



**A Statement of Good Practice in the Appointment of Solicitors for Children
where it falls to the Court to do so in Specified Proceedings - prepared by a
subcommittee of the Lord Chancellor's Advisory Committee on Judicial
Case Management in Public Law Children Act Cases**

1. The Court and CAFCASS should always seek to achieve the timely appointment of a Guardian for the child in specified proceedings under the Children Act 1989 (CA 1989) in cases where a Guardian is needed. This statement is intended to deal with the limited number of cases where that has not happened. In such cases it is the responsibility of the court to consider the exercise of its powers to appoint a solicitor to represent the child pursuant to section 41(3) - (5) CA 1989 and paragraph 1.4 of the Protocol for Judicial Case Management in Public Law Children Act Cases. A solicitor for the child should be appointed in time to represent the child at the first hearing.

2. The choice of an individual solicitor to represent a child in such circumstances is a matter for the court and the court must use its own discretion on the information available to it. This statement aims to ensure that the right material is available to the court when making its decision and sets out the practice which the subcommittee considers would best achieve the necessary representation of children. In exceptional cases, in order to discharge its duty under the Children Act 1989, it is accepted the court may need to appoint a solicitor otherwise than in accordance with this practice.

3. In exercising its discretion the court should consider all the circumstances of the case and should seek to promote the best interests of the child.

4. In the light of the particular responsibility likely to be associated with representing a child in specified proceedings in which no children's guardian has yet been allocated, a solicitor who fulfils this role should normally be an experienced member of the Law Society Children Panel ('the Panel'). A solicitor should be regarded as being an experienced member of the Panel for these purposes if he/she has been a member of the Panel accredited to represent children for three years or more.
5. The Law Society will make available to the Justices' Chief Executive (the 'JCE') in each Magistrates' Courts Committee ('MCC') area the full list of Panel members accredited to represent children, containing details of their title, name, year of admission, date of appointment to the Panel, address and telephone numbers. The JCE will prepare a list identifying those members of the Panel practising in each Care Centre area in which that MCC has Family Proceedings Courts and will specifically identify those who have been on the Panel for three years or more ('the local list'). The JCE will send a copy of the local list to their Family Proceedings Courts, the Care Centre(s) and to CAFCASS offices responsible for the Care Centre area(s).
6. Family Proceedings Courts and Care Centres will make the local list available to solicitors practising in that area and answer reasonable enquiries relating to the list from them. The Law Society will notify Family Proceedings Courts and Care Centres on an annual basis of those Panel members who have been accredited to represent children, and immediately those Panel members who are no longer accredited to represent children. The local lists will contain information provided by solicitors on their language and sign language skills.
7. Where the child has previously been represented by a solicitor on the Panel, the court should normally appoint the same solicitor to represent the child in any further specified proceedings. In all other cases, the court should normally appoint the next available solicitor from the local list, who has been a member of the Panel for three years or more subject to paragraph 8 below.

8. All solicitors on the local list with membership of the Children Panel of three years standing should be regarded as being suitable to represent any child in specified proceedings in the absence of a children's guardian. However in each case the court should read the papers filed and consider whether, on the face of those papers, there are special features of the particular case and/or child that mean the best interests of the child require that a solicitor with particular skills or characteristics from the local list (or if necessary, outside the local list) should, if available, be appointed. These special features include:-

- the ability to speak with the child in his/her first language; and sign language skills
- whether there is a specific reason to appoint a solicitor of particular gender for the child, for example, for a child who may have been sexually abused and shows signs of being afraid of persons of that gender; or for an older child who has expressed a strong preference for a solicitor of a particular gender. In such cases the next solicitor of the appropriate gender on the local list should be invited to act.

If no such solicitor is available the next solicitor on the local list should be invited to act.

9. Courts should produce information to the local Family Court Business Committee not less than once a year, and initially not later than the end of April 2004, about the number of cases to which each solicitor on the local list has been appointed by the court, and of the appointment by the court of solicitors not on the local list.

10. A solicitor should not agree to be appointed by a court to represent a child unless he/she believes on the basis of the information available that he/she will be able to act promptly, personally and effectively in the matter. Solicitors are reminded of the Law Society Notice to Children Panel members October 2003 including the need to comply with the Law Society Children Panel Undertaking.

11. Solicitors should continue to self-assess their suitability after accepting an appointment from the court to act for a child. It is a requirement of Children Panel membership that practitioners do not continue with cases which are outside their expertise. Solicitors must also be alert and sensitive to whether there is in fact a good specific reason for the particular child to:

- be represented by a solicitor of the other gender;
- be represented by a solicitor of the same ethnic background or culture as the child;
- not be represented by a solicitor with the particular ethnic background or culture of the appointed solicitor;
- be represented by someone with different specific knowledge and skills relevant to the particular case or the particular child.

12. When a children's guardian is subsequently allocated in the matter he/she should always consider whether he/she believes it is the best interest of the child for the solicitor currently acting for the child to continue to do so. Whilst this will normally be the case, there may be circumstances in which, without there necessarily being any criticism of the work done by the current solicitor, the child's interests would be better represented by a different solicitor. In those circumstances the children's guardian should make an application to terminate the appointment of the current solicitor pursuant to rule 12(4) FPC (CA 1989) R 1991 or rule 4.12(4) FPR 1991. The court should be satisfied there are good reasons for such a change. If an application to terminate is made (including by the child) every effort should be made by courts, solicitors and children's guardians to ensure that it does not cause delay or interfere with the determination of the central issues in the case, and that it is dealt with as amicably as possible.