

Child Representation Child Assessment Form – Children’s Court

This form is to be used to help Child Representatives (CR) assess whether a child is to be represented on the basis of “**best interests**” or “**on instructions**”. The assessment is to be undertaken **based on the available evidence in the matter** rather than the beliefs of the legal practitioner and may be reviewed upon the provision of information by suitably qualified professionals.

On Instructions - To be represented “**on instructions**” the child needs the following:

- A. Understanding of:
 - (a) Nature of the proceedings, including the type of application;
 - (b) Likely short and long-term consequences of each possible outcome of the proceedings;
 - (c) The information relevant to the contested issues.

- B. Maturity to:
 - (a) Distinguish their own views, wishes and feelings from those of others (parents or carers - even if they want the same outcome);
 - (b) To make reasoned decisions;
 - (c) Acknowledge the possible impact of any trauma they have experienced (where applicable).

- C. The CR needs to ascertain whether the child is able to provide instructions that are:
 - (i) **Strong** – i.e. they have a definite view of:
 - what they want,
 - what they don’t want or,
 - that they don’t wish to give an opinion.
 - (ii) **Consistent and/or Considered** – i.e. do the views of the child change significantly over or between interviews? There are always some variations across interviews but there should be consistency across the substantive issues; or, alternatively, any change of view should reflect further appropriate consideration by the child.
 - (iii) **Independent** – i.e. Is the child able to distinguish their own views, wishes and feelings from those of others, parents or carers even if they want the same outcome? Is the child’s language age appropriate and not a recount of adult influences?

To assist in the determination the CR is to complete the form below that is divided into three sections.

- Section 1.** The provisional assessment for children under 10 years of age.
- Section 2.** The provisional assessment for children 14 years and older.
- Section 3.** The section to consider the “grey area” of children from 10 years to 13 years and for children older or younger who do not clearly meet the requirement for “best interests” or “under instructions” representations.

Child's Name:

Child's Age:

Child Representatives Name:

The form is divided into 3 sections that correspond with the age of the child and/or additional factors.

Section 1. - Children under the age of 10

1. Does the child display an obvious high level of general and emotional maturity? **Yes / No**
2. Upon meeting is it obvious the child has sufficient maturity and understanding to give instructions? **Yes / No**
If "Yes" what are the indications (cognitive, emotional, intellectual, developmental)?
3. Does the child want to give instructions? **Yes / No**

If the answer to all the above is "No" then representation will be on the basis of "the child's best interests".

If the answer to any of the above is "Yes" then the CR is to consider whether they should "act on instructions" based on the outcome of section 3.

Section 2. – Children 14 years and older

4. Does the child's developmental age appear below their chronological age? **Yes / No**
If "Yes" what are the indications:
5. Is there any information from a qualified professional that indicates any talk or trauma related discussion as part of the proceedings would be detrimental to their well-being? **Yes / No**
6. Do the child's views appear to be influenced by others or other factors? **Yes / No**
If "Yes" what are the concerns?
7. Does the child appear to have an intellectual impairment? **Yes/ No**
8. Are there any other reasons why this child who is 14 or older should not be represented "**on instructions**"? **Yes / No**
If "Yes" what are the concerns?
9. Does the child want to be represented on the basis of "**best interests**"? **Yes / No**

*If the answers in section 2 are "No" then then child should be represented "**on instructions**".*

If the answers to any of the questions are "Yes" then complete section 3.

Section 3. – Children 10 to 13 years of age (and those referred from section 1 and 2)

This section considers children who fall into the “grey area” between 10-13 years of age, and those younger and older who do not clearly fall into the category of “best interests” or “on instructions”.

10. Is the child’s developmental age commensurate with their chronological age? **Yes / No**
 or
 Is the child’s age and school year appropriate or is the difference within a two year range? **Yes / No**

A guide as to whether a child’s developmental age is commensurate with their chronological age is their age / school year relationship.

Age	5	6	7	8	9	10	11	12	13	14	15	16	17
School Year	Pre school	1	2	3	4	5	6	7	8	9	10	11	12

General Maturity – (For children between the ages of 10 and 13 there is a natural variation in maturity.)

Note: The child may not wish to give an opinion and still understand the possible short and long term consequences of the proceedings.

11. Does the child understand the seriousness of the possible short and long term consequences of the proceedings? **Yes / No**
12. Vulnerability to External Pressures: (cares and/or family members) - Does the child’s language or choices reflect their own views and not those of people close to them, particularly when describing specific situations? **Yes / No**
- If you offer the child the same choices but “in a perfect world where you don’t have to worry about the effects on anyone else” is the answer still the same? **Yes / No**
13. Language Ability – When describing the reasons for the application, the nature of the current situation and the proceedings, the likely short and long term consequences of each possible outcome of the proceedings and the information relevant to the contested issues, does it appear that the child understands what you are saying? **Yes / No**
- Is the child able to explain the essence or significant parts of what you discussed? **Yes / No**
14. Level of Insight - Is the child able to explain to you the effect on them of more than one outcome of the proceedings? **Yes / No**
15. Mental Health Issues – Is the child clear of any history or current suffering of any mental health issues? **Yes / No**

16. Drug and alcohol abuse issues - Is the child clear of any past or current drug and alcohol issues that may impair their judgment in this matter? **Yes / No**
17. Any special cultural or religious considerations – are there any cultural or religious considerations that may cause conflict for the child or their carers with the process? **Yes / No**
18. Does the child want to give instructions? **Yes / No**
19. Impact of Trauma - Are there any indications from written material, presentation and meeting that the child is suffering any past or current trauma or PTSD currently affecting them? **Yes / No**
20. Ongoing Allegations of Abuse (criminal proceedings) - Is this child facing any ongoing allegations of abuse or related criminal proceedings? **Yes / No**

If the answers to questions 10 to 18 are “Yes” and questions 19 or 20 are “No” then the CR may act “on instructions” if they consider it appropriate.

If the answer to any of the questions 10 to 18 are “No” and questions 19 or 20 are “Yes” then the Child Representative needs to either consider and weigh the concerns carefully and determine whether they can make that determination, or obtain an assessment from an appropriate professional.

Determination

On the balance of the information please circle which of the following should apply:

- a. The Child should be represented on the basis of “**Best Interests**”;*
- b. The Child should be represented “**On Instructions**”;*
- c. Further professional assessment is required.*

Note: A child’s situation and circumstance may change and therefore this assessment may need to be repeated on a child during the course of the proceedings to determine the appropriate method of representation.