
PROTOCOL FOR HANDLING APPLICATIONS FROM LITIGANTS IN PERSON (“LIP”)

APPLICATIONS TO THE REDRESS SCHEME BY LITIGANTS IN PERSON (“LIP”)

This document outlines the protocol for dealing with those Applicants who have chosen not to instruct a legal representative to deal with their claim. Whilst Lambeth sign-post to sources of legal representation, Litigants in Person (LIP’s) may choose not to seek legal advice. As such, the LIP may not have benefitted from legal advice and all those handling applications through the Scheme should be mindful of this. The vulnerable nature of the applicants and the difficulty to self-diagnose the impact of historical abuse requires particularly sensitive handling.

In the absence of legal representation, the LIP’s potential lack of understanding of their entitlement may result in their award inaccurately reflecting the harm they suffered during their time in Lambeth’s care. This will be most prominent in claims where the LIP is entitled to special damages for the impact the abuse had upon their education and employment or where psychiatric harm has been suffered but not referenced in the application form. Instructing a medical expert who is able to comment upon this will safeguard the LIP’s interests.

Issues may also arise in relation to the contents of the LIP’s medical and Social Services records, as this is commonly managed by the Applicant’s Solicitors during civil litigation. Sensitive and potentially upsetting information is likely to be contained in the Applicant’s records, of which the LIP may not be fully aware. Steps should be taken, as outlined within this protocol, to minimise any further distress this may cause to the LIP.

COMMUNICATIONS

- 1 During initial correspondence with the LIP, the LIP will be asked to confirm how they would like us to communicate with them, including whether they are happy for us to correspond with them via email.
- 2 Information about the LIP’s application should not be disclosed to any person other than the LIP unless expressly authorised to do so. This includes leaving a message with a friend or family member alluding to the matter they are being contacted in relation to.
- 3 Correspondence by post should be marked - *“Strictly Private & Confidential - to be opened by the addressee only”*.
- 4 The subject line of any correspondence by email should be marked *“Confidential”*.

- 5 Written correspondence should be phrased in simple terms and legal or subject-specific jargon avoided to the extent it is possible.
- 6 In all correspondence, and at any other appropriate point during the handling of the application, remind the LIP they can seek legal advice and the costs of this will be paid by Lambeth under the Scheme.

ASKING THE LITIGANT IN PERSON TO EXPAND ON THEIR EXPERIENCE(S)

- 7 When asking the LIP to expand upon their experiences during their time in Lambeth's care, questions should be open and soft, allowing the LIP to give their own account. Avoid leading questions where possible and explaining why the additional information is required.
- 8 In order to accurately value the LIP's claim, and where possible, ask them how they feel the abuse impacted their lives at the time and also now. This will be particularly important when the LIP does not wish to be medically examined.

CICA PAYMENTS

- 9 In situations where the LIP has informed us of a previous payment from the Criminal Injuries Compensation Association ("CICA") for the abuse they have suffered and for which they are applying for redress, Kennedys will inform the CICA board of an award to the LIP upon payment of the same.
- 10 The LIP may not be aware that the amount they received previously from the CICA is repayable upon receipt of civil compensation. As such, the LIP should be informed of the possibility of this prior to any offers being made.

OBTAINING FURTHER RECORDS

- 11 To enable proper assessment of an appropriate award under the Scheme, (in particular, to allow for consideration of whether significant psychiatric harm has been suffered) the LIP's medical records and Social Services records should be obtained. Of course we must respect the LIP's wishes if they do not want us to obtain these records but we must make it clear the purpose for obtaining the records and the difficulties in accurately assessing the appropriate level of compensation in cases where we do not have their authority.
- 12 Forms of authority requesting medical records from the LIP's GP surgery should be sent to the LIP for completion. The form of authority will allow Kennedys to obtain the LIP's records from their surgery directly.

REVIEW OF RECORDS

- 13 The LIP's GP and Social Services records are to be reviewed insofar as it is necessary to value quantum and causation, and providing the LIP agrees to disclosure and review of these records by Kennedys.

- 14 Where the LIP agrees to their Social Services records being obtained and reviewed, an independent Social Work expert, provided by Willis Palmer, will review the records and prepare a chronology of the most salient entries with copies of those most salient entries exhibited in a bundle to the chronology.
- 15 Records will be sent directly to Willis Palmer unless there are issues of negligence (child-on-child / abuse in foster care).
- 16 Where the GP and/or Social Services records contain sensitive and potentially upsetting information, of which the LIP may not be aware of, the LIP should be informed that there is sensitive information and seek confirmation that they wish the records to be sent to them. The LIP will be offered the opportunity to meet with a Lambeth Social Worker to discuss any sensitivities located in their Social Services records.
- 17 The expert may wish to discuss certain life events with the LIP during the examination and, for this reason, the LIP should be aware of sensitive entries prior to instructions to the expert being drafted.

EXPERT MEDICAL APPOINTMENTS

- 18 Following consideration of the GP and Social Services records, the LIP will be invited to attend a medical examination with a Psychiatrist. If the LIP agrees to attend an examination with a Psychiatrist, the next available appointment with an expert from the Redress Scheme expert panel list will be offered to the LIP. The LIP will be informed that an appointment with a male/female expert can be offered if they would prefer.
- 19 If the LIP agrees to attend an appointment with an expert Psychiatrist, the letter of instruction will be drafted by Kennedys and sent to the LIP prior to it being sent to the expert. The LIP will be required to confirm whether or not they agree with the contents of the letter of instruction and/or if they wish to add anything.
- 20 The medical expert will be sent a copy of the LIP's GP records and Social Services chronology, prepared by Willis Palmer. Following receipt of the medical report, the LIP's application will be valued in line with the Scheme Tariff.
- 21 Where an LIP declines to attend an appointment with an expert Psychiatrist, it will need to be made clear to the LIP that any award offered to them will not take into account relevant information which may be contained in their Social Services records. Neither will the award provide for consideration of whether significant psychiatric harm has been suffered because this would require input from an expert psychiatrist.

ACCEPTANCE OR NON-ACCEPTANCE OF AN OFFER

- 22 Where an LIP declines to undergo a medical examination, an offer of settlement will be made to the LIP in line with the Scheme Tariff. If this offer is not accepted by the LIP, Junior Counsel will be instructed to advise on an appropriate settlement figure with reference to the Scheme tariff.
- 23 The LIP should be asked if they wish to make a counter offer and to provide any additional evidence they wish the Council to consider.
- 24 If the LIP has attended an appointment with an expert Psychiatrist but does not accept the offer made to them upon receipt of the medical report, the LIP should be invited to allow their application to be submitted for consideration by the Independent Appeals Panel.
- 25 Where an offer made to an LIP is accepted, a form of acceptance will be sent to the LIP to be signed and completed by them and returned to Kennedys.

CLOSING THE FILE

- 26 If the LIP is non-responsive, handler should wait six months and then obtain the client's instructions to close the file.
- 27 The LIP will be reminded of non-financial redress at multiple points throughout the process, as well as prior to the file being closed:
 - At the end of the HWP stage to advise IRP is now being assessed and remind of services;
 - At the end of the IRP stage to advise of services available and to let us know if they would like to be referred for any of these or to let us know if they do not so that we can close the file; and
 - 30 days after the IRP stage letter, a further letter will be sent advising that we will be closing our files in 30 days.