

SCOTTISH LEGAL AID BOARD



**Code of Practice in relation to
Children's Legal Assistance Cases**

1 PART ONE: INTRODUCTION

- 1.1 This document sets down the Code of Practice for solicitors and firms providing children's legal assistance¹. It has been prepared by the Scottish Legal Aid Board ('the Board') in terms of Section 28N of the Legal Aid (Scotland) Act 1986 (as amended) ('the Act').
- 1.2 Unless otherwise stated, in this Code "solicitor" has the meaning ascribed to "practising solicitor" in Schedule 1 of the Law Society of Scotland Practice Rules 2011 (as amended from time to time)[and, for the avoidance of doubt, includes sole practitioners, second year trainees who have a restricted practising certificate, solicitors who act only as agent for other solicitors, solicitors employed by the Board for the purpose of providing children's legal assistance,² managers, and solicitors who are employees of a firm]. Unless otherwise stated, in this Code "firms" means a practice unit as defined in the Law society of Scotland Practice Rules 2011 and, for the avoidance of doubt, includes any entities constituted by the Board under Part V of the Act.
- 1.3 Every solicitor and firm wishing to provide children's legal assistance must be entered on the Children's Legal Assistance Register established and maintained by the Board under Section 28M of the Act. To be entered, and retained, on the Register, firms and solicitors must conform to the terms of this Code of Practice. The specific conditions for entry on the Register are defined in Part Two of this Code.
- 1.4 Solicitors and firms shall operate in accordance with the relevant legal aid legislation and any guidance issued by the Board together with any rules and guidance in respect of a solicitor's conduct as required by the Law Society of Scotland.
- 1.5 This Code of Practice sets out the standards required by the Board in relation to the provision of children's legal assistance. The Board requires that:
- firms and individual solicitors act in accordance with the standards of professional conduct defined in Part Three of this Code;
 - services provided by firms and solicitors and materials submitted to the Board be of the standard and in the format defined in Part Four of this Code; and
 - firms operate procedures that meet the requirements of this Code.
- 1.6 The Board will monitor compliance with the Code of Practice and may request corrective action in cases of non-compliance. Solicitors and firms that fail to comply with the Code risk having their names removed from the Register in accordance with sections 28Q and 28R of the Act.

¹ Defined by the Legal Aid (Scotland) Act 1986 S41 (as amended) as (a) children's legal aid, and (b) advice and assistance in relation to children's hearings, pre-hearing (as defined in section 79(2)(a) of the Children's Hearings (Scotland) Act 2011) or proceedings under Part 10 or Part 15 of the 2011 Act.

² Hereafter referred to as "solicitors employed by the Board".

2 PART TWO: CONDITIONS FOR REGISTRATION

2.1 APPLICATIONS AND CHANGES

- 2.1.1 Both solicitors and firms require to register. Applications for registration must be made in the form determined by the Board and satisfy the conditions set down in this Part of the Code.
- 2.1.2 A solicitor or firm must notify the Board in advance or, which failing, within no more than twenty working days (or longer if special reason for exceeding twenty days can be shown) of any changes to information or documentation relevant to that solicitor's or firm's registration or longer if special reason for exceeding twenty working days can be shown.

2.2 SECTION A: CONDITIONS FOR INDIVIDUAL SOLICITORS

- 2.2.1 A registered solicitor will not be eligible to provide children's legal assistance unless working in the course of a connection³ with a registered firm. Furthermore, an application for registration by a solicitor cannot be considered unless any firm with which he is connected is registered or has applied for registration.

- 2.2.2 A registered solicitor shall at all times be in possession of a current valid practising certificate which does not have a restriction preventing the provision of children's legal assistance.

2.2.3 Compliance with the Code of Practice

A solicitor in registering certifies that he complies with the terms of this Code of Practice.

2.2.4 Registration Requirements

- 2.2.4.1 A solicitor applying for registration must be able to demonstrate that he has the following competencies required to represent his clients at children's hearings and/or in any associated court proceedings before the sheriff, sheriff principal and/or Court of Session -

Competence 1 - An understanding and detailed knowledge of the provisions of the Children's Hearings (Scotland) Act 2011 and all associated Rules and Regulations.

Competence 2 - An understanding and detailed knowledge of the children's legal assistance regime that is laid down in Part 19 of the Children's Hearings (Scotland) Act and the associated Children's Legal Assistance (Scotland) (Amendment) Regulations 2013.

Competence 3 - An understanding of the ethos of the children's hearing system.

³ Section 41 of the Legal Aid (Scotland) Act 1986 defines 'connected' as including a sole solicitor and a solicitor who is a partner, director or employee of a firm, and cognate expressions shall be construed accordingly. .

Competence 4 - Detailed knowledge or experience of representing clients at children's hearings and related court proceedings.

Competence 5 - If representing child clients, a general understanding of child development and the principles of communicating with children.

2.2.4.2 If the Board does not accept that a solicitor is able to demonstrate the above competencies on application for registration then the Board can refuse to allow the solicitor to be registered. There will be a procedure for internal review before refusal and an appeal process.

2.2.4.3 It is open to a solicitor to re-apply for registration if they are able to demonstrate to the Board that they have subsequently obtained the required competencies.

2.2.4.4 It is incumbent upon a solicitor seeking registration to provide evidence to the Board to demonstrate that he holds the above key competencies. This can be demonstrated by a mixture of, for example (and these examples are not exhaustive) attendance at relevant courses, individual study, group study, distance learning, previous experience of representing clients in terms of Part II Chapters 2 and 3 of the Children (Scotland) Act 1995, observation and/or conduct of children's hearings and associated court proceedings (including mock hearings and non-direct observation such as a training DVD or podcast).

2.2.4.5 A registered solicitor will be expected to maintain these key competencies and be able to demonstrate this when called upon by the Board to do so. Failure to be able to demonstrate these key competencies at any time after registration may result in de-registration.

2.2.5 Records of Course Attendance

A solicitor applying for registration shall indicate how they meet the key competencies such as attendance at courses, group or collaborative internet study and/or communication with relevant professionals or bodies, and or conduct or observation of children's hearing(s) &/or associated court proceedings. This shall be produced to the Board on applying for registration and at any time thereafter in relation to the current and the previous practice year if required by the Board.

2.3 SECTION B: CONDITIONS FOR FIRMS

2.3.1 A firm must be registered or be applying for registration before any solicitor connected with it may be registered in relation to his connection with that particular firm.

2.3.2 Compliance with the Code of Practice

2.3.2.1 A firm applying for registration shall certify that it will comply with the terms of this Code of Practice.

2.3.3 Nomination and Responsibilities of Compliance Manager

2.3.3.1 Subject to paragraph 2.3.3.2, a firm shall nominate a manager (as defined in Schedule 1 of the Law Society of Scotland Practice Rules 2011), to be known as the "Compliance Manager", and the words Compliance Manager shall be

construed accordingly but shall include the Head of any entity constituted by the Board under Part V of the Act. The Compliance Manager will be the Board's point of contact within that firm. The Compliance Partner does not require to be registered. The nomination shall be made as part of the firm's application for registration. Any subsequent changes shall be notified to the Board within twenty working days, or longer if special reason for exceeding twenty working days can be shown.

2.3.3.2 If the Board it is not reasonably satisfied that the nominee is capable of properly discharging the responsibilities set out in paragraph 2.3.3.4 below. The Board reserves the right to reject the nomination of a particular compliance manager, and in such circumstances will provide detailed reasons for doing so, whether made as part of a firm's initial application for registration or in the event of any subsequent change.

2.3.3.3 The Compliance Manager will take all reasonable steps ensure that all solicitors and the firm comply with the Code and the Compliance Partner's responsibilities shall include:

- making the application for the firm to be registered;
- certifying that the firm complies with this Code of Practice;
- producing a record of training attended by him (if appropriate) and any other individual solicitors of the firm applying for registration, or providing written confirmation that such courses will be attended by him (if appropriate) and any other individual solicitors of the firm within six months of registration;
- the Compliance Partner shall ensure that all the firm's registered solicitors hold current valid practising certificates;
- notifying the Board in advance or, which failing, not later than twenty working days of changes within the firm relevant either to registration or compliance with this Code of Practice or longer if special reason for exceeding twenty working days can be shown. A special reason request must be made at the outset of the period;
- liaising with the Board on any issue related to this Code of Practice;
- receiving and handling enquiries from the Board regarding suspected non-compliance with this Code of Practice, whether on the part of the firm or any individual solicitor within it; and
- taking necessary action in the event of any non-compliance, and keeping records of such action.

3 PART THREE: STANDARDS OF PROFESSIONAL CONDUCT

- 3.1 A solicitor's conduct is regulated by the Law Society of Scotland which set out the standards of service and conduct and have rules and guidance with which all solicitors must comply. Consequently solicitors will at all times act independently, honestly and in accordance with the standards of ethics and conduct defined by the Society and reflected in this Part of the Code. The Board will have regard to the rules and guidance of the Law Society of Scotland in assessing whether a solicitor's conduct meets the standard required in order to comply with this Code.
- 3.2 When providing children's legal assistance in connection with proceedings before the court, a solicitor shall always have regard to the obligations and duties placed on him as an officer of the court.
- 3.3 When conducting proceedings before a children's hearing, a solicitor, whilst fulfilling his professional duties to his client, shall respect the ethos of the children's hearing system and acknowledge that decisions should be based on sound reasons, with the best interests of the child being paramount, and that the effective participation of all the parties involved should be promoted.
- 3.4 Solicitors must not discriminate on grounds of any protected characteristic under the Equality Act 2010 in their professional dealings with clients, employees, other lawyers, or others involved in the children's hearings and the justice system.
- 3.5 KNOWLEDGE AND EXPERIENCE**
- 3.5.1 A firm or solicitor shall deploy the knowledge and experience necessary for each case which is taken on.
- 3.5.2 In addition to paragraph 2.2.4 regarding initial requirements for registration, a solicitor shall thereafter continue to ensure they meet the competencies as set out in 2.2.4.1 which may include undertaking one or more of the following:
- attend or conduct of one or more courses relevant to the provision of children's legal assistance, these courses may include a course or courses in child law, the children's hearings system, evidence and pleading, legal aid, professional ethics or other such courses accepted by the Board as having relevance to the provision of children's legal assistance,
 - partake in any group, collaborative, online and distance learning and/or communication with relevant professionals or bodies,
 - conduct or observe a children's hearing(s) &/or associated court proceeding(s).

3.5.3 A registered solicitor shall retain a working knowledge of and familiarity with all documents as specified in 5.7 of the Code and demonstrate a continued awareness of same and any updates or amendments there to by the Board and/or relevant bodies.

3.5.4 Where a solicitor has undertaken sufficient training within the period of twelve months preceding his application for registration, the period of two years within which he must attend further courses or training will run from the date of his registration. Where a solicitor undertakes to complete his attendance at courses within six months of his registration the period of two years will run from the date of his completing the requirements of 2.2.5.

3.6 RESOURCES

A firm or solicitor shall have appropriate resources available, including suitably qualified staff and technical and administrative support, to give proper attention to each individual case involving children's legal assistance. A firm or solicitor shall not accept instructions where they are unable to adequately represent their client resulting in for example, persistent unnecessary requests for employment of counsel or repeated use of agents or inappropriate failure to attend a Children's Hearing or court calling.

3.7 CO-OPERATION

A firm or solicitor shall co-operate with the Board in answering any questions about the firm's or solicitor's applications, legal aid accounts, compliance with this Code of Practice or performance on behalf of clients (including questions relating to the measurement of that performance). Any documentation which may be requested shall be made available and, if requested, authorised officers of the Board shall be allowed access to the firm's or solicitor's premises and records to assess compliance with this code. Responses to any requests for information shall be made timeously.

3.8 CONSULTATION WITH ADULT CLIENTS

3.8.1 A solicitor should, in general, consult in person with adult clients who are at liberty only at a solicitor's office, a children's hearing centre, a court or a designated consulting room.

3.8.2 A solicitor should make arrangements to consult with a client in circumstances that are conducive to the client being able to give considered and proper instructions ideally at a date and time not immediately prior to the time of commencement of a children's hearing and/or court calling unless availability of papers or the urgent receipt of instructions leave a solicitor with no alternative.

3.8.3 In exceptional circumstances a solicitor may consult with a client at a place other than those referred to above, for example where a client is unable to attend the solicitor's office due to illness, infirmity or age, or at the home of the client or a hospital or where it can be demonstrated that it is in the child's best interests to do so. If travel costs are incurred and can be charged for, these will have to be justified in the account.

3.9 CONSULTATION WITH CHILD CLIENTS

- 3.9.1 A solicitor should in general consult in person with child clients who are at liberty/not residing in secure accommodation at a solicitor's office, a children's hearing centre, a court or a designated consulting room. A solicitor should make arrangements to consult with a client in circumstances that are conducive to the client being able to give considered and proper instructions ideally at a date and time not immediately prior to the time of commencement of a children's hearing and/or court calling unless availability of papers or the urgent receipt of instructions leave a solicitor with no alternative.
- 3.9.2 A solicitor may however consult with a child client at a locus other than those referred to above (for example at home, at a foster carer's home, at school or within a young person's centre) where it can be demonstrated that the child's best interests would be better served in so doing. If travel costs are incurred and can be charged for these will have to be justified in the account.

3.10 WITNESSES

When establishing necessary evidence in a case, a solicitor must take all reasonable steps to do so with due regard to economy in accordance with guidance issued by the Board in the Children's Legal Assistance Handbook, in periodic mail-shots. A solicitor should comply with the Vulnerable Witnesses (Scotland) Act 2004 and the standards of practice set out in Scottish Government guidance on supporting children involved in court proceedings.

3.11 Witness Expenses, Professional & Expert Witness Fees

- 3.11.1 A firm or solicitor shall submit accounts and other associated documents specified by the Board in accordance with the timescales specified by the Regulations. These accounts should be submitted in such format as the Board prescribes. These accounts should include fees for professional and expert witnesses, witness expenses and other outlays actually and reasonably incurred. The appropriate justification for such expenses, in the form of vouchers/claim forms etc, must be submitted to the Board. Insofar as it applies to the submission of accounts, this paragraph shall not apply to solicitors employed by the Board.
- 3.11.2 A firm or solicitor shall pay all other outlays including witness expenses and fees without delay and certainly no later than 20 working days from the date of receipt of payment of the relevant account by the Board.

3.12 MANDATES

Legal Aid Online Client Mandates with declarations by the applicant (or representative) and solicitor must be completed in every case, kept in the client file and made available within a reasonable time on being requested by the Board.

4 PART FOUR: STANDARD OF SERVICE

4.1 MONITORING OF PERFORMANCE

The Board will monitor the standard of service provided by firms and solicitors, as specified in this Part (Part 4)⁴. Solicitors and firms will be required to supply to the Board any information which it considers necessary for the purpose of monitoring performance. The Board may also assess the standard of professional service and general compliance with this Code by such means as it thinks fit, including for example interviewing the nominated solicitor, analysing solicitors' applications, accounts, case files by appropriately qualified persons and assessing advocacy and representation skills. Where such assessment extends to the application of a solicitor's professional judgement, it will be carried out by solicitors experienced in the provision of children's legal assistance. Such solicitors will be drawn from a panel appointed and remunerated by the Board.

4.2 SECTION A: STANDARD OF PROFESSIONAL SERVICE

4.2.1 Solicitors and firms registered under this Code of Practice shall deliver a standard of professional service which can be expected of solicitors displaying ordinary professional competence.

4.2.2 In particular, without prejudice to the generality of the preceding paragraph, solicitors and firms of solicitors will be aware of and will meet the standards required by the peer review criteria set out by the Board in relation to the quality assurance process by which children's legal assistance is monitored by the Board. These criteria will be published and amended by the Board.

4.2.3 In providing advice to and representation of children and relevant persons solicitors will be expected to distinguish between their role acting for a client in a Children's Hearing court proceedings and when taking part in a Children's Hearing and act accordingly. This will include for example having:-

1. a duty to promote and facilitate the effective participation of a child in Children's Hearings and ensure that the child's best interests remain central to proceedings,
2. to be able to recognise the capacity of a child to give instructions,
3. to communicate with the child/client in a way they will understand and in such a manner that an appropriate understanding of their views can be communicated to the hearing/court, ,
4. to take advantage of facilities offered by, or available from, the Children's Reporter to discuss cases and facilitate their efficient progress,
5. to have only such meetings with clients and others that are necessary for the proper conduct of their cases,

⁴ All references in this Part and Part Five to files, records, documentation, ledgers etc shall be taken to apply to either computerised or physical formats which meets the requirements of these Parts.

6. to provide competent and responsible representation at any diet of the court or children's hearing at which representation for the client is required,
7. to timeously provide the Reporter with a list of witnesses and any reports which are intended to lodge,
8. undertake necessary and reasonable preparation and take only such precognitions as may reasonably be expected to be necessary for the proper preparation of the client's case in accordance with Board guidelines,
9. to avoid impeding or cause unnecessary disruption of or delay to the children's hearing process and associated children's court proceedings under Part 10 and Part 15 of the 2011 Act, adhering to statutory timescales,
10. to handle cases promptly and expeditiously, and with due regard to economy and adhere to statutory timescales, and

4.3 SECTION B: RELATIONSHIP WITH THE BOARD

- 4.3.1 It is the responsibility of firms and individual solicitors to submit intimations, applications, accounts and supporting documentation to the Board in the electronic format prescribed by the Board unless the Board, in special circumstances, agrees to accept transmission by other means.
- 4.3.2 In communication with the Board, solicitors are expected to provide adequate and timeous information to enable their enquiries or requests to be dealt with properly and efficiently. In doing so solicitors and other staff will conduct themselves in such a way as to ensure that Board staff are treated respectfully and with courtesy in recognition of their dignity and rights as individuals.
- 4.3.3 When participating in the Children's Duty Scheme a firm and individual solicitors must fulfil the responsibilities set out in duty scheme.
- 4.3.4 The provisions in this Section relating to accounts shall not apply to solicitors employed by the Board.

4.4 VALIDITY OF APPLICATIONS

- 4.4.1 Applications for, and in connection with, children's legal assistance, including work requiring Board prior approval shall conform to the requirements in each of the sections below.
- 4.4.2 **Competent and Appropriate**
 - 4.4.2.1 Applications shall be necessary and submitted in the appropriate form provided for in the legislation and associated Regulations, for example if a client seeks to appeal to the sheriff against a children's hearing's decision then an application for children's legal aid (as opposed to Assistance by Way of Representation) would require to be made.
 - 4.4.2.2 Applications made by a solicitor acting directly for a child or children shall only be made where the solicitor has satisfied himself that the child or children in question has or have sufficient capacity directly to instruct that solicitor.

4.4.2.3 Where a solicitor represents an adult in respect of more than one child and children's hearings or court proceedings will be conjoined, held simultaneously or concurrently then only one application shall be made to the Board on behalf of the adult client. In such circumstances, separate applications in respect of each child should not be submitted unless this has been agreed with the Board in advance.

4.4.2.4 If a solicitor represents more than one child, or is instructed by a Curator ad Litem or Safeguarder who represents more than one child, then separate applications shall be made in respect of each child.

4.4.3 **Accurate**

A solicitor will provide full and accurate details of the applicant, any person applying on behalf of the applicant and the case particulars to enable the Board to identify the applicant and any previous application for children's legal assistance. In respect of work requiring prior Board approval, the solicitor will provide accurate and relevant information in support of the request for Sanction.

4.4.4 **Complete**

4.4.4.1 Applications shall be made online and in the electronic format prescribed by the Board unless the Board, in special circumstances, agrees to accept an application by other means. All information required and requested by the Board shall be supplied as soon as reasonably practicable to enable the staff to make well-informed decisions.

4.4.4.2 Where the information is not known, inapplicable or unavailable, the reason for this should be stated. Where appropriate, applications should be accompanied by supporting information and documentation. A solicitor shall not sign or ask a client to sign a blank online mandate form or an online mandate form which is incomplete in respect of the client's full name, address, or date of birth. The client should insert the date of his signature on the online mandate form.

4.4.4.3 For advice and assistance, a solicitor shall not sign or ask a client to sign any advice and assistance online mandate form which is incomplete in respect of the financial details on which the solicitor has assessed the client's disposable income and capital, the subject matter, and whether the client has received advice and assistance on the same subject matter from another solicitor.

4.4.4.4 In all children's legal assistance applications made to the Board a solicitor shall not sign or ask a client or representative acting on behalf of the client to sign any online mandate form which is incomplete in respect of the information required to satisfy the Board compliance with the financial and merits tests laid down in the Act and/or associated regulations.

4.4.5 **Timeous and in accordance with guidance**

4.4.5.1 Applications shall be submitted timeously and to allow the Board sufficient and reasonable time properly to consider the application and, if necessary, continue it for further information, except where the timing of receipt of instructions makes this impracticable. Applications should not be submitted

immediately prior to or within very close proximity of the date of the Hearing or when the case is next calling unless on cause shown.

- 4.4.5.2 Applications for children's legal assistance should follow the guidance issued by the Board in the Children's Legal Assistance Handbook, or in periodic mailshots issued to the profession. If for any reason such guidance is not being observed, this fact should be brought to the Board's attention when submitting the application and the solicitor should set out why he/she feels such guidance should not apply in the particular circumstances of the case.

4.5 VALIDITY OF ACCOUNTS

- 4.5.1 The nominated solicitor is responsible for authorising the account being submitted for payment to the Board irrespective of by whom it was prepared.

- 4.5.2 Accounts and relative documentation presented to the Board in connection with children's legal assistance shall conform to the requirements in each of the sections below.

4.5.3 Accurate

All accounts and claims for payment shall be submitted in the format prescribed by the Board unless the Board, in special circumstances, agrees to accept an account by other means.

4.5.4 Complete

Accounts shall contain such information and be accompanied by such documents relating to the provision of children's legal assistance as the Board has advised registered firms that it requires. All entries contained in accounts shall be supported by entries in the file or by appropriate vouchers.

4.5.5 Appropriate

- 4.5.5.1 The charges which may be included in an account for children's legal assistance are fees for work actually, necessarily and reasonably done and outlays actually, necessarily and reasonably incurred, due regard being had to economy in connection with the matter on which children's legal assistance was given.

- 4.5.5.2 The entries in an account should form a proper charge against the Legal Aid Fund and be charged at the rates which apply from time to time as set out in the Fees Regulations (including chargeable outlays). They should also follow guidelines published in the Board's Taxation Guidelines, Legal Assistance Handbook, and Advice and Assistance Accounts Guidance or as set out from time to time in periodic mailshots to registered solicitors and firms.

- 4.5.5.3 Where items of work carried out or outlays incurred are attributable to more than one case, an appropriately apportioned claim in respect of such work or outlays shall be charged to each children's legal assistance case. Under no circumstances should the same work or outlays be charged in full in more than one children's legal assistance account. In calculating the apportionment between cases, any non-children's legal assistance cases to which the work or outlays are partially attributable should also be taken into account: the total

claim should not be apportioned between the children's legal assistance cases to the exclusion of any non-children's legal assistance case(s).

- 4.5.5.4 Where the work or time being charged in an account to the Board includes for example a visit or visits to secure accommodation, a young people's centre, a young offender's institution, or a prison, some of which is covered by another type of legal aid, by a fixed payment or by private fee, the solicitor should present with his account a section showing the number and identity of the individuals seen during such a visit or visits and the calculation of the apportionment applied to the account. The total claim should not be apportioned between the children's legal assistance cases to the exclusion of any non-children's legal assistance case(s).

5 PART FIVE: SYSTEM OF MANAGEMENT AND ADMINISTRATION

5.1 A firm shall establish a means of demonstrating that the requirements of this Code of Practice are consistently met by all legally qualified and non-legally qualified staff who are giving or assisting in giving children's legal assistance. This includes anyone involved in the administration of or accounting for children's legal assistance.

5.2 CASE FILES

Case files shall be maintained in a manner to demonstrate good quality record keeping in respect of all work done, instructions received and advice given to the client.

All file notes will include the date, name of each client and solicitor and will detail the activity(ies) undertaken. File notes recording meetings with clients, perusal of papers, preparation, travel, waiting and attendance at court or hearings will also include the start and finish times of the work. The case file notes will include details of any travel including the location of any meeting or hearing, and names of the relevant attendees. File notes shall record the matters discussed at any meeting, hearing or telephone conversation.

At each stage of the case there will be evidence of what advice has been given to the client, what instructions were taken and what action was agreed with the client. All case notes need to be legible, comprehensive, correspond in length and detail to the time recorded as having been spent with the client. Copies of all correspondence sent/received or documents produced on behalf of the client will be kept on file.

At the conclusion of a case, there should be a record of the outcome and of what was explained to the client about any further action the client is required to take.

5.3 FILE MAINTENANCE

Case files shall be opened for each new matter, referenced by client name and the subject matter and recorded in a central location.

The file is to be maintained chronologically and if removed from the office then a record will be kept as to its whereabouts where necessary.

Electronic files will be made available in paper format should this be required for Peer Review purposes.

At such time as the work has been completed the file will be marked for closure and a record shall be kept that the file has been closed and that payment has been received. Any original documents and other property held by the solicitor or firm belonging to the client will be returned to them at the conclusion of the case to which they relate.

All records and files are required to be retained in accordance with guidance issued by the Law Society of Scotland.

5.4 FILE REVIEW

The firm shall provide for an effective diary and file-checking system so that cases are conducted in accordance with the requirements of this Code.

The firm shall review a cross-section of active and concluded children's legal assistance cases to assess continued compliance with this Code by registered solicitors. A record will be maintained to demonstrate that this is being done.

5.5 COMMUNICATION WITH THE SCOTTISH LEGAL AID BOARD

The solicitor will be responsible for taking all reasonable steps to ensure that all documents, paperwork, accounts or electronic communications submitted to the Board are in order and are in a manner specified by the Board that consistently satisfies Parts 4.3, 4.4 & 4.5 of this Code of Practice.

5.6 TRAINING & SUPERVISION OF STAFF

5.6.1 The nominated solicitor shall be responsible for ensuring all staff assisting with a case are adequately trained.

5.6.2 Adequate supervision procedures shall be in place which will enable the firm to satisfy itself that work carried out by individual registered solicitors is in accordance with the provisions of Parts Three and Four of this Code. The level of supervision required will be dependent upon the complexity of the work and the individual solicitor's knowledge and experience.

5.6.3 Where children's legal assistance work is delegated by the solicitor to non-legally qualified staff or other registered solicitors within or outwith the firm, the nominated solicitor shall retain responsibility for the standard of work and shall take all reasonable steps to ensure that it is completed in a satisfactory manner. This does not detract from the responsibility of the solicitor to whom the case has been delegated to adhere fully to the requirements of this Code.

5.7 DOCUMENT CONTROL

The latest issue of relevant documents in relation to Children Legal Assistance will be made accessible by the firm for use either electronically and/or otherwise.

All registered solicitors will have a working knowledge and familiarity with all key documents that shall include:

- The Code of Practice in relation to children's legal assistance,
- Statutes, Regulations and Rules of Court applying to children's legal assistance,
- the Children's Legal Assistance Handbook, incorporating the Legal Aid (Scotland) Act 1986, as amended,
- Equality Act 2010,
- relevant circular letters, guidelines and/or mailshots issued by the Board,
- keycard for Advice and Assistance,

- taxation guidelines standards of conduct and service published by the Law Society of Scotland, and
- Quality Assurance Requirements and Peer Review Criteria for children's legal assistance.

5.8 CORRECTIVE ACTION

- 5.8.1 The firm shall take appropriate action to deal with any concerns which are identified. Such concerns include complaints about the registered solicitor made by clients to the firm or the Scottish Legal Complaints Commissioner the Board in respect of a Children's Legal Assistance matter.
- 5.8.2 The firm will take timely and appropriate action in respect of concerns identified about registered solicitors who are not adhering to this Code of Practice.
- 5.8.3 After identification of such a concern, the firm shall take remedial action on the specific concern raised, and appropriate long term action to prevent, as far as is possible, a recurrence of the concern; such action will be appropriate to the severity of the concern.
- 5.8.4 All identified concerns will be recorded (electronically or otherwise) and records of such corrective action will be maintained.