

Progress Checklist - Personal Injuries Cases (for Plaintiff)

You are required, as an assigned solicitor, to comply with the Director of Legal Aid's (DLA) requests for information regarding the progress of proceedings to which the certificate relates. This checklist is intended to serve as a reference and to provide a timeframe on the progress of proceedings. As a reference, the checklist is not intended to be an exhaustive list of all the steps in such cases. The checklist is not intended to replace written reporting to DLA.

Each part is based upon a time frame during which certain steps are expected to be taken or events are expected to have taken place. If it is not possible for you to complete the steps listed in each part within the time specified or expected events have not occurred, you should provide a written explanation to DLA.

You should report to DLA the completion of the steps or the occurrence of events referred to in the checklist within the time period specified below.

The scope of legal aid certificates in personal injury cases are generally limited in scope. Prior to undertaking any work outside the terms of the certificate, you must apply to DLA for extension of the certificate by giving all necessary information to justify the extension. The appropriate form (Form X47) can be downloaded from the Department's website www.lad.gov.hk.

Part 1 – Pre-Action (within 2 months from the date of receipt of assignment)

- Appointment to take instructions from aided person
- Pre-action letter to Opposite Party(ies)
- DLA's approval to engage a joint single expert for examination or respective experts for joint examination and for preparation of a medical expert report obtained
- Aided person medically examined and medical expert report obtained with copy to DLA
- Aided Person has been advised of DLA's 1st charge*

Part 2 – Court Proceedings (within 1 month from the expiry of the three month period which the defendant and/or insurer has to investigate the claim)

- Aided person has been advised to attempt mediation
- Case suitable and ready for mediation. Form X70 for engagement of a mediator sent to DLA and approval obtained. If the case is not suitable or ready for mediation, reasons reported to DLA
- Instructions to Counsel to settle pleadings
- Issue and service of writ/statement of claim and copied to DLA
- s. 25B Notice sent to ECAS Board

(Within 6 weeks from service of the writ)

- Acknowledgement of Service received
- Defence received with copy to DLA

(Within 2 months from receipt of the defence)

- Consideration of and if necessary advice obtained from Counsel on Further and Better Particulars or Reply
- Filing of List of Documents
- Preparation of witness statements
- Approach to Opposite Party(ies) to agree directions for CLR

- [] Counsel's Advice obtained on liability, quantum and evidence (as appropriate) with copy to DLA
- [] Aided Person advised on progress of case and costs position*

(Within 6 months from issue of the writ)

- [] Copy order on directions obtained at CLR provided to DLA. DLA advised in writing of costs order, if any, against the aided person, assigned solicitors / counsel or DLA.
- [] Mediation conducted and report on the outcome of the mediation together with copy of the mediator's final report provided to DLA

(Within 9 months from the date of issue of writ)

- [] Sanctioned offer / payment accepted / rejected
- [] Legal aid certificate extended to cover Pre Trial Review / trial
- [] Further directions obtained at Pre Trial Review (as appropriate) and copy order provided to DLA
- [] All directions complied with and all pre-trial matters completed

Part 3 – Conclusion of case

(At the conclusion of the case where damages are recovered, the aided person must be advised of DLA's 1st charge and the estimated amount of such charge. You must also promptly advise DLA your estimate on costs so as to facilitate DLA to release interim payment (if any) to the aided person. You should also keep both DLA and the aided person informed of the progress of your recovery of Party & Party with the Opposite Party(ies). Approach to the Opposite Party(ies) to agree party and party costs is expected to take place within 4 weeks after the date of the final order. You must report to DLA on reasons why costs cannot be agreed and what steps have been taken to fix a date for taxation within 2 months after the date of assessment of damages/trial. Where there is no order for costs against the Opposite Party(ies), you must let DLA have a narrative bill of your costs for assessment. This must be done within 8 weeks after the final order is made.)

- [] Copy final order provided to DLA
- [] Copy acknowledgment by aided person that he/she has been advised of the operation of DLA's 1st charge provided to DLA
- [] Damages, if any, remitted to DLA
- [] DLA's approval to engage a law costs draftsman to prepare a bill for taxation obtained
- [] Bill of costs for assessment or taxation provided to DLA
- [] Estimate of 1st charge provided to DLA together with a breakdown of :-
 - (a) Party and Party costs
 - (b) Common fund costs
 - (c) Costs against Aided Person
- [] Copy Allocatur/Certificate of Costs and completed Financial Statement of a Concluded Legally Aided Case provided to DLA
- [] DLA has been advised of settlement of party and party costs/outcome of taxation

* *The aided person should be regularly advised and reminded of the operation of DLA's 1st charge and costs position.*