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STATUTORY INSTRUMENTS

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**1997 No. 1662**

**CHILDREN AND YOUNG PERSONS**

**The Guardians Ad Litem and Reporting Officers  
(Panels) (Amendment) Regulations 1997**

<i>Made</i>	- - - -	<i>8th July 1997</i>
<i>Laid before Parliament</i>		<i>8th July 1997</i>
<i>Coming into force</i>	- -	<i>29th July 1997</i>

The Secretary of State, in exercise of the powers conferred by sections 41(7) and (9) and 104(4) of the Children Act 1989<sup>(1)</sup> and sections 65A(1) and (2) and 67(5) of the Adoption Act 1976<sup>(2)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Guardians Ad Litem and Reporting Officers (Panels) (Amendment) Regulations 1997 and shall come into force on 29th July 1997.

(2) In these Regulations, unless the context otherwise requires, “the principal Regulations” means the Guardians Ad Litem and Reporting Officers (Panels) Regulations 1991<sup>(3)</sup>.

**Amendment of the principal Regulations**

2.—(1) The principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (citation, commencement and interpretation) in paragraph (2) after the definition of “complaints board” there shall be inserted the following definitions—

““joint complaints board” has the meaning given to it in regulation 5(7);

“justices’ clerk” has the same meaning as it has in the Justices of the Peace Act 1997<sup>(4)</sup>”.

(3) In regulation 3 (complaints boards and panel committees) in paragraph (a) after the words “conferred on them by regulations” there shall be inserted “4A”.

(4) In regulation 4 (appointments to panels)—

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(1) 1989 c. 41.  
(2) 1976 c. 36. Section 65A was inserted by paragraph 29 of Schedule 10 to the Children Act 1989.  
(3) S.I.1991/2051.  
(4) 1997 c. 25. See section 72.

- (a) in paragraph (2) the words “who they propose to appoint to the panel” where they last occur shall be omitted; and
  - (b) in paragraph (4) for the words “subject to regulation 5” there shall be substituted the words “subject to regulations 4A(5) and 5”.
- (5) After regulation 4 there shall be inserted the following regulation—

**“Non reappointment to panel**

**4A.—**(1) Where a local authority propose not to reappoint a person to be a panel member, they shall, before the expiry of that person’s existing appointment—

- (a) notify him in writing of the reasons why it is proposed that he should not be reappointed to the panel; and
- (b) give him an opportunity of making representations to the local authority.

(2) Where the local authority, having considered any representations made under paragraph (1)(b), still propose not to reappoint the person, they shall, before the expiry of his existing appointment, advise him in writing that he may refer the matter to a complaints board under this regulation.

(3) If the person refers the matter to a complaints board, the complaints board shall make a recommendation to the local authority after taking account of any representations of the person whom the local authority propose not to reappoint.

(4) The local authority shall consider the recommendation of the complaints board as to reappointment, decide whether or not to reappoint the person to be a panel member and give notice to that person in writing of their decision, together with their reasons for the decision.

(5) Notwithstanding regulation 4(4), the existing appointment of a person who is not reappointed to be a panel member may be extended for the purpose of enabling him to continue to act in any relevant proceedings for which he was appointed before the date on which his appointment would otherwise have expired.”.

(6) In regulation 5 (termination of panel membership) after paragraph (5) there shall be inserted the following paragraphs—

“(6) Notwithstanding the preceding provisions of this regulation and the provisions of regulation 3(a) and Schedule 1, where—

- (a) more than one local authority proposes to terminate the membership of a person who is a member of the panel established by each of those authorities;
- (b) the authorities’ reasons for proposing to terminate that person’s membership are similar or related; and
- (c) each of the authorities has considered any representations made under paragraph 2(b) of this regulation,

the authorities may agree that they will refer the matter to a joint complaints board.

(7) Membership of a joint complaints board shall be determined by agreement between the authorities concerned and shall consist of a minimum of 3 and a maximum of 6 persons—

- (a) one of whom is neither an officer nor a member of a local authority;
- (b) one or more of whom are involved in the functions in respect of services for children and their families of a local authority other than an authority convening the joint complaints board; and

- (c) one or more of whom are justices' clerks or officers appointed by a magistrates' courts committee<sup>(5)</sup> to be the deputy to a justices' clerk.”
- (7) In regulation 6 (complaints about the operation of panels and members of the panels)—
- (a) in paragraph (1) the words from “including refusal to reappoint” to the end shall be omitted; and
- (b) after paragraph (4) there shall be inserted the following paragraph—
- “(5) Notwithstanding the preceding provisions of this regulation and the provisions of regulation 3(a) and Schedule 1, where similar or related complaints are made to more than one local authority in respect of a person who is a member of the panel established by each of those authorities, the authorities may agree that they will investigate the complaints jointly, refer the complaints to a joint complaints board and make a joint decision about the complaints.”
- (8) After regulation 6 there shall be inserted the following regulation—

**“Determination of non-availability for appointment pending investigation of a complaint about a member of a panel**

- 6A.** If a complaint is made about a member of a panel and, before it has made a decision about that complaint in accordance with regulation 6, the local authority considers that the nature of the complaint and the evidence in support of it may indicate that the panel member is unfit to carry out the functions of a guardian ad litem or reporting officer, the local authority—
- (a) shall, in respect of all relevant proceedings for which the panel member has been appointed give notice of the complaint to the court before which those proceedings are to be heard; and
- (b) without prejudice to the decision of the court whether the panel member should continue to act in relevant proceedings for which he has already been appointed, may determine that the panel member should not be made available for further appointments in relevant proceedings until a decision has been made on the complaint and on any related proposal to terminate the person's panel membership.”
- (9) In regulation 8 (panel committee functions) for paragraph (d) there shall be substituted the following paragraph—
- “(d) the handling of complaints concerning guardians ad litem, reporting officers and the administration of the panel, and matters arising from those complaints (but not the investigation of particular complaints).”
- (10) In regulation 9 (expenses, fees and allowances of members of panels) for paragraph (2) there shall be substituted the following paragraph—
- “(2) No fees shall be paid by local authorities by virtue of paragraph (1) of this regulation in respect of a member of a panel who is employed under a contract of service by a local authority or probation committee for thirty hours or more a week.”
- (11) After regulation 12 (revocation of regulations) there shall be inserted the following regulation—

**Contracting out of functions in relation to the provision of panels of guardians ad litem and reporting officers**

**13.** Where any function of a local authority under these Regulations is exercised by a person other than the authority in accordance with an Order made under section 70 of the Deregulation and

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(5) See sections 19 and 20 of the Justices of the Peace Act 1979.

Contracting Out Act 1994(6), regulation 5(7) (joint complaints board) and Schedule 1 (complaints board) shall have effect in relation to that authority as if, in each case, in paragraph (a) at the end there were inserted the words—

“nor a person who is authorised to exercise any function of the local authority which is conferred by these Regulations in accordance with an Order made under section 70 of the Deregulation and Contracting Out Act 1994, nor an employee of such a person.”

(12) In Schedule 1 (complaints board) in paragraph (c) for the words after “a justices’ clerk” there shall be substituted the words “or an officer appointed by a magistrates’ court committee to be the deputy to a justices’ clerk”.

(13) In Schedule 2 (panel committee) in paragraph (1)—

- (a) after the words “at least one of” there shall be inserted the words “each of”; and
- (b) in sub-paragraph (b) for the words after “a justices’ clerk” there shall be substituted the words “or an officer appointed by a magistrates’ court committee to be the deputy to a justices’ clerk”.

### **Transitional provisions**

3.—(1) Regulation 4A of the principal Regulations shall not apply in the case of any member of a panel whose appointment is due to expire on a date less than three months after the date on which these Regulations come into force.

(2) Regulation 5(6) and (7) of the principal Regulations shall not apply in the case of any proposal to terminate a person’s membership of a panel which is made by a local authority before the date on which these Regulations come into force.

(3) Regulation 6(5) of the principal Regulations shall not apply in the case of any complaint which is made to a local authority before the date on which these Regulations come into force.

Signed by authority of the Secretary of State for Health

*Paul Boateng*  
Parliamentary Under-Secretary of State,  
Department of Health

8th July 1997

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Guardians Ad Litem and Reporting Officers (Panels) Regulations 1991 (“the principal Regulations”). The main changes are as follows:

1. Under new regulation 4A of the principal Regulations, where a local authority proposes not to reappoint a guardian ad litem or reporting officer to its panel at the end of their existing appointment, they are to be given notice of the reasons for that proposal and the opportunity to make representations. The membership of persons who are not reappointed may be extended to enable them to finish work on their current case load (regulation 2(5)).

2. New paragraphs (6) and (7) of regulation 5 of the principal Regulations allow local authorities to establish joint complaints boards to consider termination of the panel membership of a guardian ad litem or reporting officer who is a member of each of the authorities’ panels, if the authorities’ reasons for proposing to terminate membership are similar or related (regulation 2(6)).

3. New paragraph (5) of regulation 6 of the principal Regulations applies where a guardian ad litem or reporting officer is a member of more than one panel and related complaints about him are made to more than one local authority. The authorities may in those circumstances agree to investigate the complaints jointly (regulation 2(7)).

4. Under new regulation 6A of the principal Regulations, the courts are to be informed of serious complaints about panel members. The local authority may decide that the panel member concerned should not be made available for appointment in new cases until the complaint has been investigated (regulation 2(8)).

5. The functions of the panel committee under regulation 8 of the principal Regulations are modified to enable the committee to advise on the handling of complaints about a panel member or the administration of the panel (regulation 2(9)).

6. Regulation 9(2) of the principal Regulations is amended to clarify that local authorities may reimburse all guardians for expenses incurred in connection with their work, whether they are employed by the authority or self employed (regulation 2(10)).

7. New regulation 13 of the principal Regulations makes a consequential modification to regulation 5(7) and Schedule 1, where local authority functions under those Regulations are contracted out to another person (regulation 2(11)).

8. Schedules 1 and 2 to the principal Regulations are amended so that any justices’ clerk or deputy to a justices’ clerk may sit on a complaints board (regulation 2(12) and (13)).

9. Regulation 3 makes certain transitional provision.

These Regulations impose no costs on business.