

**Children's Hearings (Scotland) Act 2011**

**Safeguarders Panel Regulations 2012**

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

## An Analysis of results

### Background to the consultation

Safeguarders are appointed by children's hearings or sheriffs when they think there is a requirement to safeguard the interests of the child in the proceedings. The safeguarder provides the hearing or court with an independent assessment of what is in the child's best interest.

Safeguarders are self employed and independent from all other agencies involved in the Children's Hearings system and that independence is a crucial aspect of the role.

The Children's Hearings (Scotland) Act 2011 (the 2011 Act) introduces significant changes to the management of safeguarders; in particular it removes responsibility from each local authority to establish a local safeguarder panel and provides for the establishment of a national Safeguarders Panel.

The existing safeguarder service varies widely in terms of the quality of practice in key areas like appointments and monitoring. The intention in moving to the national Safeguarders Panel is to introduce clear and consistent arrangements for the management and oversight of the safeguarder service across Scotland.

The Children's Hearings (Scotland) Act 2011 Safeguarders Panel Regulations 2012 will provide the statutory

framework for the new arrangements and they will replace The Panels of Persons to Safeguard the Interests of Children (Scotland) Regulations 2001 (made under the Children (Scotland) Act 1995 Act) which will be repealed.

Section 32 of the 2011 Act provides that Ministers must establish the Safeguarders Panel and gives them the power, by regulation, to make provision in connection with it.

Section 32(1) places Scottish Ministers under a duty to establish and maintain the Safeguarders Panel. There is a need to identify and appoint a suitable number of persons for the Panel from across the country to meet demand for safeguarders from Children's Hearings and the Courts.

Section 32(2) provides the power to make regulations in connection with the Safeguarders Panel. The regulations that we are consulting on will be made under that power.

Scottish Ministers intend to use the power under Section 32(3) of the Act to contract with an external organisation to manage the Safeguarders Panel. The management, provision and payment of safeguarders are currently the responsibility of each local authority which has statutory responsibility for the establishment and maintenance of a local safeguarder panel.

## The responses

A total of 32 responses were received to the consultation. Respondents included 11 individuals and 21 organisations with interest or involvement in Children's Hearings or protecting children's interests. A list of the respondents can be found at Annex A.

## Main Themes

- Almost all of the respondents responded in favour of the regulations with useful supporting comments to make improvements not just to the regulations but towards clarity, guidance and good practice for Safeguarders.
- There is strong support for the need for open and transparent public advertising in the recruitment of safeguarders.
- Most are in favour that current safeguarders should be invited to join the new Panel and we support this view.
- Respondents substantially support that key competencies and experience are essential in identifying suitable safeguarders. Any competencies and experience requirements need to be clearly publicised. In particular there is a wish for us to strengthen the competencies on working with the child and the ability to meet deadlines.
- Particular reference has been made by a number of respondents that current safeguarders should not be required to undertake the pre-appointment training as many of them have developed skills over a period of time.
- The need for safeguarders to maintain their independence from bodies such as SCRA and CHS is well accepted and strongly supported. The potential for 'conflicts of interest' for other individuals has been highlighted by respondents. However there is general acceptance that these situations can be dealt with through a code of conduct and not the regulations.
- Respondents strongly agree with the timescales for appointment to the Safeguarders Panel. In particular as this regulation is on similar lines with the criteria for children's panel members; this will bring a level of consistency and equality across the hearings system.
- A number of comments have been received regarding the handling of complaints and the need for a complaints process that is consistent and transparent.
- Respondents made lots of comments on the design, substance and delivery of training to assist in the development of a robust training programme for pre- and post appointment training.
- There is strong support for a consistent and equal payment scheme for fees, allowances and expenses. Respondents had particular views on what the fees should be or equate to and in particular the fees etc need to be adequate to enable the recruitment of suitably experienced safeguarders.

- There is a general acceptance that monitoring of safeguarders is necessary however there are some concerns on how the monitoring will be carried out in particular through observing a safeguarder carrying out their function.
- There is particular concern over the added number of people that might attend a hearing and the effects this may have on the child.
- A number of respondents have also commented that it would be useful to get views on safeguarders' performance from the children's hearings panel, the child or relevant person(s).
- Several respondents have commented on the time it takes a safeguarder to provide a report.

## Annex A - List of Respondents by Category

### Individuals

Dr Jean Barr  
Isla Burton  
Norman Dunning  
Margaret Laird  
Derek Manson-Smith  
Norrie Kee

4 individuals asked to remain anonymous and 1 individual asked that their response is not made publicly available.

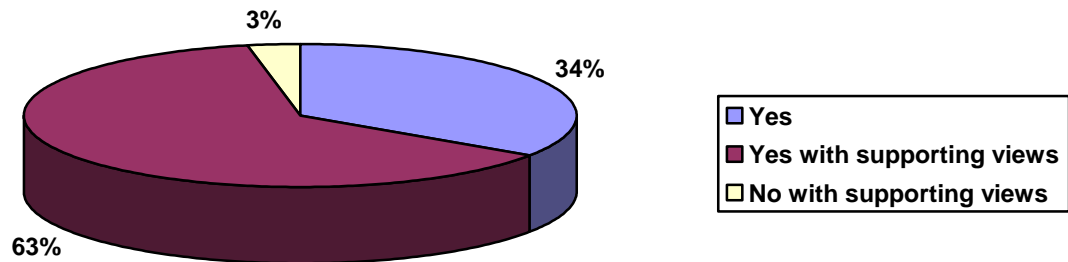
### Organisations

Association of Chief Police Officers in Scotland  
Care Inspectorate  
Children's Hearings Training Unit, University of Glasgow  
Comhairle nan Eilean Siar (local authority in Western Isles  
Dundee City Council, Social Work Department  
East Lothian Council  
Moray Council  
Highland Children's Panel & Highland Council Child Protection Committee  
North Ayrshire Child Protection Committee & Integrated Children's Services  
Perth and Kinross Council  
Scottish Association of Children's Panels  
Scottish Association for Social Work  
Scottish Children's Reporter Administration  
Scottish Committee of the Administrative Justice & Tribunals Committee  
Scottish Independent Advocacy Alliance  
Scottish Legal Aid Board  
Scottish Safeguarders Association  
Social Work Resources South Lanarkshire Council  
The Law Society of Scotland  
West Lothian Council

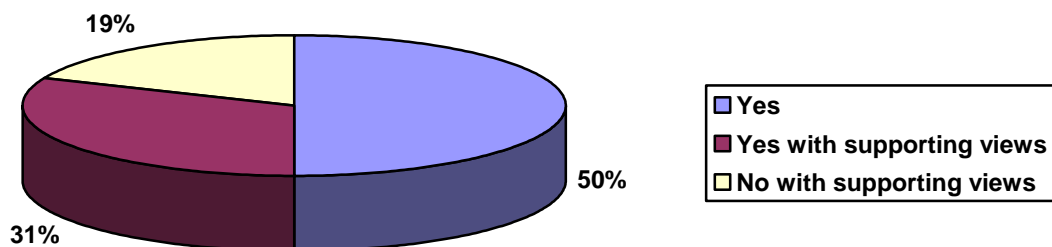
1 organisation asked to remain anonymous

## Annex B - List of Consultation Questions and Statistical Overview

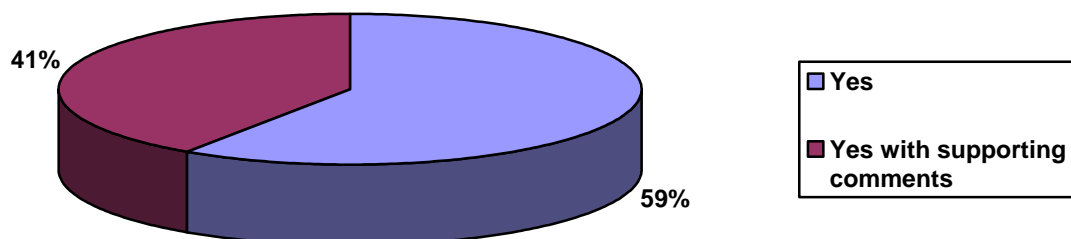
Question 1 For draft Regulation 3, do you agree with the proposed arrangements for the recruitment and selection of members of the Safeguarders Panel?



Question 2 In respect of draft regulation 5(2) and 5(3), do you agree with the suggested prerequisites for appointment to the Safeguarders Panel?

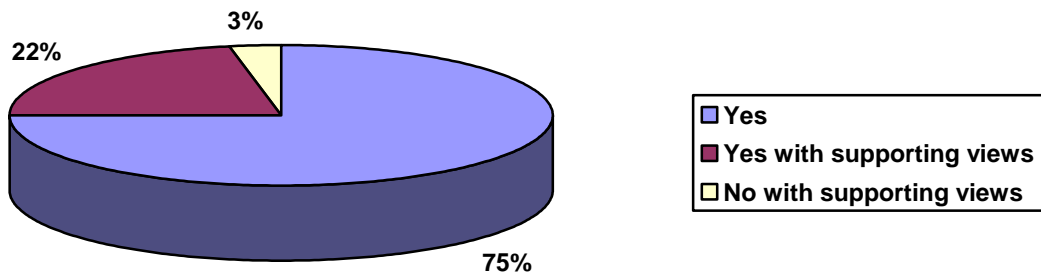


Question 3 In respect of draft regulation 5(4), do you agree with the proposed classes of persons disqualified from appointment, or from continuing as a member of the Safeguarders Panel?

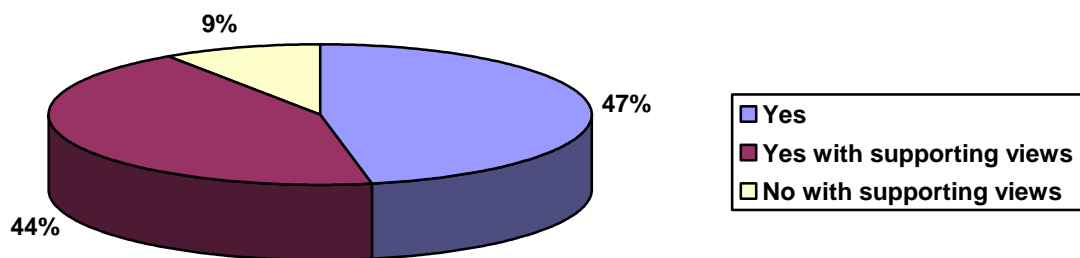




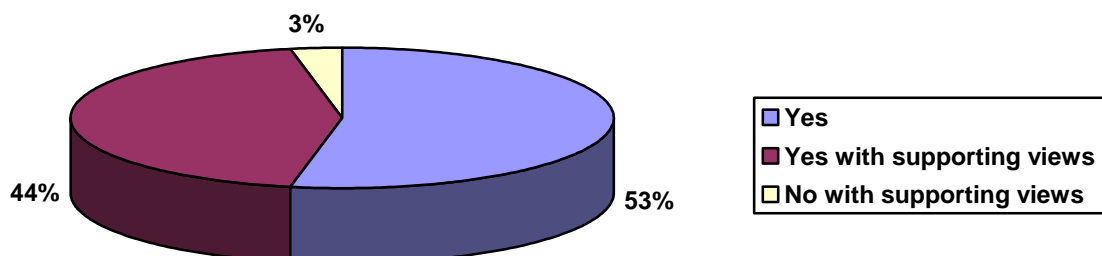
Question 4 Based on draft regulation 7(1) & 7(2), do you agree with the basis on which the Scottish Ministers must appoint and reappoint a person as a member of the Safeguarders Panel?



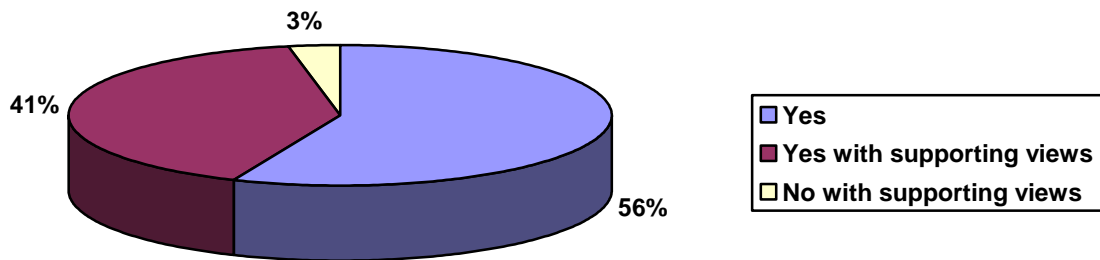
Question 5 In considering draft regulation 7(4), do you conclude that the grounds on which a person may be removed from the Safeguarders Panel are sufficiently wide?



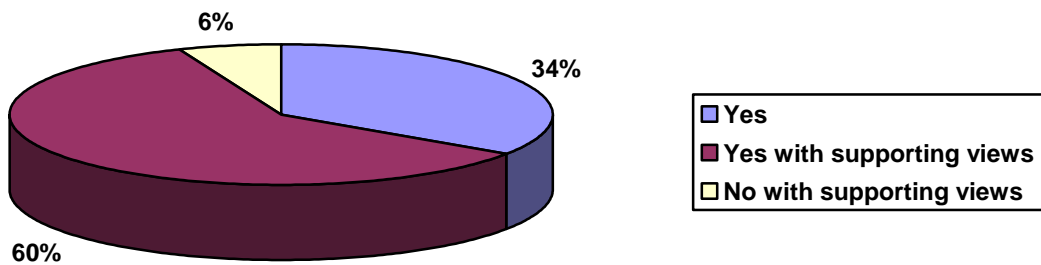
Question 6 Do you support the requirements set out in draft regulation 8 – that mean that members and prospective members of the safeguarders panel must attend (and successfully complete) training required by the Scottish Ministers?



Question 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?



Question 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?





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