# Care & Protection Parent Checklist

## Using this checklist:

* Type file name and number, print and attach to all new parent 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 legal representative representing a parent
* 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 prescribe how litigation should be conducted in parent 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** |
| --- | --- |
| File a Notice of Address for service |  |
| Letter to parties enclosing NOA |  |
| Read documents (including any subpoenas that have been issued) and consider case strategy.  |  |
| Prepare chronology |  |

## Step Two- Prepare for Establishment

| **Task** | **Details/Date Done** |
| --- | --- |
| Meet with the client as soon as possible:* To seek the client’s instructions on all documents filed by Department of Communities and Justice;
* Advise client of options in relation to Establishment;
* Consider the need to file an affidavit and take instructions to help prepare this affidavit;
* Consider whether affidavits may need to be filed from supporting witnesses.
 |  |
| Write to the client using plain English to confirm the lawyer’s advice in relation to:* Establishment;
* The next stage of the Court proceedings;
* Steps needing to be taken by the client (including referrals to services)
 |  |
| Consider issuing subpoenas (subject to instructions) at the earliest opportunity including:* Police;
* Department of Communities and Justice;
* Medical Records;
* School Records;
* Support Services.
 |  |
| 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 distress to the child 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 client before each Court event and take instructions in relation to:* All documents filed in the proceedings and documents produced under subpoena;
* Whether a further affidavit should be filed;
* Issuing additional subpoenas and whether these are necessary.
 |  |
| Attend each Court event (or arrange an appropriate agent) and convey the outcome to the client at Court and in writing.  |  |
| Record Outcome |  |
| Meet with Client prior to Dispute Resolution Conference and take instructions in relation to: * Positions to be put forward at the Conference;
* The positions of the other parties;
* How the client would like to participate taking into consideration any safety concerns, ADVO’s etc.
 |  |

## Part C: Preparation for Trial

| **Task** | **Details/Date Done** |
| --- | --- |
| Consider settlement negotiations if appropriate  |  |
| Take instructions from client and prepare and file documents (e.g. witness affidavits, subpoenas etc) |  |
| Provide advice to client about the Court process including giving evidence, cross examination and Court procedures. |  |
| Prepare and file Case Management Document  |  |
| Issue updating subpoenas  |  |
| Ensure witnesses (including any Children’s Court Clinician or other expert) are on notice of hearing dates |  |
| Meet with the client and obtain updating instructions before hearing |  |

## Step Three- Trial

|  |  |
| --- | --- |
| **Task** | **Details/Date Done** |
| Meet with the client and advise them of the outcome of the hearing. |  |
| Advise the client of their ability to appeal and the relevant time limits for filing an appeal, their ability to bring a Section 90 application or participate in Section 86 mediation under the *Children and Young Persons (Care and Protection) Act* 1998*.*   |  |
| Write to the client and advise of the outcome and appeal rights  |  |
| Record outcome |  |

## Step Four- Finalise File

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