



**THE LAW SOCIETY
of SCOTLAND**

www.lawscot.org.uk

Scottish Government consultation on the Children's Hearings (Scotland) Act 2011: safeguarders' fees, expenses and allowances

The Law Society of Scotland's response

May 2012

INTRODUCTION

The Law Society of Scotland is the professional body for Scottish solicitors. The Society's statutory dual function is to promote the interests of the solicitors' profession in Scotland and the interests of the public in relation to that profession. The Society seeks to ensure that through engagement in the law reform process, it fulfils these statutory objectives for the benefit of its members and their clients.

The Family Law sub-committee of the Law Society of Scotland ("the committee") has considered the Scottish Government's consultation on safeguarders' fees, expenses and allowances under the Children's Hearings (Scotland) Act 2011 and has the following comments to make.

GENERAL COMMENTS

The committee is concerned about the level of rates indicated in the consultation paper and would suggest that to have such low rates could prove to be a false economy if it precludes good quality candidates. Poor safeguarding could lead to a greater number of appeals, which in turn would lead to greater cost in the long run.

SPECIFIC COMMENTS

1. Do you agree that the current fee scheme should be abolished and replaced?

Yes. There needs to be a national uniform system.

2. Which of the fees options (1 - 4) would you support?

The committee can see the attractiveness of a fixed fee option however a "one size fits all" approach does not take into account the potential complexity of certain cases. Complexity does not simply need to relate to the point of law in question but can also be affected by other factors

such as the level of conflict between parties and, logistically, the geographic locations of the parties.

3. Do you have a suggestion as to alternative method of fees payments? If so, please provide details.

The committee is aware that initially, there used to be a time and line arrangement for complex cases but that it was only granted exceptionally. However, the committee would point out that bar reporters are remunerated on a time and line basis.

The committee would suggest as an alternative method of fees payment a combination of option 4 and the ability of the safeguarder to apply on appointment or at any stage to the children's hearing or sheriff for certification that the case is exceptionally complex and should therefore be remunerated on a time and line basis. This would be decided with reference to very clear criteria.

4. Do you accept the proposal to apply Scottish Government Rates for expenses and allowances?

Yes.

5. Are there other expenses or allowances you would like to be added to the proposed list?

The committee would suggest that the possibility of claiming for additional expenses on cause shown, such as interpretation or translation services, might be useful.

6. If you support an alternative set of expenses and allowances, please provide detail.

n/a.



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