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Safeguarders
Panel

PRACTICE NOTES ON ROLE OF THE SAFEGUARDER

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1) Reasons for Appointment

1. This is often referred to as the ‘remit’ given to the Safeguarder when an appointment is made but it is not a word used in any of the legal provisions.
2. A **children’s hearing** is required to ‘give reasons’ for its decision to appoint a Safeguarder¹.
3. A children’s hearing may set out in its reasons that certain matters should be the focus of the Safeguarder’s investigations or reporting. Whilst a Safeguarder is required to prepare a report for the children’s hearing, what is to be covered in the report should be what the **Safeguarder considers to be relevant** after commencing investigations².
4. A **Sheriff** is required to ‘give reasons’ for the decision to appoint a Safeguarder and this must be recorded.³ A Safeguarder is not required to produce a written report for the Sheriff in relation to a ground’s application⁴. There may be occasions when a Sheriff may ask for a written report from the Safeguarder where the Sheriff considers this to be necessary in relation to a particular appointment⁵.
5. A Sheriff, similarly to the children’s hearing, may also indicate if there are matters that the Sheriff believes should be the focus of the Safeguarder’s investigations or reporting. If the **Safeguarder requires further clarification** as to the reasons for appointment, the Safeguarder may contact the Sheriff clerk to request further detail as to the reason for the appointment and what is being requested of the Safeguarder.
6. Whilst a children’s hearing, or on occasions a Sheriff, may ask for certain matters to be addressed by the Safeguarder, the Safeguarder
 - (a) may go beyond the matters that the Safeguarder has been asked to investigate, as long as the extent of the investigation is **relevant, proportionate and conducted within role in the interests of the child**, and
 - (b) should address the matters specified by the children’s hearing or Sheriff, unless the Safeguarder feels that it is **inappropriate to do so**. Where this occurs, the Safeguarder should inform the children’s hearing (by contacting the Reporter) or the Sheriff (by contacting the Sheriff clerk) that what has been asked for might not be able to be carried out by the Safeguarder and why.

¹ Section 30(4) of the Children’s Hearings (Scotland) Act 2011 states that a hearing must give reasons.

² Section 33(1)(a) of the 2011 Act covers the Safeguarder’s ability to set out anything that the Safeguarder considers is relevant to the matter before the children’s hearing.

³ Section 31(6) covers a sheriff’s decision and Rule 3.7(2) of the Act of Sederunt (Child Care and Maintenance) Rules 1997 as amended requires the sheriff to record the appointment and the reasons for the appointment in an interlocutor which the Safeguarder is entitled to get (Rule 3.8(f)).

⁴ Section 31(4) of the 2011 Act as amended by the Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 removes the duty to provide a report to the sheriff.

⁵ Regulation 6 of the Children’s Hearings (Scotland) Act 2011 (Safeguarders: Further Provisions) Regulations 2012 covers a sheriff requiring a report in an appeal against a children’s hearing decision. In other court matters there is no express provision preventing a sheriff requesting a report. Common practice across Scotland is for no report to be requested in relation to grounds applications proceedings.

7. When the Safeguarder cannot do what is asked for by a hearing or Sheriff it is for the Safeguarder to decide whether to inform the Reporter or the Sheriff clerk

(a) **immediately** or

(b) to **continue with investigations** for other broader issues and wait until the Safeguarder's report goes back to the children's hearing or Sheriff

and then to explain why the hearing or Sheriff will not get what was requested from the Safeguarder.

8. The Safeguarder always should have in mind that any decision that the Safeguarder makes should **avoid delay** to the proceedings and for the child.

Example 1: A children's hearing ask a Safeguarder to complete a Parenting Assessment. This is beyond the role of a Safeguarder and is more properly carried out by a professional or service with responsibility and competence to carry out that assessment. As the children's hearing is expecting this assessment from the Safeguarder, the Safeguarder decides that she needs to let the children's hearing know that she will not be doing this and give the children's hearing a chance to consider requesting someone else to do the assessment to avoid delay. The Safeguarder writes back to the Reporter explaining that she cannot complete the assessment as the Safeguarder and that the hearing may want to consider how they would get an assessment from another more appropriate source. In the meantime the Safeguarder continues to investigate other broader issues for the child which the Safeguarder has decided needs to be done, to report back to the next children's hearing whenever this is arranged.

Example 2: A court has asked a Safeguarder to prepare a report in relation to an appeal against a children's hearing decision. The sheriff has asked for the Safeguarder to personally obtain the views of a child and asks that the child is spoken to by the Safeguarder without another person being there. The child is very vulnerable. The Safeguarder investigates and on the information available believes that it would minimise distress to the child if a therapist already involved could speak to the child. The Safeguarder immediately writes back to the court explaining this and recommending that a therapist is asked to attempt to obtain the views of the child.

2) Explaining the Role

Why?

Explaining the role to those that the Safeguarder is in contact with during his or her appointment is extremely important because:

1. it is a **requirement** of the legal regulations⁶ and the Practice Standards⁷ in place for Safeguarders
2. any person spoken to as part of the Safeguarder's investigations is **entitled to an explanation** to try to ensure understanding of who a Safeguarder is and what a Safeguarder will do
3. this allows each person to be clear about his or her own **rights** in relation to the Safeguarder's involvement
4. this in turn can help the **availability and quality of the information** that the Safeguarder can access
5. explaining the role to a **child, parent and carers** is particularly important so that they **experience meaningful and purposeful relationships with a Safeguarder based on good communication⁸** and that *all concerned are treated with respect, honesty and fairness⁹ and sensitivity¹⁰*.

Who to?

Safeguarders should ensure that they **treat each person as an individual**, taking into account any particular needs, or potential barriers which might prevent a person being able to communicate openly and honestly with the Safeguarder. This applies to all people the Safeguarder has contact with, including professionals.

Information already made available to the Safeguarder may assist the Safeguarder to prepare properly for how they will explain the role and to make necessary arrangements to communicate with, and obtain the views of all people where appropriate.

Additional information may also be available from professionals and services working with a child and family who may also be able to support the Safeguarder in facilitating meetings where reasonable adjustments need to be made. Information about cultural or religious issues may be available and can be helpful in preparing to meet.¹¹

⁶ Regulation 8 of The Children's Hearings (Scotland) Act 2011 (Safeguarders: Further Provision) Regulations 2012 states that a Safeguarder must inform a child, any relevant person and any other person whom the Safeguarder interviews of their functions and powersand in particular that the role is to safeguard the interests of the child.

⁷ Practice Standard 2 states that it is the responsibility of a Safeguarder to ensure that the role of the Safeguarder within each individual context is described and defined to those concerned, including the child, parents and carers and relevant persons. Practice Standard 6 states that the Safeguarder must ensure that children, parents and carers are engaged with fairly, promptly, effectively and with sensitivity.

⁸ Practice Standard 2 states this as one of the reasons for the Standard.

⁹ Practice Standard 2 states that it is the responsibility of the Safeguarder to ensure this.

¹⁰ Practice Standard 7 states that it is the responsibility of the Safeguarder to ensure that children, parents and carers are engaged with fairly, promptly, and effectively and with sensitivity.

¹¹ Practice Standard 1 states that it is the responsibility of the Safeguarder to ensure that assessments and information provided by others, including parents and carers and representatives from services and

What?

In explaining the role, Safeguarders should provide relevant information, including the following as a minimum:

(a) the **focus of the Safeguarder on the best interests of the child.**

(b) **the independence of the Safeguarder.** This may include explaining who the Safeguarder does not 'work for'; that the Safeguarder may agree or disagree with people; that the Safeguarder can appeal; and that the Safeguarder is appointed, supported and monitored against national Standards to be a Safeguarder.

(c) **that there is a right to provide feedback about the practice or conduct of the Safeguarder.** The Safeguarder should make the person aware of how that person can provide feedback or raise issues or concerns or complain and who that person should contact. This information is in the leaflet available to Safeguarders.

(d) **that during the Safeguarder's involvement, the Safeguarder**

1. has **access to information** and what that information is (e.g. all papers available to the children's hearing);
2. will **speak to people and request information** that the Safeguarder feels that they need as part of their investigation. That may include speaking to anyone that the child or family may want the Safeguarder to speak to if the Safeguarder feels that this is appropriate;
3. will **write a report** for the children's hearing or investigate the grounds for referral or be involved in the appeal at court. The person should also be told whether or not they will get to see the report and at what stage this will be sent to them;
4. must try to **get the views of the child** and parents or carers because this is vital for the Safeguarder to consider and to make recommendations;
5. will usually **attend** children's hearings and court children's hearings;
6. must **keep information about people safe and secure** and that information can only be accessed by those with a right to access;
7. will try to deal with **sensitive information** in a way that minimises any level of or possibility of distress to the child or others;
8. must **pass on information** where there are child or adult protection concerns or concerns about a crime;
9. gives views and recommendations about what should happen in the best interests of the child to make sure decisions are good for the child, but **does not make the decision**;

agencies involved are considered in helping to inform the Safeguarder's communication and recommendation.

Practice Notes supplement the [Practice Standards for Safeguarders](#) by providing further clarity on the expectations of Safeguarder practice and conduct.

10. is only involved whilst a decision is being made or the decision is appealed and once a decision is made or an appeal resolved, the Safeguarder can have **no further involvement** (See *Practice Note on Contact beyond Appointments*);
11. has a particular role (to report to the children's hearing or be involved at court) and that the Safeguarder **cannot get involved beyond that role** i.e. by helping families or children where someone else could and should be doing this; and
12. must work to **Practice Standards**.

When?

A Safeguarder should contact, meet and explain the role as soon as possible after appointment¹².

A family should have been advised of the decision to appoint a Safeguarder at a children's hearing and it will be included in the written notice of the children's hearing's decision sent by the Reporter after a children's hearing. However, sometimes families may not be aware.

The child, parent and carer or others may want information about the appointment and may need to know who the Safeguarder is, what the Safeguarder will do and how long things will take. They may be anxious about the involvement of a Safeguarder.

The detailed explanation of the role should occur at first face to face contact with a person although clarifying the role or further explanation may happen after that. This is even if a person has already been provided with a leaflet or written information.

How?

1. A Safeguarder must consider and decide the **most appropriate and effective way to communicate**.
2. **Initial contact** by the Safeguarder to arrange a face to face meeting may involve some explanation of the role, with further detailed follow up when a meeting occurs.
3. The **explanation of the role to a child** should normally take place when the child is met with¹³.
4. An explanation of the role at a face-to-face meeting allows the explanation to occur in a manner that lets the person **clarify his or her understanding** and allows the Safeguarder to **check understanding**.
5. A **leaflet about Safeguarders** is available and can be left with a person. It is important to know if a person is able to read or understand written information. See section on 'Who to?' above which encourages consideration of individual's needs before contact and the Practice Note on Meeting, Communicating and Listening.

¹² Practice Standard 6 states that a Safeguarder must ensure that children and families are engaged withpromptly.....

¹³ Practice Standard 2 states that a Safeguarder must ensure that the child or young person is met and communicated with, and listened to.

6. Any question or clarification about the role should be encouraged and Safeguarder **contact details** left for people to contact the Safeguarder at a later stage. The leaflet is designed to allow details to be left.
7. It is important to **check the understanding** of the role with all persons that the Safeguarder is in contact with during an appointment, **including professionals**.
8. Whilst a Safeguarder cannot ensure understanding, he or she should **take all reasonable steps to try and assist understanding**, particularly with children and families¹⁴.

Example 1: A Safeguarder contacts the child's social worker who is the lead professional to get contact numbers for the child, parents, carers and other key professionals mentioned in the report which have not been included in the papers provided to the Safeguarder by the Reporter. The Safeguarder checks with the Social Worker about the best way to contact the parents. After discussing this with the Social Worker, he phones the mother but texts the father to ask them both to contact him to arrange a meeting so that he can explain his role and obtain their views. A brief explanation of the role is given over the phone to the mother. During the call the Safeguarder tells the mother that when they meet he can explain his role in more detail and this will let he ask any questions.

Example 2: From discussing matters with the social worker and reading the papers provided by the Reporter, a Safeguarder forms the view that he needs to carefully consider and plan how he explains his role to the child and one of the parents. The Safeguarder has been made aware that the parent can get very anxious and sometimes stops listening when he is stressed. The Safeguarder decides to allow for a long meeting with the parent and considers how best to exchange information with the parent in a way that minimises his anxiety. The child has difficulty understanding complex sentences so the Safeguarder decides to explain his role in broad and simple terms. He tells the child to write any questions down after the meeting and advises the child that he can speak with the Safeguarder again if he is unsure about things. He also advises the child that he can speak to other people about the role of the Safeguarder and ask them to contact him with any questions if that is easier for him. The Safeguarder avoids using complex, or formal language, explaining the role in simple terms and checking that the child understands. He uses the leaflet to leave information and contact details

Example 3: A Safeguarder needs to speak to a guidance teacher about a child and arranges to visit the school. The teacher confirms that she knows what a Safeguarder is as she had been involved in a case where one had been appointed before. The Safeguarder goes on to explain his role and discovers that the teacher has had a previous poor experience with a Safeguarder and does not fully understand the role. The Safeguarder takes time to explain his involvement to the teacher and she is clearer about the role that the Safeguarder will have in this child's particular case. The teacher also now understands about the expectations that she can have of the Safeguarder and where to go if she has an issue, concern or complaint.

¹⁴ Practice Standard 3 states that a Safeguarder must ensure that the independent nature of the role and its significance is confirmed as understood by those involved.

3) Meeting, Communicating and Listening

General

1. The Safeguarder role is a **relationship-based role** that depends on sound communication and working independently but collaboratively with others where possible¹⁵.
2. Communication should be based on the needs of others and not on the needs of the Safeguarder. Any **communication need** must be identified and reasonable adjustment made to respond appropriately. Every child must be treated and valued as an individual¹⁶ and all concerned must be treated with respect, honesty and fairness¹⁷.
3. It is for the Safeguarder to decide how to investigate in individual appointments and this includes assessing and deciding the order of accessing information and of speaking to people. This will be dependent on the needs of individual children's circumstances. Initial information provided to the Safeguarder will help the Safeguarder to decide what to do next. Safeguarders should **assess each situation** on an individual basis.
4. Assessments and information available can be critically reviewed and can avoid a Safeguarder from **unnecessary and unjustified investigation**¹⁸. Available information can inform the extent of information needed from a meeting or in some circumstances where people who are not key to the investigation, the need to meet at all.
5. **Communication**, particularly with a child, is a **core competence** for a Safeguarder and the Safeguarder will have been recruited on the basis of a competence to communicate with children. A Safeguarder is provided with training in relation to this competence and is monitored on practice and conduct which includes communication with children and others. The preparation for and means of communication are covered in training.

Views

6. The Safeguarder must, when providing a report or making a recommendation, give the child an opportunity to express his or her views, have regard to any views expressed and include the views and the means by which the **child's views** were obtained in any report for the children's hearing or the Sheriff¹⁹.
7. It is expected that a Safeguarder will provide an opportunity to the child for views to be expressed by **meeting with the child in person**. Where this does not happen the Safeguarder should record this reason, with details about how this relates to the particular child. Safeguarders will receive training on communication with young children to help considerations about age and maturity and obtaining views.

¹⁵ Practice Standard 2.

¹⁶ Practice Standard 1 states this.

¹⁷ Practice Standard 2 states that all concerned are treated with respect honesty and fairness.

¹⁸ Practice Standard 1 states that assessments and information by others must be considered to inform communication.

¹⁹ Regulation 7 of The Children's Hearings (Scotland) Act 2011 (Safeguarders: Further Provision) Regulations 2012

8. Whilst meeting a child or others provides an opportunity to find out views, **accessing views is not the sole reason for meeting a child or others**. A face to face meeting with a child has other purposes such as seeing the child, seeing the child in the child's living environment, explaining roles and process, clarifying recommendations and encouraging the child's participation²⁰; even if a child or parent and carer does not want to or cannot give views.

Deciding not to meet

9. The **Safeguarder's initial assessment** of the information made available on appointment will inform what further investigation is required, including who needs to be spoken to and whether this needs to be done by meeting the person²¹. Written information may already be available and is sufficient without the need to interview in person.
10. However, the Safeguarder is **expected to meet in person with key individuals**, in particular with the child and the child's parent and carers and with representatives of services and agencies and those involved with the child and family²².
11. Where **meeting in person with key individuals is not possible** or not thought to be required, the Safeguarder should record the reason for this with sufficient detail as to how this relates to the child, parent and carers and others not met with. Safeguarders should tell children, parents and carers of this and the reasons.
12. Where a child, parent or key individual is **not able to meet or to speak to the Safeguarder**, the reasons for this can be provided in any report and commented on as appropriate.

Preparing to meet

13. Where information is required from any meeting with a person, the Safeguarder should be prepared in advance so that the **meeting is focused on what information is needed** and the Safeguarder is able to get the information that the Safeguarder has assessed is needed. Not all meetings will be about information gathering (see 8 above).
14. Safeguarders should where possible have an **understanding of the person** who the Safeguarder is going to speak to and any needs that that person has, whether this is a particular communication or other need. This applies to all people the Safeguarder is in contact with.
15. Professionals and services working with a child and family will have **important information relevant to communication** with a family or others.²³
16. It is important to be aware of children's routines and critical times when planning to meet.

²⁰ Practice Standard 1 states that it is the responsibility of the Safeguarder to ensure that the child's participation is encouraged.

²¹ Practice Standard 3 states that it is the responsibility of the Safeguarder to ensure that the review and assimilation of information and views is carried out in a considered, appropriate and purposeful way.

²² Practice Standard 2 states this.

²³ Practice Standard 1 states that it is the responsibility of the Safeguarder to ensure that assessments and information provided by others, including parents and carers and representatives from services and agencies involved are considered in helping to inform the Safeguarder's communication and recommendation.

Parental Permission to see a child

17. Where a child has the maturity and understanding, a child can agree to meet the Safeguarder²⁴. Usually the Safeguarder will also be seeking permission of a parent or carer, normally before approaching a child.
18. No matter what parental or carer's permission is given to meet a child, if a child does not wish to meet with a Safeguarder or to continue with a meeting or to speak to the Safeguarder then the child's wishes must be followed. A child who does not want to meet a Safeguarder may still wish to provide his or her views.
19. It is important that any parent or carer and agencies who have parenting responsibilities know about a child meeting a Safeguarder. This allows any issues that there are in agreeing to the meeting to be communicated to the Safeguarder, discussed and hopefully resolved, taking into account the parent or carer's concerns.
20. In exceptional circumstances, where a Safeguarder feels that it is justifiable to meet a child without informing a parent or carer, the Safeguarder should be clear about the reasons for this and may find it helpful to record this decision and reasons in any report.
21. A child should not be put in a position of going to a meeting that the child's parent may not know about nor having to keep information about a meeting from a parent or carer.
22. If a Safeguarder is not able to meet or provide a child with an opportunity to provide a view, the Safeguarder can report this to the children's hearing or Sheriff who can decide what, if anything might be done to help resolve the Safeguarder's difficulty.

Example 1: A Safeguarder is preparing to meet a child and the Safeguarder wants to enquire with professionals and the main carer about where might be most appropriate place to meet. The Safeguarder also wants to ensure that she has the opportunity to meet with the child on his own, as his age would not prevent this. The Safeguarder is looking to meet the child in the environment where he is likely to feel most comfortable. School, family centre and after school clubs are all considered and the child is given the opportunity to express his view about where would he would like to meet. He suggests a fast food restaurant but the Safeguarder explains that this would not really work as they need somewhere quieter so they can hear each other properly and it really needs to be somewhere more private. They agree to use a room at school and to meet at a time which means that the child will not miss class. After the meeting, the child has the leaflet with details about how to contact the Safeguarder again (during the period of appointment) should he wish to give further views, or ask any questions. The Safeguarder meets again with the child once more before submitting her report.

²⁴ Age of Legal Capacity (Scotland) Act 1991

4) Parameters of the Role

General

1. The Safeguarder's role must be carried out to the extent necessary with regard to each individual child's circumstances.

Limitations on the role

2. The only limitations on the role are that the Safeguarder must act proportionately and within the parameters set for the role. The Safeguarder must not act beyond that, no matter the individual Safeguarder's previous experience or competence to act in another role²⁵. For example a Safeguarder who was a social worker or, a Safeguarder who is still a lawyer, cannot act in these capacities.

The role of the Safeguarder

3. The Safeguarder's role is to investigate, assess, analyse, recommend and report – all to safeguard the interests of the child. The Safeguarder critically reviews information available and evidence gathered, to enable the Safeguarder to make a reasoned and justifiable recommendation about what is in the interests of a child²⁶.
4. The Safeguarder should attempt to minimise unnecessary delay. The Safeguarder should encourage matters to move forward where it appears that things are not progressing and that a 'stalemate' situation is reached. In doing so the Safeguarder must at all times keep the child and the child's interests at the centre of the proceedings, in particular in court proceedings. The Safeguarder should have the child in mind at all times, reminding others of the child's interests where necessary.

Not a 'doing' role

5. The Safeguarder's role is not a 'doing' role in relation to the child. A Safeguarder should only be carrying out investigation to enable them to provide the children's hearing or Sheriff with information and or recommendations. The Safeguarder does not have an active role in doing things that, he or she thinks, might help²⁷.

²⁵ Practice Standard 7 states that it is the responsibility of a Safeguarder to ensure that he or she acts only in those matters that he or she is competent and has the skill base to do so, drawing on own personal skills and levels of experience but using these only within the parameters of the Safeguarder role. Practice Standard 3 states that it is the responsibility of the Safeguarder to ensure that the parameters within which the independent role of the Safeguarder operates ...are understood and acted upon.

²⁶ Standard 4 states that it is the responsibility of a Safeguarder to ensure that this happens.

²⁷ This should not prevent appropriate risk assessment and management. Child or Adult Protection concerns should be addressed following Safeguarder policy.

6. A Safeguarder should focus on the needs of a child and can recommend to a children's hearing or Sheriff that a child should have a need met. The services required to meet that need should be agreed and put in place by those who can decide this, including the hearing, but not the Safeguarder.
7. The Safeguarder may have a view as to the best way to meet the child's needs i.e. through a particular service but must not take steps to set up or access this service or to advise children and families in relation to this.
8. During investigations, where a Safeguarder feels that services may be appropriate for a child or family, the Safeguarder should work to collaborative practices²⁸ by raising the matter with those, such as the lead professional, who can take matters forward.
9. Where others do not feel that the services identified by the Safeguarder are necessary, the Safeguarder can recommend the services to the children's hearing or to the Sheriff so that the hearing or court can decide and to ask for the services to be put in place.
10. The Safeguarder should not pre-empt decisions that are to be made by a children's hearing or Sheriff or raise expectations of the children and families, by the Safeguarder independently approaching or accessing services for a child or family.

Dealing with perceived deficiencies in the roles of others

11. Where a Safeguarder feels that there are issues with the performance of a role the Safeguarder should take action to raise these issues with those responsible for the management of that role. The Safeguarder should not take on that role's functions, no matter how competently the Safeguarder feels that he or she could perform that role.
12. Where the Safeguarder decides during an appointment that it is appropriate to do so, the Safeguarder can raise concerns with the children's hearing or the Sheriff. This allows the children's hearing or Sheriff to respond as they see fit.
13. Where a Safeguarder is considering what to do in any appointment, the Safeguarder can seek information and support from the Safeguarders Panel Team. (See the Note on Support available from the Safeguarders Panel Team to Safeguarders)²⁹.

²⁸ Practice Standard 1 states that Safeguarders should ensure that assessments and information provided by others are considered to help inform Safeguarder recommendations and Standard 2 is that Safeguarders will provide an active and positive contribution to the development of good and effective ...professional relationships with all involved and will work in support of collaborative practices. Standard 3 states that Safeguarders ensure that there is a 'transparency of approach'.

²⁹ The 'Support to Meet Standards' section at the end of the Practice Standards states that it is the responsibility of the Safeguarders Panel Team, on behalf of the Scottish Government to ensure that Safeguarders are supported appropriately when they raise concerns related to other organisations or services.

Example 1: A Safeguarder becomes aware, during her investigations that a relevant person might, in her view, benefit from support from Homestart. She does not make a referral, or arrange for the service to be provided. Instead she enquires with the social work department to find out if the resource has ever been considered. The social worker does not think that the resource is appropriate but the Safeguarder still believes that it might benefit the family and, ultimately, the child as such services can meet the needs of the child.

Within her report, the Safeguarder outlines her findings and includes, within her recommendations, that the child has needs that require to be met by services and a resource which provides these services such as Homestart should be explored further. At the children's hearing the panel members ask the social work department about resources available and discuss how such resources can be put in place.

Example 2: A Safeguarder is appointed by a children's hearing and is investigating to report to the hearing. He is concerned about the lack of a psychological assessment on a child and whether this is being undertaken as it should. He tries to raise his concerns with the psychologist but is unable to be satisfied that things are resolved. He has a background himself in psychology but is clear that he should not be using his skills and experience to assess the child himself. He contacts the Safeguarders Panel Team to discuss what he might be able to do in general terms and to see what support the Team can offer him. He asks to speak to the psychologist's manager to pass on his concerns. The manager is appreciative of the contact and takes on the concerns to try to sort things out for the child. The Safeguarder highlights the concerns in his report.

5) Dealing with Conflict during Appointments

1. Conflict often exists in children's cases where a Safeguarder appointment is required. This can be conflict **between the family and the local authority** social work services, or conflict **between the Safeguarder and representatives from services**, agencies and others involved with the child.
2. The Safeguarder role is a **relationship-based role** that depends on sound communication. The Safeguarder must work independently but collaboratively with others wherever possible to help to ensure that the best outcomes for a child are achieved³⁰.
3. Where there is conflict, a Safeguarder should **focus on his or her role which is to safeguard the interests of the child**. The Safeguarder should attempt to carry out that role, manoeuvring in and around conflict wherever possible.
4. A Safeguarder should not actively contribute to any ongoing conflict. He or she should recognise when it is **beyond the Safeguarder's role to try and resolve conflict** between others or conflict directed at the Safeguarder. The Safeguarders Panel Team is available to support a Safeguarder where there is conflict, if required (see separate sheet on Support from The Safeguarders Panel Team).

Conflict between family and local authority social work services

5. By carrying out the role and being **open and transparent about recommendations** and the reasons for these, a Safeguarder may contribute to the resolution of conflict between a family and, for example, social work services.
6. A Safeguarder should **not take on any formal mediation role** in the sense of actively facilitating people coming together with a view to resolving any ongoing conflict. A Safeguarder has a role in bringing information together to help decision makers, but this is not an active role such as a mediator would perform.
7. Although a Safeguarder's recommendations may be supportive of certain views or plans held by a person or agency involved the conflict, the Safeguarder **must be seen to be independent** and not give rise to negative perceptions about the Safeguarder's objectivity³¹. (See also the Practice Note on The Role of the Safeguarder - Parameters of the Role.)

Conflict between Safeguarder and representatives from services, agencies and others involved with the child

8. **Conflict can occur for a number of reasons** including disagreement about the recommendations for a child, misunderstandings about roles or dissatisfaction with practice or conduct.

³⁰ Practice Standard 2 states this in the section headed 'Why'.

³¹ Practice Standard 6 states that it is the responsibility of a Safeguarder to ensure that he or she has self-awareness of any potential or perceived conflict of interest which may affect objectivity and practice...

9. Where the Safeguarder becomes aware of any potential issue, concern or complaint about the Safeguarder's practice or conduct, the person, service or agency raising concerns should be directed towards the Safeguarder's **Complaints Policy**.
10. Where a Safeguarder has concerns about the conduct or practices of a professional, an organisation or a service they can **raise this issue with the organisation** or service by directly **contacting managers** or **using any complaint procedure** available. The Safeguarder should also raise these concerns with the Safeguarders Panel Team. The Team has a responsibility to support Safeguarders with any concerns and take these forward, where appropriate in the interests of children³². (See note on Support form the Safeguarders Panel Team.)
11. The Safeguarders Panel Team is committed to ensuring that good practice is shared and wider system issues are addressed at both a local, and national level.

Example 1: A Safeguarder is appointed by a sheriff in relation to a grounds application. The parents are separated and neither has care of the child. The parents are in extreme conflict with the local authority and other services around the child. Someone suggests that the Safeguarder should call a meeting of the parents and social workers to try to address the conflict between them. The Safeguarder refuses advising that this is not the Safeguarder's role but that it may be something that another role, qualified to do so, may become involved in.

Example 2: A Safeguarder is very concerned about the attitude of a local authority worker towards her. The worker is unhelpful in providing information and does not seem to be working well with the family. The Safeguarder raises her concerns with the worker's manager. The Safeguarder also informs the Safeguarders Panel Team who are aware from individual contact from other Safeguarders in the area that similar problems have been experienced. The Safeguarder is asked and agrees to keep the Team informed about her individual situation. The Team approach the worker's manager to ask for a meeting to pass on an apparent pattern of concern. The Safeguarder hears back from the manager and is satisfied that the matter is being taken up and she can continue in her role without the previous difficulty. She tells the Team.

The Team are informed by the local authority manager that there is a need to have some common training input to improve understanding about the role of Safeguarders. The Team contact Safeguarders including those who had independently raised concerns and who would cover the local area involved and offer to facilitate and support a local event with the worker's team. A similar event has been held in another local area and the Team offer to get the materials and contact the Safeguarders involved in that other area to help plan for this event.

³² The Support to meet Standards section at the end of the [Practice Standards](#) places this responsibility on the Safeguarders Panel Team.

6) Contact with Child and Families beyond Appointment Periods

When appointments end

1. A Safeguarder's appointment ends in terms of the timescales laid out in the current regulation³³.
2. In general terms, the appointment ends once a children's hearing makes a full (or substantive) decision and after any time to appeal or the appeal itself has ended. Where the decision in any appeal is to send the matter back to a children's hearing, then the Safeguarder's appointment remains. The Safeguarder should attend the next children's hearing after the appeal has been upheld by the court and the Safeguarder remains involved during any subsequent appeal period, or the appeal process following on from that children's hearing.
3. If matters are discharged from children's hearing proceedings with no further appeal, the Safeguarder's appointment ends.
4. Where the child's case re-emerges in new proceedings the Safeguarder may be re-appointed to the child's case but this is a separate and new appointment.
5. Safeguarders should be clear about when the appointment ends. If the Safeguarder is unsure when the appointment ends then the Safeguarder can contact the Safeguarders Panel Team who can help to clarify the position.

Not initiating contact

6. Once a Safeguarder's appointment ends, a Safeguarder must not initiate contact with a child or family³⁴. This does not prevent common decency and the Safeguarder must remain polite and respectful when approached by family members.
7. A Safeguarder may wish to speak to the family immediately after the children's hearing or court to say goodbye or explain that his or her involvement in the case has ended. However, where the Safeguarder has not attended the children's hearing or related court proceedings where the decision has been made to terminate the Safeguarder's appointment, the Safeguarder should not contact the family to advise them of the appointment ending or to say goodbye.
8. If the Safeguarder is considering whether or not to appeal a decision of the children's hearing the Safeguarder should not contact a child, parent or carer to obtain their views or to discuss the merits of appealing.

³³ The Children's Hearings (Scotland) Act 2011 (Safeguarders: Further Provision) Regulations 2012, regulations 3 – 5.

³⁴ Practice Standard 6 states that it is the responsibility of a Safeguarder to ensure that contact is not maintained in any way with children or families, beyond the end of the appointment.

9. During the appeal period where a Safeguarder

(a) **does not wish to appeal** the decision as Safeguarder, – the Safeguarder should do nothing and have no contact with the child or family.

(b) **wishes to appeal** the decision as Safeguarder, the Safeguarder should not approach the child or family before the appeal is lodged and notified to the child and others and should not check with the child or family how they would feel about the appeal.

(c) is formally told by the court that **someone else has appealed** the decision, the Safeguarder should not approach the child or family before the appeal is lodged and notified to child and others, even if the Safeguarder hears that an appeal is to be lodged. After the appeal is formally notified by the court, the Safeguarder's role to safeguard the interests of the child comes into place and the Safeguarder should decide what contact he or she should have.

Where no-one wishes to appeal the decision the Safeguarder should not approach the child or family during the appeal period.

10. A Safeguarder should not offer advice to a child or relevant person about the child or family lodging an appeal against any decision, no matter what the Safeguarder's background or expertise. The Safeguarder can inform a child or relevant person about the right to appeal but must not assist them in preparing any appeal, or give them advice about the merits of the case.

Contact initiated by the child or parent and carer

11. Once a Safeguarder's appointment ends, if a child or family attempt to initiate contact with a Safeguarder, the Safeguarder must politely tell the child or family that the his or her role has ended and that the Safeguarder can have no continuing contact with the child or family.
12. Where appropriate, and without prompting any discussion about the case, the Safeguarder can point the child or parent and carer towards someone who may be of assistance to them. If the child or family are looking for legal advice the child or family may wish to contact The Law Society of Scotland. If the child or family have concerns about the child's welfare the child or family can contact the allocated social worker or lead professional³⁵. If a child or family contact the Safeguarder to ask about the outcome of a hearing that the child or family could not attend, the Safeguarder should ask the child or family to contact the Reporter for that information.

³⁵ Where Child Protection concerns are raised the Safeguarder should follow [Child Protection Policy](#).

General

13. Once an appointment ends, a Safeguarder has no right to access or enquire about information concerning a child, his or her family or circumstances. A child and his or her family have a right to privacy and confidentiality. Only those who have rights can interfere with this. The end of appointment ends any rights of the Safeguarder.
14. Once an appointment ends, a Safeguarder must return or destroy information and data in line with the law and the Data Management Policy for Safeguarders.
15. Pictures drawn by a child or small handmade gifts from a child to the Safeguarder that have no relevance to the Children's Hearings System's proceedings in relation to the child may be retained by the Safeguarder. This is provided that the item cannot identify the child or his or her family. Safeguarders should exercise judgement as to when it is the appropriate to keep such objects in individual cases.

Example 1: A parent contacts a Safeguarder after an appeal period (relating to a children's hearing decision) has ended. He raises a concern with the Safeguarder and is looking for help and support. The parent says that he is not getting enough contact but he thought that the Safeguarder had agreed that contact should be increased. The Safeguarder does not provide the parent with the Safeguarder's views, or give the parent advice. The parent is informed, politely, that the Safeguarder is no longer involved in the case but the parent could contact either the Reporter or the social worker dealing with the case if he has any concerns.