THE COMMERCIAL COURT AND LONDON CIRCUIT COMMERCIAL COURT PRO BONO SCHEME

SCHEME PROTOCOL

The Scheme

1. This Scheme has the support of the Judge in Charge of the Commercial Court and the Judge in Charge of the London Circuit Commercial Court (**LCCC**) and (together, the **JICs**).

2. The Scheme is a collaboration between Advocate, the Commercial Court, the LCCC, COMBAR, and Pro Bono Connect (**PBC**).

3. The aim of the Scheme is to provide pro-bono assistance and representation for litigants in person (**LIPs**) appearing in applications to be heard in the Commercial Court or the LCCC. It is intended that this assistance will be limited to interim hearings (including CMCs), and trials of up to one week.

Operation of the Scheme

4. "**Volunteer Advocate**" means a barrister who has post-pupillage commercial experience and who is a member of COMBAR, and who has indicated their willingness to make themselves available to represent LIPs at short notice in applications before the Commercial Court or LCCC.

5. The scheme will operate as follows:

    a. **COMBAR** will compile, provide to Advocate and maintain a mailing list of Volunteer Advocates (the **Volunteer Mailing List**). The list will be kept up to date by COMBAR, which will circulate details of the scheme and an invitation to join the mailing list at the start of every term (or at such other intervals as COMBAR considers appropriate).

Barristers wishing to join the Volunteer Mailing List should email admin@combar.com.

b. A copy of the explanatory note at Appendix 1 to this Protocol (the **Explanatory Note**) will be sent to all parties both (1) when a claim is issued in the Commercial Court and LCCC and (2) subsequently when an application issued. Where the party issuing the application is aware that the respondent to the application is an individual and is or may be unrepresented, it should provide a copy of the Explanatory Note to the respondent when serving the application.

c. The Explanatory Note sets out the full details as to how the Scheme may be accessed, including the relevant contact details for Advocate (emails to commercialscheme@weareadvocate.org.uk or letters to Commercial Scheme, Advocate, International Dispute Resolution Centre, 1 Paternoster Lane, St Paul's, London, EC4M 7BQ). The Explanatory Note also makes clear that:

    i. LIPs should contact Advocate as soon as possible requesting access the scheme

    ii. Upon receipt of such email, Advocate will ask the LIP to complete an application form and request papers for the case and information/evidence for means testing; and

    iii. It is the LIP's responsibility to ensure a copy of the application bundle and any other relevant papers are provided to Advocate in sufficient time before any hearing.

d. The application form used by Advocate and sent to the LIP will be Advocate's standard application form, giving details of (a) the nature of the application for which assistance is sought; (b) the assistance that is likely to be required of the Volunteer Advocate; (c) an indication of the volume of papers (by reference to the hearing bundle, if available); and (d) details of the LIP's means.

e. The Application Form will be reviewed by one of a panel of reviewers engaged by Advocate, who will confirm whether the case is suitable for pro bono assistance in accordance with Advocate's usual procedures concerning merits and means testing. If the case is accepted by Advocate, it will send a short summary of the application for circulation to the Volunteer Mailing List by Advocate.

f. Volunteer Advocates should respond by return, indicating their willingness to act for the LIP. Cases will be allocated on a 'first come first served' basis (save that for a hearing in a case in which a Volunteer Advocate has previously been instructed under the Scheme, that Volunteer Advocate will be given first refusal).

g. Where a Volunteer Advocate has agreed to take on the case, Advocate will then arrange to have the papers provided by the LIP sent to the relevant barrister at their Chambers or other workplace.

h. Where solicitor assistance would be helpful, the Volunteer Advocate should complete the PBC Request form with the assistance of Advocate, together with a defined scope of work. The PBC Request form should be sent to PBC by Advocate with a minimum of 4 weeks' notice and for the specific hearing and with defined scope of work. PBC will confirm if any offers are received and, if more than one offer, allocate according to PBC's fair allocation rules.

i. Unless they stipulate otherwise, Barristers accepting a referral under the Scheme for a hearing lasting more than one day may do so on the basis that their acceptance of the case is conditional on solicitor support being found through PBC (which cannot be guaranteed).

6. The extended scheme will be piloted for an eighteen-month period from 1 November 2025. The Scheme will be reviewed by the JICs, Advocate, COMBAR, and PBC together following the pilot, to determine whether it should be maintained and what, if any, changes should be made thereto.

7. Copies of this Scheme Protocol and the Explanatory Note will be provided to judges sitting in the Commercial Court/LCCC as appropriate.

Access to the Scheme

8. Access to the Scheme will be limited to LIPs appearing before the Commercial Court or the LCCC.

9. The Scheme is designed to provide legal assistance and representation to LIPs who might otherwise not be able to afford it. The Scheme will operate a means test, to be administered by Advocate.

10. It is the responsibility of the LIP:

(a) to contact Advocate and inform them of their desire to access assistance under the Scheme;

(b) to provide Advocate with the application bundle for the hearing and any other papers that they consider to be relevant; and

(c) to ensure that Advocate has been provided with all relevant and up to date details of the hearing.

Role of the Volunteer Advocates

11. The Scheme will be open to all Volunteer Advocates as defined in paragraph 4 above and will operate as set out in paragraph 5 above.

12. Volunteer Advocates will be instructed under the licensed access auspices of Advocate, the working name for the Bar Pro Bono Unit. If a solicitor firm accepts the case through Pro Bono Connect, that firm will take over the instruction of the Volunteer Advocate and Advocate will step out of the picture.

13. Self-employed barristers are insured under their own policy with the BMIF. Employed barristers are insured via Advocate's policy with the BMIF.

14. It is for Volunteer Advocates to determine for themselves whether it is appropriate for them to volunteer, having regard to: (a) the volume of papers; (b) the likely preparation time involved; (c) the date of the hearing; (d) the availability of solicitor support; (e) whether the hearing is in the Commercial Court or LCCC; and (f) the Volunteer Advocate's experience.

15. Once a Volunteer Advocate has been instructed, this constitutes a professional commitment, and must be treated as such. Participants should only cease to act and return instructions in the circumstances provided for in the BSB Code of Conduct, and in such circumstances the Volunteer Advocate should inform Advocate as soon as possible that they are unable to act. Where practical, Advocate will then approach a second Volunteer Advocate to respond to the request for assistance.

16. Once a Volunteer Advocate has been instructed, their responsibilities will be the same as for preparing for any application, save that the instruction will be undertaken on a pro-bono basis. In particular:

(a) The Volunteer remains subject to the usual obligations as to the filing of skeleton arguments as set out in the Commercial Court Guide or Circuit Commercial Court Guide as appropriate (although Judges will have regard to the fact that the Volunteer Advocate may not necessarily have had sufficient time to prepare and will make allowances for that fact);

(b) The Volunteer Advocate will be responsible for taking instructions directly from the LIP, unless a law firm has been instructed through PBC (in which case instructions will be taken from the firm). After the initial contact, Advocate will not ordinarily act as intermediary between the LIP and the Volunteer Advocate; and

(c) It may be appropriate for the LIP to represent themselves in respect of part of a hearing (for example, where the Volunteer Advocate has been unable to obtain proper instructions or may be concerned about misleading the Court).

17. The Volunteer Advocate's obligations and those of any firm identified through PBC will be limited to the hearing in question. While the Volunteer Advocate may agree to assist with the consequential matters arising from the hearing (for example, agreeing the terms of the draft Order), they are not obliged to do so.

18. At the end of the hearing, the Volunteer Advocate will be asked to complete a Concluding Letter out the nature of the hearing, the work undertaken, the directions given by the Judge at the hearing, and any advice given by the Volunteer Advocate. A copy of the form should be given to the LIP and a further copy should be emailed to caseworker@weareadvocate.org.uk.

Additional assistance on the day

19. It is possible that the unrepresented person will be accompanied by a "McKenzie friend". The Volunteer Advocate is asked to respect this choice, but in the event of difficulty or complexity to raise the matter with the judge listed for the hearing (or, in the case of hearings before the LCCC, the Judge in Charge of the LCCC).

20. Where the matter is of a complexity or nature that the assistance of a solicitor (not undertaking advocacy) as well as of an advocate is necessary, the Volunteer Advocate should not proceed with the instruction but should contact Advocate to request a solicitor through Pro Bono Connect in

accordance with the process set out in paragraphs 5(h)-(i) above. If the Volunteer Advocate is in any doubt, he or she should refer to Advocate before proceeding further.

Further assistance after the day of the hearing

21. Subject to paragraph 25 below, the Scheme does not extend to ongoing legal advice or further hearings or appeals. LIPs will be notified by the Volunteer Advocate about the availability of ongoing legal assistance offered by Advocate under its usual arrangements and where the application forms are available.

22. When completing the Concluding Letter referred to at paragraph 18 above, the Volunteer Advocate should also inform Advocate of any likely further assistance required. In so doing, the Volunteer Advocate:

    (a) Should note any relevant observations made by the Court at the hearing;

    (b) Is free to express any view to Advocate about the merits of the LIP's position and the nature of any further assistance required; and

    (c) Should indicate if he or she would like to be given first refusal on any further hearings in the same matter.

23. The LIP should send any completed application form in relation to further assistance to Advocate at the National Pro Bono Centre.

24. Any further application for assistance will be considered by Advocate in accordance with its usual procedures (and not as an application under the auspices of the Scheme): i.e. it will be reviewed by an Advocate reviewer and placed with a panel member accordingly should it pass that stage.

25. By way of exception to that, in the case of further hearings in the Commercial Court/LCCC falling under the scope of this Scheme, the LIP may make a further application to Advocate under this Scheme (in which the LIP may request the same Volunteer Advocate, although the latter shall be under no obligation to accept).

Comments, concerns or complaints

26. If an LIP or a Volunteer Advocate wishes to raise any comment, concern or complaint he or she should, in the first instance, write to Advocate (although Volunteer Advocates may also wish to share their comments, concerns or complaints with COMBAR, at their discretion).

27. Advocate will monitor various aspects of the Scheme and may request assistance in this from COMBAR.

Reporting

28. Advocate, PBC, and COMBAR will provide six monthly reports to the Commercial Court and the LCCC detailing:

    (a) How many volunteers are listed;

    (b) How many requests for assistance have been: (i) submitted and (ii) accepted;

    (c) How many requests for solicitor assistance have been: (i) submitted and (ii) accepted;

    (d) The outcome of the accepted requests for assistance; and

    (e) The amount of time each request has taken for the volunteer.