

## Children's Peer Review Criteria: Guidance for reviewers

The purpose of the review is not to ensure that the relevant file has been well maintained, but to review the quality of the work carried out on behalf of the client and the Board, based on the evidence contained within the file. All criteria should be applied where relevant to the file being reviewed; not all criteria will apply to every file. The file should be scored against each of the criteria below according to the following marking scale.

1. Below requirements
2. Meets requirements
3. Exceeds requirements.

The standard to be applied is that of the reasonable competence to be expected of a solicitor of ordinary skills.

When considering the advice given or actions taken in the course of a case, there will be circumstances in which differing interpretations might legitimately be taken by solicitors applying their professional judgement: the reviewer should not attempt to second-guess the acting solicitor. Professional judgement should only be called into question where, in the reviewer's opinion, no reasonable solicitor would have conducted the case in the way demonstrated by the contents of the file.

In addition to the three-point scale, two other marks are available for particular criteria:

C     Cannot Assess/Not Enough Information  
N/A    Not Applicable

An additional score should also be given for the file as a whole, based on a five-point scale (with 1 indicating very poor performance and 5 excellent performance).

The criteria follow a broad chronology to ensure proper consideration is given to key aspects of the case. In addition, criteria 8 to 10 should be applied to the case as a whole.

Guidance on the application of individual criteria is provided as required below each criterion.

Several criteria use the terms accurate and/or appropriate:

- in determining whether advice is accurate, the reviewer should consider whether it is *factually* and *legally* acceptable, bearing in mind the test in *Hunter v Hanley*;
- in considering whether it is appropriate, the reviewer should have regard to the circumstances of the case and the level of information available to the solicitor and take into account *ethical, practical, tactical* and *legal* considerations.

*Initial meeting(s)*

**Considering the time, place and circumstances of instruction, and the age and maturity of the client:**

1. How effective were the solicitor's initial fact and information gathering skills, including the identification of any additional information required and the taking of steps necessary to obtain it?

**1 2 3 C N/A**

2. Did the solicitor give accurate and appropriate advice to the client regarding

(a) The relevant section(s) of Part II of the Children's (Scotland) Act 1995

**1 2 3 C N/A**

(b) the client's eligibility for advice and assistance

**1 2 3 C N/A**

(c) the legal aid application, including the use of Regulation 8

**1 2 3 C N/A**

3. Is there evidence of a note of agreed actions with the client, where appropriate?

**1 2 3 C N/A**

*Continuing Work*

4. Did the solicitor take appropriate steps to carry out further investigation and communicate appropriately with others in order to progress matters for the client within a reasonable timescale?

**1 2 3 C N/A**

5. Did the solicitor take appropriate steps to advise the client and, where appropriate, inform the client as to the date, time and place of hearings?

**1 2 3 C N/A**

6. a) Has the solicitor identified the need for appropriate experts, other reports or Counsel?

**1 2 3 C N/A**

b) Has the solicitor applied for sanction / increase(s) in authorised expenditure in accordance with the guidelines, and, if granted, instructed / obtained the appropriate experts / counsel / reports?

**1 2 3 C N/A**

7. Is there evidence of adequate preparation for each court appearance, to include (as appropriate) the list of witnesses, productions and list of authorities as appropriate to the facts of the case?

**1 2 3 C N/A**

*Throughout the case*

8. a) After the initial meeting(s), did the solicitor make use of, and provide accurate and appropriate advice to the client on, legal aid and advice and assistance, in accordance with the relevant guidelines?

**1 2 3 C N/A**

b) After the initial meeting(s), did the solicitor give accurate and appropriate legal advice to the client?

**1 2 3 C N/A**

9. Did the solicitor take steps identified/agreed with the client, within a statutory or reasonable timescale given the circumstances of the case?

**1 2 3 C N/A**

10. Did the solicitor keep the client informed of progress / advised as to next steps / further procedure and provide accurate and appropriate advice throughout the case, including the final outcome?

**1 2 3 C N/A**

*Conclusion of the case*

11. Has the solicitor advised the client as to the judgement or decision, and any further procedure to follow, e.g. on the prospects for appeal?

**1 2 3 C N/A**

12. Has the account been submitted to the Scottish Legal Aid Board in accordance with guidelines?

**1 2 3 C N/A**

**Overall mark for file**

**1          2          3          4          5**

**Comments: -**

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