

Frequently Asked Questions:

Safeguarder Fees, Expenses and Allowances Review

1. The new structure became operational from 1 April 2015 – how will the transitional arrangements work?

New appointments allocated on or after 1 April 2015 will come under the new fees structure.

Any appointments before 1 April 2015 will continue under the old structure until the end of the appointment, regardless of whether the case moves to court/hearing after 1 April 2015.

2. Why is the guidance lengthier than the previous publication?

The Scottish Government has provided more information in the structure and guidance to allow Safeguarders to be confident about what they should and shouldn't be claiming in individual cases and for the Safeguarders Panel Team to administrate the system on behalf of the Scottish Government. It is the responsibility of each individual Safeguarder to familiarise themselves fully with the principles and rules under which fees, expenses and allowances can be claimed. Case examples are embedded in the guidance to make the structure as clear and transparent as possible.

3. Movement of cases between court and children's hearings

How many fixed appointment fees can be claimed?

A Safeguarder may claim a maximum of three separate fixed appointment fees depending on the circumstances of the case:-

- one fixed appointment fee in relation to a children's hearing;
- one fixed appointment fee in relation to court proceedings;
- one in relation to appeals.

A Safeguarder who has been appointed by the court when considering a grounds application can claim for a fixed appointment fee for a children's hearing where the children's hearing is considering matters relating to the appointment at the same

time as the court proceedings or when the case is remitted back to panel. Please note, this is only payable if the Safeguarder attends the children's hearing.

Equally, a Safeguarder who has been appointed by the children's hearing and attends court as a party to proceedings can claim a court fixed appointment fee in addition to their initial children's hearing fixed appointment fee.

4. Claims for 'Fixed fee for additional work'

This is a flat rate fee paid in respect of the additional work required for an additional court hearing. This fee should not be claimed for work already covered by the fixed appointment fee for court or where no additional work occurs (page 18 of the Fees Guidance 2015).

The additional work fee is not payable for a first court attendance (covered by the fixed appointment fee and daily attendance fee). For the sake of clarity, the additional work fee is only payable for additional hearings which require additional work.

5. Pre-hearing panel fees

Separate attendance fees will be appropriate where a separate pre-hearing panel is attended, even if this is a pre-hearing panel held at a different hearing session on the same day. However, where the reporter arranges a pre-hearing panel to take place at the same hearing session as the full hearing, a separate attendance fee will not be paid for attending a pre-hearing panel and the Safeguarder can only claim one attendance fee for attending the hearing.

6. Where a Safeguarder starts a case and then withdraws

If, upon receipt of papers, a Safeguarder realises there is a conflict of interest and needs to withdraw, it is not appropriate to claim a fixed appointment fee.

If a Safeguarder, in the course of their role, becomes aware of a reason why they cannot continue an appointment and they have undertaken work, they will be able to claim for the work they have carried out. A note providing evidence of the work carried out should be provided to the Safeguarders Panel Team with any claim. Each claim will be dealt with on its merits on an individual basis.

7. Why is it important that claim forms are completed fully and correctly?

The claim form must be fully completed, with fee descriptions, dates and correct amounts included or it will be returned to the Safeguarder for resubmission as the payment of fees will not be able to be processed.

The Safeguarders Panel Team is not in a position to make amendments to Safeguarders' forms.

8. When is a fee payable for an additional written report for a children's hearing?

In the 'Practice Note on Reports' in Sections 2 and 3 there are scenarios set out in which, as a matter of good practice, a Safeguarder is expected to provide a report other than the report required as a result of their initial appointment. In the guidance on 'Safeguarder Fees, Expenses and Allowances' it is made clear that certain 'additional' or 'supplementary' reports only attract a fee if they have been explicitly requested by the hearing. Unfortunately, as between children's hearings and court processes it is sometimes not obvious how or at what point a hearing would make such an explicit request.

A situation in which Safeguarders are not being paid for written reports that are wanted and needed is to be avoided. However, a situation in which Safeguarders are writing reports which attract a fee but which nobody wants or needs is equally to be avoided. A Safeguarder should approach this issue in the following way:

- If possible, the Safeguarder should ask the hearing to make an explicit request that a further report is required.
- If that hasn't happened, for whatever reason, the Safeguarder should ask the reporter if he or she knows, believes or considers that the hearing did, implicitly or explicitly, request (or ought to have requested) a further report and if so, Children 1st will accept, from the Safeguarder, a named reporter's view as a proxy 'explicit request' by the hearing – thus enabling the Safeguarder to claim a fee for this further report. There is *no* suggestion that the reporter's knowledge, belief or consideration on this matter will be interrogated by Children 1st. It will be taken at face value.