

The Children's Hearings (Scotland) Act 2011 Safeguarder Panel Remuneration Consultation

An Analysis of results

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Background to the consultation

At present recruitment, training, management and remuneration of safeguarders is either carried out or paid for by the local authorities throughout Scotland. In 2003, COSLA issued a fee structure for safeguarders that would be applied across all local authorities and initially this was successful. However local authorities then applied varying inflation rates, annual or other uprates or were unable to improve on the 2003 fee structure. This led inevitably to diverging remuneration rates developing across the country in the intervening period. This inconsistency on remuneration, with each local authority having in effect its own local set rates for fees and expenses, cannot be the case in the future with the national Safeguarders Panel.

When the relevant provisions of the Children's Hearings (Scotland) Act 2011 are commenced the role of establishing and maintaining a national panel of safeguarders will fall to Scottish Ministers. Scottish Ministers may enter into arrangements (contractual or otherwise) to assist them in discharging this role. The Scottish Ministers have taken up this option and a tendering exercise has been completed. **Children 1st** are contracted to assist with the management and operation of the national Safeguarders Panel from 1 April 2012. This is to allow for a period of time, before the new 2011 Act commences, for recruitment and pre-appointment training for

safeguarders. Local authorities will continue with appointments and managing safeguarders up until the commencement of the full 2011 Act on 24 June 2013.

New Safeguarder Panel provisions – to be known as The Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 - came into force from 26 March 2012 and these form the legislative basis that the contractor will operate under. These regulations include safeguarder remuneration and provide that Scottish Ministers: -

- **must** pay fees to members of the Safeguarders Panel;
- **may** pay expenses and allowances as they think fit to members or potential members of the panel; and
- **must** publish the rates of fees, expenses and allowances payable to members and potential members of the panel.

A further set of regulations –Children's Hearings (Scotland) Act 2011 Safeguarders (Further Provision) Regulations 2012 have been consulted. One of the aims of these regulations is to ensure that the safeguarder once appointed remains in place until a final decision is made i.e.:

- a compulsory supervision order is in place;
- termination of a compulsory supervision order; or
- a discharge of the referral is made, which is either not

challenged or is not capable of being further challenged.

The effect of the instrument will be to allow a safeguarder appointed by a hearing to stay with the appointment if deferred to the sheriff court and vice versa. This will have a key effect on financing future safeguarding provision.

The consultation focussed on four options for fees and one option for expenses and allowances.

Possible Fees & Expenses Options

Option 1 – no change

Maintain the current remuneration schemes paid by each local authority. The status quo of claiming the fees set by each local authority would be unfair as safeguarders should not be paid at different rates dependent on the parts of Scotland in which they operate.

Option 2 – Taking the maximum fee paid by a local authorities and applying this across the country

This would be a straightforward means of ensuring that no safeguarder suffered disadvantage as a consequence of the changes. There is a certain attraction to bringing everyone onto the same level, and in doing so establishing a fee structure that safeguarders recognise while ensuring that all safeguarders received the same fee. This would in turn mean that no detriment would be occurred by the highest remunerated safeguarders but would also ensure the lowest are brought up to equitable rates.

Option 3 – One set fee per appointment

A possible option would be to introduce one set fee to be paid at the conclusion of the appointment, (although half of the fee on appointment and half on completion could also be considered). This has the potential to benefit some and disadvantage others. For example one appointment could require the safeguarder to attend a number of children's hearings and sheriff court proceedings while another appointment may only require a single report to the Children's Hearing. A single appointment fee, whenever scheduled for payment, would likely attract a total flat fee around £400-500.

Option 4 – Fixed appointment fee, fee for production of reports, and fee per appearances

This would represent a hybrid of the current fee structure but reducing and simplifying the number of payments. From feedback we have received it would seem beneficial for safeguarders to benefit from a less variable fee structure in terms of the different types of payments. A possible alternative therefore would be to ensure specific payments on what would appear to be the most significant stages of the appointment plus a flat fee for all subsequent children's hearings or sheriff court appearances.

Expenses Option

The option was and it is not unreasonable - bearing in mind the safeguarders will be Scottish Ministers' appointments – to expect the Scottish Government rates for expenses and allowances to be paid.

The Responses

A total of 23 responses were received to the consultation. Respondents included 14 individuals and 9 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. The list of the specific consultation questions can be found at Annex B.

Main Themes

Fees

- All correspondents agree the current fee scheme is not fair, is inequitable and inconsistent throughout Scotland.
- Safeguarders are an important constituent part of the Children's Hearings system and it is essential that a standardised fee scheme is restored to add credibility to the system.
- There are strong views that the present fees do not reflect the number of hours put in for interviewing, reflection and report writing.
- The rate of payment should be higher in recognition of the level of responsibility and the importance of the challenging role for safeguarders.
- Some views and concerns that safeguarders are being compared with volunteers and not recognised for their work when compared with other professionals inputting into Children's Hearings.
- No support of **Option 1** to keep current scheme.
- 48% of respondents are in favour of **option 2** to take the maximum fee paid by local authorities and applying this across the country. A number of these respondents suggesting some simplification could be made of this option.
- Option 3 had minimal support and seen as unfair due to the differing nature of each appointment.
- 39% in favour of option 4 for a fixed appointment fee, a fee for production of reports, and a fee per appearance.
- A number of alternative or hybrid options were suggested. For example an exceptional case option or a time and line option.
- A need to ensure prompt payment of fees and expenses.

Expenses and Allowances

- There was an overwhelming acceptance that the Scottish Government expenses and allowances rates are acceptable.
- The Scottish Government rates would ensure a clear, fair, reasonable and consistent standard across Scotland
- There is a need to consider discretionary payments in exceptional circumstances and these may include for instance inordinate long distance travel, travel delays, unusual circumstances, potential loss of earnings
- A need to clarify whether miscellaneous expenses such as stationary, postage phone calls can be reclaimed

Annex A - List of Respondents by Category

Individuals

Margaret Burt
Norrie Kee
Margaret Laird
Stuart Lynch
Joyce Morrison
Norman Shearer
Marian Wallace
Andrew Wilson

Four individuals asked to remain anonymous and 3 individuals asked that their response is not made publicly available.

Organisations

Argyll & Bute Council
Children in Scotland
Clan Child Law
East Ayrshire Council
Family Law Association
The Law Society of Scotland
Orkney Islands Council
Scottish Safeguarders Association

One organisation asked to remain anonymous

Annex B - List of Consultation Questions and Statistical Overview

Fees

Question 1:

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

Question 2:

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

Question 3:

Do you have a suggestion as to alternative method of fees payments?

Expenses

Question 4:

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

Question 5:

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

Question 6:

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



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ISBN: 978-1-78256-128-6 (web only)

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by APS Group Scotland
DPPAS13428 (09/12)

Published by the Scottish Government, September 2012

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