# Direct Legal Representative Litigation Checklist

## Using this checklist:

* Type file name and number, print and attach to all new DLR litigation files
* Complete manually as the file progresses

## Purpose of checklist:

Completing this checklist fully and accurately will help:

* Demonstrate that you have met the duties of competence and standard of care expected of a Direct Legal Representative
* Demonstrate that you have met Legal Aid’s expectations of practitioners undertaking legally aided work, articulated in the [Quality Standards](https://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0012/41511/Quality-Standards.pdf)
* Another solicitor in the event they need to quickly identify the progress you have made with this matter
* If you are audited by Legal Aid

## Note:

* This tool is designed as a prompt only. It does not proscribe how litigation should be conducted in Direct Legal Representative matters and is not exhaustive
* This document could potentially be considered a client document and provided to the client upon request (rule 14 Australian Solicitors’ Conduct Rules) or as a result of a GIPA request

# Part A: Open File and Start Proceedings

## Step One - Open File

| **Task** | **Details/Date Done** |
| --- | --- |
| Appointment by Court |  |
| File a Notice of Address for service |  |
| Letter to parties enclosing NOA and advising of appointment as DLR |  |
| Read documents and start case strategyPrint completed case strategy and retain on file. |  |
| Prepare chronologyOr copy and paste from case strategy. |  |

## Step Two- Prepare for Proceedings

| **Task** | **Details/Date Done** |
| --- | --- |
| Meet with the child as soon as possible after appointment; * Communicate with the child and seek his or her instructions on all relevant issues in the matter;
* Consider the most appropriate way to convey the contents of the filed documents to the child considering the age, cognitive ability and emotional maturity of the child and the potential emotional impact on the child of reading the documents themselves;
 |  |
| Write to the child using plain English to confirm the lawyer’s advice as to the lawyer-client relationship and as to the pending care proceedings.  |  |
| If instructed to do so, consider contacting professionals where appropriate (e.g. school, childcare, counsellor)Consider the best way to gather evidence (in person, phone, email). | List details of professionals contacted and date of contact. |
| Consider issuing subpoenas (subject to instructions) at the earliest opportunity including:* Police;
* Department of Communities and Justice;
* Medical Records;
* School Records.
 |  |
| Consider (and take instructions) whether appropriate to make an assessment application considering:* Assessment is likely to provide relevant information that cannot be obtained elsewhere;
* Whether the assessment is likely to cause the child distress and whether this will be outweighed by the value of the information to be obtained;
* Whether there have been previous assessments and these caused distress to the child;
 |  |
| If considered appropriate, draft assessment application, identify the documents to be reviewed by the Clinician (including subpoena material), file and circulate to the parties |  |
| If assessment order made, forward two copies of all documents (includingsubpoena material) to the Children’s Court Clinic within 7 days ofthe making of the Order.  |  |

# Part B: Interim Hearings, Mention/Directions Hearings, Dispute Resolution Conference

Complete for all Court events

|  |  |
| --- | --- |
| **Task** | **Details/Date Done** |
| Meet with the child before and after each significant Court event to explain the event, convey the outcome and take the child’s instructions.  |  |
| Record Outcome |  |
| Consider issuing additional subpoenas where required |  |
| Attend Dispute Resolution Conference and take instructions from the child as to how they may wish to participate. |  |

## Part C: Preparation for Trial

| **Task** | **Details/Date Done** |
| --- | --- |
| Consider settlement negotiations |  |
| Prepare and file documents (e.g. witness affidavits, subpoenas etc) |  |
| Prepare and file Case Management Document  |  |
| Issue updating subpoenas  |  |
| Ensure witnesses (including any Children’s Court Clinician or other expert) are on notice |  |
| Meet with the child and obtain updating instructions before hearing |  |
| Consider whether to prepare wishes statement or whether wishes of the child are already before the Court (eg through a clinic report) |  |

## Step Three- Trial

|  |  |
| --- | --- |
| **Task** | **Details/Date Done** |
| Outcome of trial |  |
| Record outcome |  |
| Meet with the child to report the outcome and explain any judgment/orders made. Explain Appeal process, Section 90, Section 86 of the *Children and Young Persons (Care and Protection) Act* 1998  |  |

## Step Four- Finalise File

|  |  |
| --- | --- |
| **Task** | **Details/Date Done** |
| Submit a File Outcome to the Grants Division  |  |