

CONSULTATION QUESTIONS

POSSIBLE FEES OPTIONS FOR SAFEGUARDERS

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

Yes No

cl@n childlaw agrees with the general proposal that a 'clear and fair' rate of expenses, fees and allowances for safeguarders should be published in time for the commencement of the new national Safeguarders Panel arrangements.

The team at cl@n childlaw has a wide range experience of working within the Children's Hearings system both as safeguarders and working alongside those performing that role.

cl@n childlaw agrees that the scheme for safeguarders should be considered on a national basis to prevent local variation on the level of fees paid.

In determining the type of fee scheme to be introduced and the level of these fees, cl@n childlaw submits that cognisance should be taken of the important role of the safeguarder within the Hearings system and the level of experience, both personal and professional, required to carry it out effectively. Within this context, safeguarders must go through a selection and interview process before being appointed to the safeguarder panel.

Safeguarders are appointed by courts and Children's Hearings to assist them in making decisions in the best interests of Scotland's most vulnerable children. Safeguarders perform this function by carrying out investigations, meeting family members and others involved with the child, and thereafter writing a report. During this time the child's circumstances must be critically assessed and a conclusion drawn. In addition, Children's Hearings and court proceedings must be prepared for and attended, as well as any court proceedings conducted. cl@n childlaw submits that the involvement of a safeguarder is invariably helpful to courts and Children's Hearings and can be a key component to their decision making.

cl@n childlaw notes with interest that, despite the complexity and responsibility involved in carrying out the role of safeguarder, the Scottish Government consider the performance of the role to be a 'personal development opportunity'.

It is acknowledged that public sector budgets are 'very constrained'. However, cl@n childlaw submits that the key role safeguarders perform in

protecting Scotland's most vulnerable children should also be recognised in introducing a 'fair' rate of fee.

The contrast between the fee rate for an equivalent court appointment in other family actions and that for a safeguarder should be noted, the reasons for which are unclear. In the experience of the team at cl@n childlaw, this can be as much as a tenfold differential for the same type of work. cl@n childlaw has calculated that, having made thorough investigations into a child's circumstances, in practice the fee for a safeguarder appointment can be as little as 13 pence per hour. In particular, and in addition, it should be noted that safeguarders are not remunerated for any training undertaken to keep their knowledge and skills current or for any travel time connected with their role.

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

Option 1 Option 2 Option 3 Option 4

Comments

As indicated above, cl@n childlaw does not support Option 1.

cl@n childlaw submits that safeguarders are usually appointed in the most complex and difficult cases involving very exposed and vulnerable children. Safeguarders are called upon to assist in the decision making of both courts and Children's Hearings in relation to these children. These decisions can have serious long term consequences and should therefore be taken with rigorous and thorough investigations having been conducted.

cl@n childlaw submits therefore that it is imperative that any fee structure should reflect the work undertaken to ensure that any safeguarder reporting involves such a level of rigour and thoroughness.

In this context, in relation to Options 3 and 4, the circumstances of every child with whom a safeguarder is involved can be very different and will, as previously indicated, by their very nature, be complex. As a consequence, the amount of work involved for each child can vary significantly. Accordingly, cl@n childlaw does not support the introduction of a set fee per appointment as set out in Option 3.

Following from this and for the same reasons, cl@n childlaw would not support the introduction of a reduced and simplified fee structure as set out in Option 4. Under this Option, cl@n childlaw submits that either it would be less likely that safeguarders would be remunerated for work undertaken or there could be an impact on the level of investigation undertaken.

Of all the Options suggested, cl@n childlaw would support Option 2, subject to our comments set out in our response to Question 1 and provided the fee scheme is sufficiently sophisticated to reflect adequately work undertaken.

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

Please see our comments set out in response to Question 2.

EXPENSES AND ALLOWANCES FOR SAFEGUARDERS

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

Yes No (if you have answered 'No' please give your reasons below)

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

No comment

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

No comment



cl@n childlaw

ADVOCACY & LEGAL SERVICES FOR CHILDREN AND YOUNG PEOPLE **Response to Consultation on the Children's Hearings (Scotland) Act 2011- Safeguarder's Fees, Expenses and Allowances**

cl@n childlaw offers a unique **legal advocacy service** to children and young people within Edinburgh and the Lothians. We are lawyers delivering **free legal advice and representation** to children and young people, who would otherwise have found it very difficult or impossible to access the legal help that they require. We help **Children & Young People up to the age of 18, or 21 if they have been Looked After Children.**

The team at cl@n childlaw have, in various capacities, a number of years experience of working within the Children's Hearings system. We are all lawyers and within our number have two former Reporters, two safeguarders and a legal representative. We all provide representation for children at Children's Hearings.

We deliver **specialist training in child law.**

In addition we have established an evidence based **Policy Development Unit** ("PDU"), supported by Esmée Fairbairn Foundation and The Centre for Excellence for Looked After Children in Scotland ("CELCIS"). We aim to contribute to policy development in relation to the realisation of rights for children and young people across Scotland. With the insight gained from our direct legal representation of children and young people, we can (a) offer a unique perspective and (b) use our legal knowledge, skills and expertise to advance policy and its implementation.

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