to the judge.

4. Chances to review difficult relationships

Pain Point:

If the relationship between a solicitor and a LIP 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 LIP 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.

5. Court procedures

Pain Points:

A LIP may not be familiar with the approach that a court may take to hearing a case.

A LIP 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 LIP 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 LIP will not know what is happening inside the courtroom and may feel sidelined from their case. When a LIP is called into court, they may be shocked to see so many solicitors in the room and find it difficult to speak.

Cases across the courts 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 LIP may not be familiar with the approach that a court 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 LIP looks for the solicitor representing the other party and lets them know they are present for the hearing. Similarly, the solicitor looks for the LIP to make themselves known to them.
- b) Where possible, the solicitor goes through the case running order with the LIP prior to the hearing and identifies the LIP’s views on the case running order so that this can be communicated to the judge. For example, agreeing who speaks first in the case. When a LIP 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) The solicitor should try to communicate with the LIP before the hearing and explain what to expect in the call-over – that there will be several others in the room while the judge previews the day’s cases. In Family Proceedings cases, the solicitor can try to identify the LIP’s views on whether the court room should be cleared when their case is

previewed. The solicitor should assist and inform the judge of these views where possible.

- d) Where a specialist protocol or pre-action procedures apply, a LIP 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 LIP in advance of the hearing as this may help the overall case process and management.
- e) In Family Proceedings cases, the LIP can be directed to sources of information, such as Ulster University's Family Court Information website <https://www.ulster.ac.uk/familycourtinfo>. This also provides useful templates and information which may be relevant to other Civil proceedings.

6. Access to case documents

Pain points:

A LIP does not have access to the case documents which are held on the court service tracking system (called ICOS) and so 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 LIP immediately before a hearing it may confuse them, and they may not know how to respond.

In Family Proceedings cases, a LIP might not receive the Court Children's Officer's (CCO) report directly. There is no consistent practice in how a LIP 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 hearing dates in a case. This may be contrary to the 'overriding objective' to deal with cases justly. In Family cases it may be contrary to the best interests of children and the 'no delay principle'.

- a) A LIP should not be served case documents immediately before a hearing because they will not have sufficient time to consider its contents.
- b) Where a report is not made available to a LIP, the parties should communicate on this and inform the court where necessary to make it available in advance of the hearing.
- c) In the case of a CCO report in Family cases, the solicitor can inform the LIP that the CCO report is available and that the LIP 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 LIP to promote the flow of information.
- e) As a matter of good practice, a solicitor should check the LIP has an accurate record of the court's directions and any agreed court date after a hearing.
- f) A LIP can also request the court office to provide them with Orders and dates via telephone.

7. Procedural guidance

Pain Points:

LIPs are often unfamiliar with court 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 LIP 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 LIP with information on procedure or where to find it.

- a) The solicitor should provide appropriate assistance to the court and a LIP.
- b) Documents should be filed within the timeframe directed by the judge. If there is going to be 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 LIP is heading towards non-compliance with a court direction, they should consider bringing this to the attention of the LIP in a cordial way.
- d) When documents are submitted on the day of a hearing, it is unlikely a LIP will have time to consider their response, and they may wish to ask for an adjournment. This should be discussed and an agreed position communicated to the judge.
- e) A LIP should be aware that solicitors are under no obligation to help a LIP run their case or take any action on the LIP's behalf, unless it falls within their duty to the court or, in Family cases, as part of ensuring the best interests of the child.
- f) A solicitor is required to behave professionally towards a LIP 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 LIP 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](#).

8. Judicial approach

Pain point:

Judges can take time to explain procedure or what will happen next in the case to a LIP. This can 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 to deal with cases in a balanced way which promotes fairness and helps the court process to run more smoothly.

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

9. McKenzie Friends

Pain Points:

Many LIPs may find it difficult to navigate a court 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 LIP in respect of procedure, confidentiality and communications.

A solicitor may not know that a LIP has a McKenzie Friend until the first hearing.

A LIP may get help from a non-qualified person called a McKenzie Friend to navigate a court 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 LIP 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.

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

- a) Where possible, a LIP 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 LIP 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) A solicitor and LIP understand that a McKenzie Friend may attend the hearing of the court case unless the court indicates otherwise.
- f) A LIP may wish for the solicitor to speak with their McKenzie Friend. This should be agreed between the solicitor and LIP.
- g) A solicitor should ensure that documents are served on a LIP 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 LIP to identify reasonable adjustments in the LIP’s application to the court.

10. Confidentiality

Pain Point:

A LIP may not realise that court case documents are strictly private and share them with others without permission of the judge.

Documents arising from Civil and Family 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 LIP 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.

11. Awareness that a party is a LIP

Pain Points:

A solicitor might only learn that their opposite party is a LIP on receipt of the notification of a court hearing or at court when they appear. This means opportunities for previous communications or engagement, including opportunities to narrow or agree issues or settlement, can be lost.

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

12. Represented clients

Pain Points:

Represented clients may not understand why their solicitor speaks directly to a LIP and their McKenzie Friend.

They might misinterpret the judge's accommodations for a LIP or the extra work the solicitor is asked to do to assist a LIP as unfair.

In court, a solicitor's client may be surprised that the LIP speaks directly to the judge when they do not. They might also question why they were not present in court when the LIP and/or their McKenzie Friend were present, or why the judge is spending more time on the LIP 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 court procedure or what a LIP needs to do to follow the court's direction.
- b) It can also be part of a solicitor's professional duty to the court to provide a LIP with some procedural assistance. Clients can be advised of the potential benefits of this assistance, such as avoiding delay and time 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 LIP should be aware that solicitors have a duty to their client.

Appendix A – Note to clients

This note explains how your solicitor will handle interactions with the other side in a court 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, 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 and the administration of justice.
- b) This means your solicitor must help the case proceed fairly and efficiently, which may involve fulfilling court 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 court—or required by their duties—to explain court procedures to ensure the LIP understands and follows the rules.
- b) This assistance ensures fairness in the proceedings and supports the court in maintaining efficiency.

3. Professional Conduct

- a) Your solicitor must treat the LIP 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 Court Cases with LIPs May Differ

1. Additional Time Requirements

- a) Court 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 court documents for the court 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.