# Children’s Court Family Division Checklist 1

## Assessing capacity to give instructions

Child’s name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date of Birth  / /

| Criteria | How criterion was met |
| --- | --- |
| Are they able to focus on what you are saying? |  |
| Are they able to understand your role? (repeated back in their own words) |  |
| Do they understand the role of their social worker? (also repeated back in their own words) |  |
| Do they understand the role of the court and the impact of court decisions? (how much explanation was required/what did they say?) |  |
| Do they demonstrate any ability to understand why they are in court ? (provide details) |  |
| Do they understand the possible consequences of the court proceedings? (especially the impact on their life) |  |
| Do they understand what the social workers want? (spontaneously or after explanation? Using their own words?) |  |
| Do they understand what their parent/s, carer/s or others want? (spontaneously or after explanation? Using their own words?) |  |
| Do they understand what might happen if they **do** let the court know what they think? (what did they say?) |  |
| Do they understand what might happen if they **do not** let the court know what they think? (what did they say?) |  |

CYFA s 524 (1B) The Court may determine that a child aged 10 years or more is not mature enough to give instructions to a legal practitioner, considering—

* 1. the child's ability to form and communicate the child's own views; and
  2. the child's ability to give instructions in relation to the primary issues in dispute; and
  3. any other matter the Court considers relevant.