

CAYMAN ISLANDS



Children Law, 2003

**GUARDIANS *AD LITEM* (PANEL)
REGULATIONS, 2012**

(SL 71 of 2012)

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(SL 71 of 2012)

The Governor in Cabinet, in exercise of the powers conferred by section 43(7) of the Children Law, 2003, hereby makes the following Regulations —

Citation

1. These Regulations may be cited as the Guardians *Ad Litem* (Panel) Regulations, 2012.

Definitions

2. In these Regulations —

“**complaints committee**” means a committee established under regulation 6(1)(a);

“**Department**” means the Department having responsibility for the welfare of children;

“**Judicial Administration Department**” means the department of Government responsible for the administration of the courts;

“**Law**” means the *Children Law, 2003*;

“**panel**” means a panel established under regulation 3;

“**panel committee**” means a committee established under regulation 6(b); and

“**relevant proceedings**” means specified proceedings as defined in section 43(6) of the *Children Law, 2003*.



Establishment of panel

3. There is established a panel to be known as the guardians *ad litem* panel.

Appointment of guardians *ad litem* panel

4. (1) The Governor in Cabinet shall appoint the members of the panel.
- (2) The panel shall consist of not less than five nor more than ten persons chosen from among the professional persons in the Islands who, in the opinion of the Governor in Cabinet, have wide knowledge and experience in child care or law.
- (3) The Governor in Cabinet shall, in respect of any person whom he considers for appointment to the panel —
- (a) interview each person;
 - (b) consult with the panel committee; and
 - (c) obtain the names of at least two persons who can provide a reference in writing for the person whom he proposes to recommend for appointment.
- (4) The Governor in Cabinet shall notify in writing any person who is appointed to the panel.
- (5) The Governor in Cabinet shall maintain or cause to be maintained a record of those persons appointed to the panel.
- (6) A person shall be appointed to the panel for a period not exceeding three years and shall be eligible for reappointment.
- (7) The Governor in Cabinet shall cause the names of the persons appointed to the panel to be published in the Gazette.

Selection of guardians *ad litem* for relevant proceedings

5. Guardians *ad litem* to be appointed under section 43 of the Law for the purposes of relevant proceedings shall be selected from the panel of persons established by these Regulations.

Complaints committee and panel committee

6. (1) For the purpose of assisting the Governor in Cabinet with matters concerning the membership, administration and procedures of the panels and the monitoring of work of guardians *ad litem* in relevant proceedings there is established —
- (a) a complaints committee in accordance with Schedule 1, which shall have functions conferred on it by regulation 8; and
 - (b) a panel committee in accordance with Schedule 2 which shall have the functions conferred on it by regulations 11 and 12(1)(a).



- (2) Members of the complaints committee and the panel committee shall be appointed by the Governor in Cabinet.
- (3) The Governor in Cabinet shall cause the names of the persons appointed to the complaints committee and panel committee to be published in the Gazette.

Termination of panel membership

7. (1) The Governor in Cabinet may terminate a person's membership on the panel in circumstances where he considers that person unable or unfit to carry out the functions of a guardian *ad litem*.
- (2) The Governor in Cabinet, before terminating a person's membership on the panel, shall —
 - (a) notify him in writing of the reasons why it is proposed that his membership on the panel should be terminated; and
 - (b) give him an opportunity of making representations in writing.

Complaints about the operation of the panel and members of the panel

8. (1) For the purpose of monitoring the administration and procedures of the panel and the works of guardians *ad litem* in relevant proceedings, the Governor in Cabinet shall establish a procedure for considering complaints about the operation of the panel and about any member of the panel.
- (2) The Judicial Administration Department shall investigate any such complaint and if it cannot be resolved to the satisfaction of the person making it, that department, after consultation with the Governor in Cabinet, shall refer the matter to the complaints committee for its recommendations.
- (3) Any person in respect of whom a complaint is made shall be notified by the Governor in Cabinet in writing of the complaint and shall be given an opportunity to make representations.
- (4) If the matter is referred to the complaints committee, the committee shall provide the person with an opportunity to make representations.
- (5) The Governor in Cabinet shall make a decision on a complaint referred to the complaints committee only after having taken into account the recommendation of the complaints committee and he shall notify in writing the person who made the complaint and any person in respect of whom the complaint was made.

Expenses, fees and allowances of members of panel

9. The reasonable expenses incurred in respect of relevant proceedings of members of the panel and training of and allowances for the members of the panel in respect of relevant proceedings shall be defrayed out of moneys voted for those purposes by the Legislative Assembly.

Administration of the panel and panel administrator

- 10.** (1) The Judicial Administration Department shall be responsible for the administration of the panel and shall appoint a panel administrator to assist with the administration of the panel.
- (2) The panel administrator shall have such qualifications and experience as the Judicial Administration Department considers appropriate.
- (3) The panel administrator shall not participate in the Department's functions in respect of providing services for children and their families other than the administration of the panel.
- (4) The records to be kept by the panel administrator in relation to the operation of the panel shall include —
- (a) the name of each child in respect of whom a guardian *ad litem* is appointed from the panel;
 - (b) a description of the relevant proceedings in respect of which the appointment is made;
 - (c) the date of each appointment of a person as a guardian *ad litem*;
 - (d) the date on which work started in respect of that appointment;
 - (e) the date on which the work finished;
 - (f) details of fees, expenses and allowances in each case in which there has been such an appointment; and
 - (g) the results of the proceedings in each case in which there has been such an appointment.

Panel committee functions

- 11.** The panel committee shall, if requested by the Judicial Administration Department assist in the administration of the panel and advise the court on —
- (a) the standards of practice of guardians *ad litem* in relevant proceedings;
 - (b) the appointment and reappointment of guardians *ad litem* to the panel, termination of their appointment and review of their work;
 - (c) the training of guardians *ad litem*; and
 - (d) matters arising from complaints concerning guardians *ad litem* and the administration of the panel (but not the investigation of particular complaints).

Monitoring the work of guardians *ad litem*

- 12.** (1) For the purposes of monitoring the work of guardians *ad litem*, the Judicial Administration Department shall —
- (a) obtain the views of the panel committee on the work of each member of the panel who has been appointed a guardian *ad litem*; and



- (b) review the work of each such member of the panel,
at least once annually for the duration of the appointment to the panel.
- (2) The results of each review shall be recorded by the Judicial Administration Department in writing and it shall send a copy of the results to the Governor in Cabinet and the member of the panel to whom they relate.

Training

- 13.** The court shall, having regard to the cases in which members of the panel have been or may be appointed as a guardian *ad litem*, identify any training needs which members of the panel may require and make reasonable provision for such training.

SCHEDULE 1**(Regulation 6(1)(a))***Complaints Committee*

1. The complaints committee shall consist of the following persons-
 - (a) an attorney-at-law within the Government service who shall be chairman;
 - (b) two members of the public who are not officers of the Department and who, in the opinion of the Governor in Cabinet, have wide experience in child care or law; and
 - (c) a person who is a member of a voluntary organisation responsible for the care and maintenance of children.
2. Members shall be eligible for re-appointment.
3. Appointments to the panel committee shall be for a period not exceeding three years as the Governor in Cabinet shall specify on making the appointment.

SCHEDULE 2

(Regulation 6(1)(b))

Panel Committee

1. The panel committee shall consist of the following persons-
 - (a) a chairman who shall be a judge or magistrate designated by the Chief Justice;
 - (b) an officer of the Department; and
 - (c) a person who has wide experience of child care who is not an officer of the Department.
2. Members shall be eligible for re-appointment.
3. Appointments to the panel committee shall be for a period not exceeding three years as the Governor in Cabinet shall specify on making the appointment.

Made in Cabinet on the 28th day of August, 2012.

Kim Bullings
Clerk of the Cabinet.

**Laid in the Legislative Assembly on the 5th day of November, 2012, in
accordance with section 95(2) of the Children Law, 2003.**

Zena Merren-Chin
Clerk of the Legislative Assembly.

