



InBrief – Lay Litigants and Legal Proceedings

KEY CONTACTS

If you require advice or further information, please contact Barry Crushell, Carmel Byrne, or your usual Aperture Partners contact.



Barry Crushell
Associate Director
bcrushell@aperturepartners.ie



Carmel Byrne
Associate
cbyrne@aperturepartners.ie

The material contained herein is for general information purposes only and does not constitute legal or other professional advice.
©Aperture Partners 2017. All rights reserved.

In a move likely to have an impact on a number of human resources consultants offering employment law services, the High Court recently issued a Practice Direction that will strengthen the rules concerning representation by non-qualified persons in court, following concerns that advisers without legal training are causing unnecessary impediments to the courts service, whilst charging fees to lay litigants.

A “McKenzie friend” is a term used to describe a person who assists a litigant in person in a court. This person does not need to be legally qualified, the crucial point being that litigants in person are entitled to have assistance, lay or professional, unless there are exceptional circumstances. Litigants assisted by a McKenzie friend remain litigants in person. A McKenzie friend will have no independent right to provide assistance, no right to act as advocates, to carry out the conduct of litigation or an entitlement to payment for their services.

The High Court has clarified that a McKenzie friend may: provide moral support for litigants; take notes; help with aspects of case papers; and quietly give advice on any aspect of the conduct of the case.

A McKenzie friend may not: address the court; make oral submissions; examine witnesses; have a right of audience; have a right to conduct litigation; receive any payment for their services; act as the litigants’ agent in relation to the proceedings; or manage litigants’ cases outside court, for example, by signing court documents.

In exceptional circumstances, a court may permit a McKenzie friend to address the court, however, the Practice Direction noted that such circumstances will be rare.

The Practice Directions highlight the Solicitors Act 1954, which makes it a criminal offence for an unqualified person to draw or prepare a document relating to any legal proceeding, either directly or indirectly, for a fee or reward.