

North Lanarkshire Council

Report

Education & Families Committee

approval noting

Ref AG/MF

Date 21/05/2019

Scheme for Curator ad Litem and Reporting Officers Panel

From Alison Gordon, Head of Children, Families & Justice Social Work Services/Chief Social Work Officer

Email gordonal@northlan.gov.uk **Telephone** 01698 332 001

Executive Summary

Under the Curator ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 and the Panel of Persons to safeguard the interests of Children (Scotland) Amendment Regulations 2011 the local authority have a requirement to maintain a panel of Curators ad Litem and Reporting Officers. The role of Curators ad litem and Reporting Officers involves investigating the circumstances and providing a report to the Court in respect of adoption or permanence order applications.

A scheme for the approval and maintenance of a Curators ad Litem Panel was previously agreed at the Housing & Social Work Committee in April 2014. This report seeks approval for the revised scheme attached as Appendices 1-3.

Discussions have taken place with the Sheriff Principal of the Sheriffdom of South Strathclyde, Dumfries and Galloway and with the Airdrie & Hamilton Sheriff Court Faculty of Lawyers who are both supportive of the revised scheme.

Recommendations

Committee are asked to:

- (1) Note the contents of this report.
- (2) Approve the revised scheme.

Supporting Documents

The Plan for North Lanarkshire	Supporting all children and young people achieve their potential
Appendix 1	Scheme for Curators ad Litem and Reporting Officers' Panel
Appendix 2	Guide for application
Appendix 3	Fees and expenses

1. Background

- 1.1 For children who cannot remain with their birth families and who become accommodated by the local authority, adoption and permanent fostering provides a secure family base from which their needs can be met into adulthood and beyond.
 - 1.2 When an adoption petition or permanence order is lodged in court a Curator Ad Litem/Reporting Officer is appointed by the court to investigate the circumstances and to report to the court.
 - 1.3 The general duty of a Curator ad Litem is to safeguard the interests of the child. A Reporting Officer is charged principally with witnessing agreements to adoption and with matters relating to parental consent. The same person may be appointed to the case in both capacities.
 - 1.4 Local authorities have a requirement to maintain a panel of Curators ad Litem/reporting officer in terms of:
 - The Curator ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001.
 - The panel of persons to safeguard the interests of Children (Scotland) Amendment Regulations 2011.
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2. Report

- 2.1 The impetus to update the previous scheme which was agreed at the Housing & Social Work Services Committee in April 2014, was informed by rising court costs and the necessity to update membership of the panel.
 - 2.2 Discussions regarding the proposals have taken place with the Sheriff Principal of the Sheriffdom of South Strathclyde, Dumfries and Galloway and with the Airdrie & Hamilton Sheriff Court Faculty of lawyers who are both supportive of the updated scheme.
 - 2.3 The revised Scheme attached as Appendix 1 covers processes and standards which will apply to:
 - The establishment and maintenance of the panel.
 - Appointments to the panel.
 - 2.4 The most important requirements for those appointed to the Curators ad Litem and Reporting Officers Panel are:
 - An ability to communicate effectively with child/parents and other agencies/professionals concerned.
 - An ability to gather and assess relevant information.
 - An ability to prepare comprehensive reports for the court.
 - A working knowledge of relevant legislation and court procedures.
 - 2.5 Recruitment to the Panel is managed via the Council's Legal Services in consultation with the Sherriff Principal as detailed in Appendices 1 & 2 to this report.
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3. Equality and Diversity

3.1 Fairer Scotland

The Scheme outlined in this report helps to ensure that children and young people who cannot live with their birth families are given the opportunities to grow up and thrive within alternative secure family settings.

3.2 Equality Impact Assessment

The arrangements outlined in this report and appendices will assist the council to comply with statutory responsibilities. There are however no direct equalities implications arising from this report.

4. Implications

4.1 Financial Impact

The Scheme sets out the fees chargeable by the Curator ad Litem /Reporting Officers. It therefore regulates the fee which a Curator ad Litem/Reporting Officer can charge. It is proposed that the level of fees set by the Council from the date of agreement is a fixed fee of £600 for a joint appointment as Curator ad Litem and Reporting Officer and a fixed fee of £550 for a single appointment as either Curator ad Litem or a Reporting Officer. For an additional child the appointment will be a fixed fee of £200. This ensures a consistent approach to fees paid. This is an increase of approximately £250 per report for a single child and a reduction of £150 per report for additional children more accurately reflecting associated workload.

The cost of the scheme in 2018/19 was approximately £9,000. Based on a similar number of cases the cost of the scheme in future years is estimated at £12,000. Funding for the appointment of Curator ad Litem and Reporting Officers is contained within the Service's Professional Fees budget.

4.2 HR/Policy/Legislative Impact

There are no significant personnel implications arising from the updating of the scheme. For the purposes of the administration of this scheme the Chief Social Work Officer will exercise the powers conferred on the Council by the Curators ad Litem and Reporting Officers (Panels) (Scotland) Regulations 2001 with regard to the appointment of persons to Panels of Curators ad Litem and Reporting Officers for the purpose of Section 108 of the Adoption and Children (Scotland) Act 2007.

4.3 Environmental Impact

None

4.4 Risk Impact

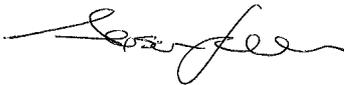
The implementation of the Scheme proposed in this report will ensure that a panel of Curator ad Litem and Reporting Officers is maintained in accordance with the Council's statutory obligations ensuring compliance with the relevant regulations and reducing the risk of a shortage of Curators ad Litem and Reporting Officers.

The implementation of the Scheme will assist in ensuring that Curators ad Litem and Reporting Officers have the qualifications and experience required to carry out the duties incumbent upon them.

In setting out related fees chargeable it regulates the fee which a Curator ad Litem / Reporting Officer can charge.

5. Measures of success

- 5.1 Appointees to the Panel have the necessary skills and knowledge to complete duties effectively.
- 5.2 Sufficient Curators ad Litem and Reporting Officers are available to support timely decision-making for children requiring permanence.
- 5.3 National Outcomes for Children and Families
- Our children have the best start in life and are ready to succeed.
 - We have improved the life chances of children, young people and families at risk.



Alison Gordon
Head of Children, Families and Justice Social Work Services/
Chief Social Work Officer

Scheme for Curator ad Litem and Reporting Officers' Panel

North Lanarkshire Council requires to appoint a panel of persons from which Curators ad Litem ("Curators") and Reporting Officers may be appointed. This scheme and attached appendices outline the appointment process for Curators and Reporting Officers and the terms of appointment.

Definitions

"Panel Member" means a person appointed to a panel of persons established in accordance with Regulation 3(1) of the Curators ad Litem and Reporting Officers (Panels)(Scotland) Regulations 2001.

"Relevant Experience" means having a minimum of 5 years, demonstrable experience in Family Law and/or Social Work working with children and their parents and carers (including experience of adoption and other long term substitute care arrangements).

"Relevant Legislation" includes but is not limited to Adoption and Children (Scotland) Act 2007, Curators ad Litem and Reporting Officers (Panels)(Scotland) Regulations 2001 as amended, Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009, Children (Scotland) Act 1995, Children's Hearings (Scotland) Act 2011, Social Work (Scotland) Act 1968 and all subsequent amending legislation.

"Relevant Local Authority" means North Lanarkshire Council

"Relevant Qualifications" means being a (i) Solicitor or Solicitor Advocate, holding a current or who has previously held a practising certificate from the Law Society of Scotland; or (ii) Advocate, being a practising Member of the Faculty of Advocates; or (iii) Social Worker, holding or who has previously held a registration with the Scottish Social Services Council.

"Services" means Curator ad Litem and Reporting Officer services

1. Qualifications and Experience

The Panel Member shall, when submitting an application, confirm that he / she has:-

1. the Relevant Qualifications;
2. the Relevant Experience;
3. knowledge of the Relevant Legislation;
4. the capacity to perform the duties of the role as identified in Paragraph 12 of the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children) (Scotland) Act 2007) 2009.

2. Process for Nominations and Appointment to the Panel

- (i) The Local Authority shall invite nominations for persons as potential members of the panel from Sheriffs, other Local Authorities and such other persons as it may consider appropriate;
- (ii) The Local Authority may take such steps as it considers appropriate after consultation with the Sheriff Principal, including advertisement to secure the nominations of panel members, including making nominations itself;
- (iii) Appendix 2 outlines the Nomination Application process.

3. Scheme Membership

- (i) The Panel Member acknowledges and agrees that he or she is appointed by the Court.

The appointment is a public appointment and the Panel Member is deemed to be a public officeholder.

- (ii) The Panel Member acknowledges that:-
 - a) the scheme membership does not constitute a contract of employment;
 - b) when providing the Services he/she will be acting in an individual capacity.

- (iii) The Panel Member undertakes to disqualify himself/herself from appointment in cases where he /she has prior personal knowledge of any of the parties to the case or if the appointment in any way represents a conflict of interest, actual or perceived.
- (iv) The Panel Member undertakes to submit reports in accordance with Paragraph 12(d) of the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009.

4. Length of appointment

- (i) The initial appointment will be for a period not exceeding 3 years, or for such other period as the Sheriff Principal and the Local Authority consider appropriate.
- (ii) A Curator or Reporting Officer may apply to be re-appointed. Any application for re-appointment should be sent in advance to the Local Authority for consideration by it and the Sheriff Principal. Up to date information confirming the applicant's continuing eligibility for appointment will be required. Any re-appointment shall be for a period not exceeding three years as determined by the Local Authority after consultation with the Sheriff Principal.

5. Termination of Appointment

The Local Authority shall be entitled to terminate any appointment with immediate effect, without written notice, where:-

- (i) the Local Authority is satisfied that the Panel Member is unable, unfit or unsuitable to continue to carry out the functions of a Panel Member;
- (ii) the Sheriff Principal or any Sheriff or Summary Sheriff in the Sheriffdom reports to the Local Authority that the Panel Member is unable, unfit or unsuitable to continue to carry out the functions as Panel Member; or

(iii) the Panel Member no longer meets the standard of qualifications or experience specified in Condition 1.

6. Confidentiality & Data Protection

- (i) The Panel Member will not include any information specifying prospective adopters' or foster carers' identity, location or employment in any report prepared in respect of the Services;
- (ii) The Panel Member will not specify in any report prepared in relation to the Services, the name of any child or children's nursery, school or any other information that may lead to the identification of the prospective adopters or foster carers.
- (ii) The Panel Member acknowledges that he/she will comply with the Data Protection Act 2018 as amended.

7. Expenses and fees

- (i) Payment for the provision of the Services will be made at the rates stated in the Fees and Expenses Table [Appendix, Part1], as revised from time to time, or as judicially determined by the Court at the option of the Curator.
- (ii) Claims for payment should be submitted to the Relevant Local Authority using the Fee Claim Form [Appendix Part 3] accompanied by a breakdown of hours worked and receipts for reasonable expenses.

8. Insurance, Liability and indemnity

- (i) The Panel Member agrees to indemnify the Relevant Local Authority from and against any loss, damage, costs or liability incurred by the Relevant Local Authority from any breach by the Panel Member of his/her duties or inappropriate or negligent use of any of the data or information supplied to the Panel Member.

SIGNED by the **Panel Member**

PRINT NAME

Date:

Guide for Application - Curator ad Litem and / or Reporting Officer Panel for North Lanarkshire Council and South Lanarkshire Council (“the Local Authorities”) (“the Panel”)

This guide is based on the rules for application and appointment set out in Curators and Reporting Officers (Panels) (Scotland) Regulations 2001/477 (Scottish SI).

Nomination Process

Please submit your application for Nomination to the Local Authority. This should be clearly marked for the [Legal Department] only. In order to avoid a conflict of interest your application will not be viewed or considered by any other official in any other council department.

You need to list your qualifications and experience in the application. For guidance, please see the Contractual Terms and Conditions where the required “Relevant Experience” and “Relevant Qualifications” are defined.

Please note that the Local Authorities cannot accept your application unless you are able to demonstrate that you possess the relevant qualifications and / or experience.

You also require to demonstrate that you have a Protecting Vulnerable Groups (PVG) Scheme Membership. Guidance on how to obtain membership can be found here; www.mygov.scot/pvg-scheme.

You can apply to be a member of more than one panel if you wish.

Once your application has been received, it will be processed by the Legal Department of the Local Authority. If your application is accepted it will be passed to the Sheriff Principal. The Sheriff Principal and the Local Authority may consult Sheriffs, Summary Sheriffs, Sheriff Clerks, local Faculties/Bar Association and representatives of Local Authorities’ Legal and Social Work Departments and others as he/she/it considers necessary with respect to the suitability of your appointment.

If you are called for an interview; this will take place before the Sheriff Principal. The Sheriff Principal may invite representatives of the Local Authority’s Legal Department to attend.

The Local Authority will notify you of the outcome of your application. If your application is approved, the Sheriff Principal will nominate the candidate and the Local Authority will appoint the applicant to the Panel.

The Sheriff Principal may, independently from this process, nominate individuals with the necessary qualifications and experience to the Panel. The Local Authorities will upon receipt of nomination by the Sheriff Principal appoint that individual to the Panel

Any decision in respect of your application is final and not subject to appeal.

APPENDIX 3

Part 1- Fees and Expenses Table

1	Joint Appointment as Curator ad Litem and Reporting Officer (Appointment Fee)	Fixed fee £600	Covers the first 10 hours of work which includes: Investigation, written report including interim report, written and verbal communications, attendance at hearings and meetings, contribution and administrative expenses.
2	Single Appointment as either Curator ad Litem or Reporting Officer (Appointment Fee)	Fixed fee £550	Covers the first 10 hours of work which includes: Investigation, written report including interim report, written and verbal communications, attendance at hearings and meetings, contribution and administrative expenses.
3	Additional Child appointment fee - Joint Appointment as Curator ad Litem and Reporting Officer (Appointment Fee)	Fixed fee £200	Covers the first 10 hours of work which includes: Investigation, written report including interim report, written and verbal communications, attendance at hearings and meetings, contribution and administrative expenses.
4	Additional Child appointment fee - Single Appointment as either Curator ad Litem or Reporting Officer (Appointment Fee)	Fixed Fee £150	Covers the first 10 hours of work which includes: Investigation, written report including interim report, written and verbal communications, attendance at hearings and meetings, contribution and administrative expenses.
5	Daily Court attendance fee	£30 per hour up to a maximum of £150 per day	To be paid only after the first 10 hours referred to in the Appointment Fee have been completed. Includes the time spent travelling to and from a Court hearing and time spent at the hearing.
6	Additional Work not covered in paragraphs 1-5 above	£30 per hour	To be paid only for additional work not already covered or referred to in paragraphs 1-5 above which includes, but is not limited to, further investigation, additional written report, or further written/verbal communications. The Panel Member must seek prior authorisation from the Local Authority Before commencing work on the foregoing.
7	Mileage	£0.45 per mile	Mileage
8	Exceptional accommodation or transport	To be agreed with Relevant Local Authority	Cannot be claimed retrospectively and can only be paid where the Panel Member has sought and received prior authorisation from the Local Authority.