

## Safeguarder Role

### What is a safeguarder?

A safeguarder is a person who may be needed to **safeguard the interests of the child** in children's hearing proceedings.

### Does every child have a safeguarder?

Not all children involved in children's hearing proceedings need a safeguarder. It is for the **children's hearing or sheriff** (where children's hearing proceedings are at court) that is considering the child's case, to appoint a safeguarder where they feel one is needed. Whether a safeguarder is needed to safeguard the interests of a child is individual to each child's needs and circumstances. For example, the child's views may be difficult to access.

### What is within the parameters of a safeguarder's role?

Exactly what an appointed **safeguarder will do** in each child's case will depend on the particular needs and circumstances of the child. Whilst children's hearings and sheriff may say what they want a safeguarder to do when they appoint a safeguarder, it is up to the safeguarder to investigate as much as they feel is relevant and proportionate to safeguard the child's interests. All safeguarders must work to the powers and the boundaries set for the role by law and through regulation.

In general, these include:

- **investigating** by looking at papers and by speaking to the child and the people involved with a child, to help the safeguarder decide how best to safeguard each child's interests
- **giving the child an opportunity to say what they think and want** and if the child does give their views, to pass these views on to the children's hearing or sheriff
- **writing a report or giving a verbal report** to the children's hearing or sheriff, to assist the children's hearing or sheriff in deciding what to do
- **attending children's hearings and court** to be part of the consideration of what is best for the child

### What is not within the safeguarder role?

A safeguarder should not:

- **act as a representative** for the child in the way that a lawyer or Advocate can do
- **keep in contact** with a child or family after the appointment has ended
- **keep information** received or held by them, after the appointment has ended
- **act beyond their role** by taking on someone else's role e.g. to assess or provide services

## Who are safeguarders?

- Safeguarders are people who have been recruited and vetted to be on the national Safeguarders Panel, so that when a child needs a safeguarder, a person who is on the national Panel can be appointed to them.
- Scottish Ministers appoint people to be on the national Safeguarders Panel after they have shown that they have certain competencies required for the role.
- Safeguarders come from different backgrounds and with different experience but they must all be fit to do the role.
- Once appointed they must work to Practice Standards and other legal requirements to remain as a safeguarder on the national Panel.

## How must safeguarders carry out their role?

The [Practice Standards for Safeguarders](#) state what safeguarders should do and how they should behave. In general terms, the Standards say that the safeguarder must always:

- keep the child at the centre of the proceedings
- develop good and positive relationships with everyone involved, especially the child
- act independently
- report where required in a clear, reasoned and justifiable way
- maintain confidentiality, keeping information safe
- behave with integrity, honesty, fairness and openness; respecting other people's worth and dignity
- keep up to date with skills and knowledge needed for the role.

## What should safeguarders be good at doing?

- understanding children and their world
- communicating with children
- communicating with everyone else involved
- understanding the Children's Hearing System and how it works
- gathering and considering relevant information
- making clear, reasoned and justifiable recommendations
- writing clearly
- working independently
- working with others
- understanding their role: its limitations and what is required of them.

## Do safeguarders make decisions about a child?

No. The safeguarder helps those making decisions: the children's hearing and sheriffs. If the safeguarder does not agree with decisions made by the children's hearing or court, the safeguarder can usually appeal the decision so that another court can decide if the decision appealed against was justified.

## Who are safeguarders accountable to?

Safeguarders are appointed by Scottish Ministers. Scottish Ministers have contracted Children 1st to manage and administer the national Safeguarders Panel and the Safeguarders Panel Team within Children 1st monitors and support safeguarders to ensure that safeguarders are fit to be in the role.

## Detailed information on safeguarders, including relevant legislation

[The Children's Hearings \(Scotland\) Act 2011](#)

[The Children's Hearings \(Scotland\) Act 2011 \(Safeguarders Panel\) Regulations 2012](#)

[The Children's Hearings \(Scotland\) Act 2011 \(Safeguarders: Further Provisions\) Regulations 2012](#)

[The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure at Children's Hearings\) Rules 2013](#)

[Act of Sederunt \(Child Care and Maintenance Rules\) 1997](#)

[Practice Standards for Safeguarders June 2015](#)

### *Example in practice:*

*John is 13 and he is going to a children's hearing for the first time. John is not staying at home due to the problems at home. John is fairly isolated and not communicating with others. He has a very poor relationship with his parents at the moment and although he lives with his grandparents, he is not engaging with them. He will not speak to anyone and the hearing feel that they would like to try to give John a further opportunity to give his views. After a long discussion at the children's hearing, the hearing decides that John needs a safeguarder and they decide to appoint one. The hearing is continued for the next children's hearing to have a report from the safeguarder. The safeguarder has 35 days to investigate and complete their report – if the safeguarder needs longer, they can ask the hearing for more time.*

*Immediately after the children's hearing, the reporter writes to Children 1st Safeguarders Panel Team who then contact a safeguarder who is local to the child's home, Jessie McDonald. Jessie agrees to take on the appointment. At this stage neither the Safeguarders Panel Team nor Jessie know John's details – just his name; age; that he needs a safeguarder and where and when the next children's hearing will be for him.*

*The Safeguarders Panel Team tell the reporter that Jessie has accepted the appointment and the reporter is able to give Jessie a copy of all the papers that were available to the children's hearing with copies of the hearing's decision and the reasons for their decision. This includes the hearing's reasons for appointing Jessie. This lets Jessie understand why the hearing felt a safeguarder needed to be appointed and what the family has been told about why she needs to be involved. She will keep this in mind when she looks into what is needed. She knows that she can go beyond the matters that she has been asked to look into by the hearing, as long as the extent of her investigation is relevant, proportionate and she doesn't take on anything that another role should be doing.*

*Jessie reads the papers and decides who she wants to speak to and what other information she would like to know. She makes arrangements to see John and to see his parents, the social worker allocated to him, and his teacher. She explains her role and takes time to check everyone's understanding. She has a [leaflet about safeguarders](#) which helps and she leaves a copy with John and with his parents. She arranges to see John again once she has met him.*

*After gathering enough information from people and from reports available, Jessie feels she knows what she would like to recommend to the next children's hearing. She has had enough time to investigate and speak with John and others within the timescale of 35 days. She writes her report and goes and visits John and his parents all separately to let them know what she is recommending and why. She lets the social worker know what she is recommending and why. She then sends her report to the reporter so that the reporter can send the report on to the panel members and to everyone else who is entitled to get a copy of it, in plenty of time before the hearing is to take place.*

*Jessie goes to the children's hearing where her report, together with other information in other reports, is discussed. The children's hearing make a decision, after hearing from everyone there, including Jessie. Jessie thinks that the decision is in the best interests of John. She does not want to appeal that decision.*

*Whilst John and his parents did not agree with what Jessie was recommending for John, they were clear why she was recommending it. John's parents are going to appeal the decision of the hearing to the sheriff court. Jessie will be involved in those court proceedings and she will attend court and contribute to the appeal by making her views known about what has or should happen. She will speak to John and his parents before then to explain what she thinks and why.*

*Once the appeal proceedings are finished and Jesse's appointment has come to an end, Jessie will return her papers to the reporter and destroy any notes that she has. Jessie will not have any further contact with John and his family unless, if John needs a safeguarder to be involved in the future, and a hearing or court appoints a safeguarder, Jessie should be the safeguarder appointed again. This lets John have a safeguarder that he has met before.*

**NB**

- 1. If John and or his parents had not accepted the grounds at the original children's hearing and the grounds had been sent to court to see if they should be established, Jessie would have been involved in these court proceedings too.*
- 2. If the original children's hearing had sent the grounds to court and not appointed a safeguarder, when the grounds went to court, the sheriff could appoint a safeguarder at any time during the proceedings at court. If so, and Jessie had been appointed, she would have kept being involved as if the original hearing had appointed her. If the grounds were established at court and sent back to the children's hearing, she would be involved there and help the children's hearing decide what is in John's best interests.*
- 3. If no safeguarder had been appointed up to the stage of the appeal against the children's hearing by John's parents, the sheriff could appoint a safeguarder at the appeal stage.*