# Litigation checklist (parenting disputes)

## Using this checklist

* Type in file name and number and save to all new litigation files.
* Complete as the file progresses.
* Unlike the other tools, the prompts are not hidden text and will appear when printed.

## 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 lawyer
* demonstrate that you have met VLA’s expectations of practitioners undertaking legally aided work, articulated in the VLA [Handbook](http://handbook.vla.vic.gov.au/handbook/4-commonwealth-family-law-and-child-support-guidelines/threshold-tests/substantial-issue-in-dispute-test), the Notes to the guidelines and the [Practice Standards and Practice Standards Measures](http://www.legalaid.vic.gov.au/information-for-lawyers/doing-legal-aid-work/panels/panels-conditions)
* your colleagues in the event they need to quickly identify the progress you have made with this matter
* your supervisor at file review.

## Note

This tool is designed as a prompt only. It is not proscriptive or exhaustive.

This document may be considered a client document and provided to the client upon request (rule 14 Australian Solicitors’ Conduct Rules).

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|  |  |  |  |
| --- | --- | --- | --- |
| File Name: | Enter file name | File Number: | Enter file number |

### Stage: Open file and start proceedings

| Task | Done | Date |
| --- | --- | --- |
| **Grant of aid in place** | 1. Conflict check by admin staff
 |[ ]  DD/MM/YYYY |
|  | 1. Save blank invoice to file
 |[ ]  DD/MM/YYYY |
|  | 1. Complete Contact sheet & save to file

*If matter involves allegations of family violence, ensure contact details are marked as not to be disclosed* |[ ]  DD/MM/YYYY |
| **Initial letter to client**(FLITLCL0020) |[ ]  DD/MM/YYYY |
| **Initial letter to other party (op)/lawyer** |[ ]  DD/MM/YYYY |
| **Read documents and start case strategy**Save case strategy to file |[ ]  DD/MM/YYYY |
| **Prepare chronology**Or copy and paste from case strategy  |[ ]  DD/MM/YYYY |
| **Letter of intention to file a case** |[ ]  DD/MM/YYYY |
| **S.60I certificate obtained?**If not, reason why in affidavit. |[ ]  DD/MM/YYYY |
| **Prepare court docs** | 1. Initiating App/Response to Initiating App
 |[ ]  DD/MM/YYYY |
|  | 1. Affidavit of client**1**
 |[ ]  DD/MM/YYYY |
|  | 1. Witness affidavits**1**
 |[ ]  DD/MM/YYYY |
|  | 1. Notice of Risk
 |[ ]  DD/MM/YYYY |
|  | 1. Genuine steps certificate
 |[ ]  DD/MM/YYYY |
|  | 1. Parenting Questionnaire
 |[ ]  DD/MM/YYYY |
|  | 1. Financial statement

*In combined parenting/property matters* |[ ]  DD/MM/YYYY |
|  | 1. Financial Questionnaire

*In combined parenting/property matters* |[ ]  DD/MM/YYYY |
|  | 1. Notice of Address for service
 |[ ]  DD/MM/YYYY |
|  | 1. Exemption from filing fees form
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to process server drafted & sent
 |[ ]  DD/MM/YYYY |
|  | 1. Acknowledgment of service
 |[ ]  DD/MM/YYYY |
|  | 1. Consider need for early subpoenas

*(can issue up to 5 subpoena to produce where there is an interim application pending, without leave. Otherwise leave required to issue).* |[ ]  DD/MM/YYYY |
|  | 1. Other documents

*Eg: Affidavit re non-filing of section 60I certificate* |[ ]  DD/MM/YYYY |
| **Court docs signed & dated***(Arrange an appointment with the client to sign documents, including annexures)*  |[ ]  DD/MM/YYYY |
| **File docs***Use court portal. Ensure deadlines for filing docs are met.* |[ ]  DD/MM/YYYY |
| **Diarise court date & date to resubmit file** |[ ]  DD/MM/YYYY |
| **Letter to client re hearing date & enc court docs** |[ ]  DD/MM/YYYY |
| **Serve documents** | 1. Letter to OP/lawyer
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to process server
 |[ ]  DD/MM/YYYY |
|  | 1. Follow up *(if no response)*
 |[ ]  DD/MM/YYYY |
|  | 1. Other
 |[ ]  DD/MM/YYYY |
| **If served, file service docs** | 1. File affidavit/acknowledgement of service on court portal
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to client advising of service with copy of sealed docs.
 |[ ]  DD/MM/YYYY |
|  | 1. Other
 |[ ]  DD/MM/YYYY |
| **If not served, dispensa-tion/ substituted service** | 1. Conduct searches
 |[ ]  DD/MM/YYYY |
|  | 1. Further attempt service by hand
 |[ ]  DD/MM/YYYY |
|  | 1. Obtain further instructions from client re OP’s email, Facebook, telephone number, details of parents etc to obtain alternative methods of service
 |[ ]  DD/MM/YYYY |
|  | 1. Prepare application for substituted service
 |[ ]  DD/MM/YYYY |
|  | 1. File application
 |[ ]  DD/MM/YYYY |
|  | 1. Attend court & record outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Arrange substituted service

*(Refer to ‘serve documents’ section above)* |[ ]  DD/MM/YYYY |
| **Other tasks** |  |[ ]  DD/MM/YYYY |

#### Notes re affidavits

In FCFC Division 2 interim matters, affidavits to be no longer than 10 pages & to contain no more than 5 exhibits.

In FCFC Division 1 interim matters, affidavits to be no longer than 25 pages & contain no more than 10 exhibits.

In both divisions, rule 5.08 limits one affidavit per person (party or witness).

### Stage: Directions hearing

| Task | Done | Date |
| --- | --- | --- |
| **Find counsel**Consider ringing counsel to discuss the matter and to assess suitability for your client before briefing them. If the matter is on circuit, check how many briefs counsel has on the list. |[ ]  DD/MM/YYYY |
| **Book counsel**Consider appearing yourself if not too complex. |[ ]  DD/MM/YYYY |
| **Call court to book interpreter** (if required) |[ ]  DD/MM/YYYY |
| **Book safe room at court**(If required in matters involving family violence and in person court hearing) |[ ]  DD/MM/YYYY |
| **File undertaking as to disclosure** |[ ]  DD/MM/YYYY |
| **Ensure all documents relied upon are filed and served** |[ ]  DD/MM/YYYY |
| **Letter to court and other party confirming:*** Genuine effort made to resolve dispute
* Your client is on legal aid
 |[ ]  DD/MM/YYYY |
| **Consider appointment of court expert** |[ ]  DD/MM/YYYY |
| **Consider appointment of ICL** |[ ]  DD/MM/YYYY |
| **Consider appropriate form of dispute resolution event and if you/client need to be excused from personal attendance at any court-based dispute resolution** |[ ]  DD/MM/YYYY |
| **Consider issuing subpoenas**Before issuing subpoenas, consider whether a subpoena is necessary. Can issue up to 5 subpoena for production of docs for interim application without leave | 1. Issue subpoenas
 |[ ]  DD/MM/YYYY |
|  | 1. Seek leave to file subpoenas

*If necessary – Cover letter to Registrar* |[ ]  DD/MM/YYYY |
|  | 1. Letter to process server

*If required* |[ ]  DD/MM/YYYY |
|  | 1. Draft & file affidavit of service
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP enclosing subpoena
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to subpoenaed party
 |[ ]  DD/MM/YYYY |
|  | 1. Diarise dates when subpoena info available
 |[ ]  DD/MM/YYYY |
|  | 1. File notice to/intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Note date to appear for objection/release of subpoena
 |[ ]  DD/MM/YYYY |
|  | 1. Provide OP with filed notice of intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Inspect subpoenas

*Take good notes* |[ ]  DD/MM/YYYY |
| **Brief counsel** | 1. Complete Memo to counsel template.

*Attach completed case strategy.*  |[ ]  DD/MM/YYYY |
|  | 1. Create brief for counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Send brief to counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to client re counsel
 |[ ]  DD/MM/YYYY |
| **Contact client to update instructions & advise of court arrangements** |[ ]  DD/MM/YYYY |
| **Consider whether to seek costs***Make a verbal application or include the request in minutes tendered. Include in your instructions to counsel as to a costs order.* |[ ]  DD/MM/YYYY |
| **Outcome of hearing** | 1. Record outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Prepare engrossed orders

If parenting orders made by consent:* certify whether any allegations of child abuse or family violence by one of the parties
* explain how the orders deal with any such allegations
* file a notice as required by ss 67Z and 67ZBA of the FLA.

If property orders made by consent involve super, proof of the value of the interest must also be filed.  |[ ]  DD/MM/YYYY |
| **Draft further affidavits1** (if required) |[ ]  DD/MM/YYYY |
| **Provide court docs to ICL***If appointed* |[ ]  DD/MM/YYYY |

#### 1. Notes re affidavits

In FCFC Division 2 interim matters, affidavits to be no longer than 10 pages & to contain no more than 5 exhibits.

In FCFC Division 1 interim matters, affidavits to be no longer than 25 pages & contain no more than 10 exhibits.

### Stage: Interim hearings

| Task | Done | Date |
| --- | --- | --- |
| **Grant of aid in place** |[ ]  DD/MM/YYYY |
| **Find counsel**Consider ringing counsel to discuss the matter and to assess suitability for your client before briefing them. If the matter is on circuit, check how many briefs counsel has on the list. |[ ]  DD/MM/YYYY |
| **Book counsel**Consider appearing yourself if not too complex. |[ ]  DD/MM/YYYY |
| **Call court to book interpreter** (if required) |[ ]  DD/MM/YYYY |
| **Book safe room at court**(If required in matters involving family violence and in person court hearing) |[ ]  DD/MM/YYYY |
| **Contact client to update instructions & advise of court arrangements** |[ ]  DD/MM/YYYY |
| **Ensure release of any expert reports1**  |[ ]  DD/MM/YYYY |
| **Consider calling expert for interim hearing** |[ ]  DD/MM/YYYY |
| **Draft & file further affidavits 2** (if required or directed) |[ ]  DD/MM/YYYY |
| **Consider issuing subpoenas**Before issuing subpoenas, consider whether a subpoena is necessary.  | 1. Issue subpoenas

*Up to 5 subpoena for production of docs without leave* |[ ]  DD/MM/YYYY |
|  | 1. Seek leave to file subpoenas

*If necessary – Cover letter to Registrar* |[ ]  DD/MM/YYYY |
|  | 1. Letter to process server (if required)
 |[ ]  DD/MM/YYYY |
|  | 1. Draft & file affidavit of service
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP enclosing subpoena
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to subpoenaed party
 |[ ]  DD/MM/YYYY |
|  | 1. Diarise dates when subpoena info available
 |[ ]  DD/MM/YYYY |
|  | 1. File notice to/intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Provide OP with filed notice of intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Inspect subpoenas
 |[ ]  DD/MM/YYYY |
|  | 1. Send to court:**3**
* Minute of orders client seeks at hearing
* Case outline document
 |[ ]  DD/MM/YYYY |
| **Brief counsel** | 1. Complete Memo to counsel template.

*Attach completed case strategy*. |[ ]  DD/MM/YYYY |
|  | 1. Create brief for counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Send brief to counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to client re counsel
 |[ ]  DD/MM/YYYY |
| **Consider whether to seek costs**Make a verbal application or include the request in minutes tendered |[ ]  DD/MM/YYYY |
| **Outcome of hearing** | 1. Record outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Prepare engrossed orders 4
 |[ ]  DD/MM/YYYY |
|  | 1. Email engrossed orders to court
 |[ ]  DD/MM/YYYY |
|  | 1. Report letter to client
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP/lawyer
 |[ ]  DD/MM/YYYY |
|  | 1. Follow up sealed orders
 |[ ]  DD/MM/YYYY |
| **Interim bill & apply for extension of aid** (if required) |[ ]  DD/MM/YYYY |
| **Consider whether to seek review of SJR decision** (21 days to file) |[ ]  DD/MM/YYYY |

#### Notes

1. No later than 7 days beforehand.

2. Notes re affidavits: In FCFC Division 2 interim matters, affidavits to be no longer than 10 pages & to contain no more than 5 exhibits In FCFC Division 1 interim matters, affidavits to be no longer than 25 pages & contain no more than 10 exhibits.

3. No later than 2 working days before.

4. If parenting orders made by consent: certify whether there are any allegations of child abuse or family violence by one of the parties; and if so, how the orders deal with any such allegations; file a notice as required by ss67Z and 67ZBA of the FLA. If property orders made by consent involve superannuation split, proof of the value of the interest must also be filed.

### Stage: Dispute Resolution Event

| Task | Done | Date |
| --- | --- | --- |
| **Review eligibility– merit & means***Check financial means haven’t changed (updated Centrelink card/details etc.)* |[ ]  DD/MM/YYYY |
| **Diarise dispute resolution date** |[ ]  DD/MM/YYYY |
| **Organise release of any expert report** |[ ]  DD/MM/YYYY |
| **Pre-conference with client** *Discuss proposals for settlement* |[ ]  DD/MM/YYYY |
| **Disclosure of relevant documents***Consider what further (if any) discovery from your client is required to comply with disclosure obligations* |[ ]  DD/MM/YYYY |
| **Exchange with other party any chapter 6 FLR documents 1** |[ ]  DD/MM/YYYY |
| **Send client’s court documents and a certificate of dispute resolution to FDRP***External FDR event only* |[ ]  DD/MM/YYYY |
| **Provide to court/FDRP and other party any document directly relevant to an issue in dispute1** |[ ]  DD/MM/YYYY |
| **Draft and send confidential case outline to the court/FDRP and other party1** |[ ]  DD/MM/YYYY |
| **Draft and send minute of orders sought by client to court/mediator and other party1** |[ ]  DD/MM/YYYY |
| **Send notice your client is on legal aid to client and other party** |[ ]  DD/MM/YYYY |
| **Receive costs letter from other party** |[ ]  DD/MM/YYYY |
| **Consider whether to seek court permission to attend electronically2***Court based DRE only* |[ ]  DD/MM/YYYY |
| **Attend dispute resolution event with client** |[x]  DD/MM/YYYY |
| **Outcome of dispute resolution event** | 1. Obtain back sheet from counsel re outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Record outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Prepare & file consent orders (if settled)**3**
 |[ ]  DD/MM/YYYY |
|  | 1. Report letter to client
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP/lawyer
 |[ ]  DD/MM/YYYY |

#### Notes

1. If court-based DRE then no later than 14 days prior. If external FDR, then no later than 7 days prior.

2. No less than 7 days prior.

3. If parenting orders made by consent: certify whether there are any allegations of child abuse or family violence by one of the parties; and if so, how the orders deal with any such allegations; file a notice as required by ss67Z and 67ZBA of the FLA. If property orders made by consent involve superannuation split, proof of the value of the interest must also be filed.

###

### Stage: Compliance and Readiness Hearing

| Task | Done | Date |
| --- | --- | --- |
| **Review eligibility– merit & means***Check financial means hasn’t changed (updated Centrelink card/details etc.)* |[ ]  DD/MM/YYYY |
| **Diarise court date** |[ ]  DD/MM/YYYY |
| **Find counsel***Consider ringing counsel to discuss the matter and to assess suitability for your client before briefing them. If the matter is on circuit, check how many briefs counsel has on the list.* |[ ]  DD/MM/YYYY |
| **Book counsel** *Consider appearing yourself if not too complex.* |[ ]  DD/MM/YYYY |
| **Pre-conference with client** *Discuss issues in dispute and settlement proposals* |[ ]  DD/MM/YYYY |
| **Disclosure of relevant documents***Consider what further (if any) discovery from your client is required to comply with disclosure obligations* |[ ]  DD/MM/YYYY |
| **File and serve undertaking as to disclosure1** |[ ]  DD/MM/YYYY |
| **File and serve any amended initiating application or response1** |[ ]  DD/MM/YYYY |
| **File and serve certificate of readiness1** |[ ]  DD/MM/YYYY |
| **Make genuine effort with other party to identify and agree on a trial plan** |[ ]  DD/MM/YYYY |

#### Notes

1. No later than 7 days prior.

### Stage: Trial

| Task | Done | Date |
| --- | --- | --- |
| **Review eligibility– merit & means***Check financial means hasn’t changed (updated Centrelink card/details etc.)* |[ ]  DD/MM/YYYY |
| **Apply for extension of aid stage 3 & 4** |[ ]  DD/MM/YYYY |
| **Diarise court date** |[ ]  DD/MM/YYYY |
| **Diarise procedural dates** |[ ]  DD/MM/YYYY |
| **Consideration of expert report** | 1. Review merit
 |[ ]  DD/MM/YYYY |
|  | 1. Obtain client instructions on report
 |[ ]  DD/MM/YYYY |
|  | 1. Amend application?
 |[ ]  DD/MM/YYYY |
|  | 1. Attempt settlement negotiations?
 |[ ]  DD/MM/YYYY |
| **Find counsel***If you haven’t previously briefed counsel in this matter, consider ringing potential counsel to discuss the matter and to assess suitability for your client before briefing them. If the matter is on circuit, check how many briefs counsel has in the list.* | ☐ | DD/MM/YYYY |
| **Book counsel***(If you have funding for trial). Book counsel previously briefed in the matter unless there was an issue with them at interim stage.* |[ ]  DD/MM/YYYY |
| **Consider if further subpoenas are required** | 1. Seek leave to file subpoenas
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to process server (If required)
 |[ ]  DD/MM/YYYY |
|  | 1. Draft & file affidavit of service
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP enclosing subpoena
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to subpoenaed party
 |[ ]  DD/MM/YYYY |
|  | 1. Diarise dates when subpoena info available
 |[ ]  DD/MM/YYYY |
|  | 1. File notice of intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Provide OP with filed notice of intention to inspect
 |[ ]  DD/MM/YYYY |
|  | 1. Inspect documents (take good notes)
 |[ ]  DD/MM/YYYY |
|  | 1. Discuss with client and seek further instructions
 |[ ]  DD/MM/YYYY |
| **Notice to admit facts** *If required* |[ ]  DD/MM/YYYY |
| **Prepare additional docs as per trial directions**  | 1. Amended Initiating Application/Response
 |[ ]  DD/MM/YYYY |
|  | 1. Client final affidavit
 |[ ]  DD/MM/YYYY |
|  | 1. Updated financial statement

 If parenting + propertyParties have an ongoing duty of full and frank disclosure. File a new Financial Statement, or affidavit within 21 days if client’s financial circumstance change. |[ ]  DD/MM/YYYY |
|  | 1. Witness affidavits
 |[ ]  DD/MM/YYYY |
|  | 1. Court expert affidavit

*If needed, apply for extension of aid for report and to appear at court as witness and send letter of request* |[ ]  DD/MM/YYYY |
|  | 1. Outline of case document
 |[ ]  DD/MM/YYYY |
| **File & serve additional trial documents***Within time noted in Directions* |[ ]  DD/MM/YYYY |
| **Brief to counsel** | 1. Complete Memo to counsel. *Attach completed case strategy.*
 |[ ]  DD/MM/YYYY |
|  | 1. Create brief for counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Send brief to counsel
 |[ ]  DD/MM/YYYY |
|  | 1. Consider phone call to discuss matter
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to client re counsel
 |[ ]  DD/MM/YYYY |
| **Conference with counsel***Arrange conference as early as possible. Consider providing completed case strategy as a ‘snapshot’, of the matter.* |[ ]  DD/MM/YYYY |
| **Comply with trial directions** |[ ]  DD/MM/YYYY |
| **Consider which witnesses to call** |[ ]  DD/MM/YYYY |
| **Prepare trial letters within 10 days of trial** | 1. Letter to client
 |[ ]  DD/MM/YYYY |
|  | 1. Notice to witnesses, including expert witnesses

*Re hearing dates + required to attend trial (expert witnesses, including family report writer, to be provided with 14 days’ notice)* |[ ]  DD/MM/YYYY |
|  | 1. Notice to OP/ICL

Re intention to cross examine their witnesses |[ ]  DD/MM/YYYY |
| **Video link for witness organised** (If required) |[ ]  DD/MM/YYYY |
| **Book interpreter** (If required) |[ ]  DD/MM/YYYY |
| **Book safe room at court** *Where required in matters involving allegations of family violence* |[ ]  DD/MM/YYYY |
| **Where no further instructions from client then file a notice of ceasing to act and serve with letter on client** *File at least 7 days before trial* |[ ]  Filing date |
| **Outcome of trial** | 1. Consider seeking costs order

*Make a verbal application or include the request in minutes tendered* |[ ]  DD/MM/YYYY |
|  | 1. Obtain back sheet from counsel re outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Record outcome
 |[ ]  DD/MM/YYYY |
|  | 1. Prepare engrossed orders
 |[ ]  DD/MM/YYYY |
|  | 1. Email court engrossed orders
 |[ ]  DD/MM/YYYY |
|  | 1. Report letter to client
 |[ ]  DD/MM/YYYY |
|  | 1. Letter to OP/lawyer
 |[ ]  DD/MM/YYYY |
|  | 1. Follow up sealed orders
 |[ ]  DD/MM/YYYY |
| **Cost recovery from op where order made** | 1. Letter of demand to OP

*Reply-paid letter for payment addressed to Client Contributions Officer in Grants & Quality Assurance* |[ ]  DD/MM/YYYY |
|  | 1. Notification in ATLAS of debt
* mark as ‘costs indemnified’ in claim screen when invoice submitted for an appearance, or
* when the matter is finalised, indicate that costs order made when completing ‘file outcome’, and
* upload copy of costs order and letter of demand to ATLAS using ‘submit correspondence’
 |[ ]  DD/MM/YYYY |
| **Final letter to client** |[ ]  DD/MM/YYYY |
| **Letter/notice ceasing to act** |[ ]  DD/MM/YYYY |
| **Disb/invoice/billing within 28 days of final event** |[ ]  DD/MM/YYYY |

# Supervision

The supervising lawyer reviewed the Litigation checklist on the following dates:

|  |  |  |  |
| --- | --- | --- | --- |
| Supervisor’s Name: | Enter Supervisor’s name | Date: | DD/MM/YYYY |
| Supervisor’s Name: | Enter Supervisor’s name | Date: | DD/MM/YYYY |
| Supervisor’s Name: | Enter Supervisor’s name | Date: | DD/MM/YYYY |