

**The Children's Hearings (Scotland) Act 2011
Safeguarder Panel Regulations 2012**

RESPONDENT INFORMATION FORM

Please Note

this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Scottish Association for Social Work

Mrs Ruth Stark

Social Worker & Manager SASW

2. Postal Address

SASW

Princes House

Shandwick place

Edinburgh

EH2 4RG

3. Permissions - I am responding as an Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Yes

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis. Are you content for your **response** to be made available?

Yes, make my response, name and address all available

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

CONSULTATION QUESTIONS

Introduction

Social workers have been constantly examined in child protection work through many public enquiries following child deaths. The role of the Safeguarder was first conceived in the light of the Maria Colwell Inquiry and the role of the independent Safeguarder for the child has become increasingly a part of the checks and balances within the court and hearing proceedings to make sure that the child's best interest is paramount. They are in a unique position, independent of the system, to see if system abuse or collusion in the system is failing to safeguard the child. This independence is critical to how a Safeguarder contributes to the safety and well-being of a child. The comments that follow from SASW would seek to ensure that the independence of that perspective in Children's Hearings proceedings is continued in order to protect the best interest of the child.

1. For draft Regulation 3, do you agree with the proposed arrangements for the recruitment and selection of members of the Safeguarders Panel?

The recruitment to the new Safeguarder Panel is appropriate.

2. In respect of draft regulation 5(2) and 5(3), do you agree with the suggested prerequisites for appointment to the safeguarders panel?

The role of the Safeguarder is not quite like any other in the system and there are some unique qualities that are required.

Safeguarders are appointed on a case by case basis, it is not a full time occupation and they are not employees. By the nature of the appointment they will be bringing skills, knowledge and expertise from other disciplines. Training therefore needs to be proportionate and effective. The issue of retaining skills and expertise from the current Safeguarders needs to be considered. There are many Safeguarders who have developed skills over the years and their knowledge and expertise should be used in making sure there are high standards of practice. Is the suggestion that Safeguarders of 20 years' experience must complete the same training as someone coming into this work for the first time?

One skill that is not listed but is important is being able to present the views of the child separately from the views of the Safeguarder where the child's wishes may not be in accord with the perceived best interest of the child. This is regardless of the use of an advocate for the child. The Safeguarder has to be fully conversant with the child's view of the situation they are in.

This understanding of the complex task of safeguarding may also mean that the Safeguarder has to be a strong advocate for the child when others in the system may for example be complicit in system abuse, ineffective or negligent.

3. In respect of draft regulation 5(4), do you agree with the proposed classes of persons disqualified from appointment, or from continuing as a member of the Safeguarders Panel?

yes

4. Based on draft regulation 7(1) & 7(2), do you agree with the basis on which the Scottish Ministers must appoint and reappoint a person as a member of the Safeguarders Panel?

Yes

5. In considering draft regulation 7(4), do you conclude that the grounds on which a person may be removed from the Safeguarders Panel are sufficiently wide?

The key issue is how this will be how for example 'inability' is determined. Care needs to be taken that a Safeguarder's independence is respected; is there a possibility in the way this is worded that the Safeguarder could become a scapegoat when others in the system seek to avoid a critical issue?

6. Do you support the requirements set out in draft regulation 8 – that mean that members and prospective members of the safeguarders panel must attend (and successfully complete) training required by the Scottish Ministers?

Training for this unique role needs to be tailored to the complex tasks that are required by Courts and Hearings. Training is important and should be supported financially. If training is supported in this way it should be a condition of appointment.

7. Do you support the proposals set out at draft regulation 10 for the payment of fees, expenses and allowances to members and potential members of the Safeguarders Panel?

The fees should reflect the complexity of the work and the responsibility of ensuring that a child's best interest are considered as paramount. The current fee structure does not give enough regard for a complex Proof hearing Hearing in the Sherriff Court which may extend for several days or weeks. Sometimes Safeguarders need to instruct lawyers and this in turn in complex cases may involve Counsel. This needs to be factored into the fees and allowances.

8. Do you agree with the proposed arrangements set out at draft regulation 11(4) and (5) for the monitoring and assessment of the performance of members of the safeguarders panel? Are they realistic and proportionate?

Safeguarders are independent appointments by the Court and the Hearings and it is their very independence that is key to their success in safeguarding the best interest of children. As outlined earlier they may not always agree with others in the system but they are there themselves as that independent voice that was seen as so important after each and every child abuse inquiry starting with Maria Colwell. There is a question to be asked about how effective monitoring could be in this situation? SASW would recommend that a robust complaints procedure would be far more effective in monitoring Safeguarders – it would safeguard their independence and aid more constructively the removal or suspension any inadequate, incompetent or negligent safeguarder.

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