



Guardian at Litem Information Sheet

Designation of a Guardian ad Litem to the Panel

The Director General of the Department of Justice and Attorney General ('DJAG') may designate a person with relevant qualifications and experience as a member of the Guardian ad Litem Panel ('GAL Panel') for a period of up to 3 years, with an option of being designated for successive periods thereafter.

Once a person is designated as a GAL Panel member, he/she is eligible for appointment as a Guardian ad Litem ('GAL') in proceedings under order of a Court or the Administrative Decisions Tribunal and at the discretion of the Director of the Legal Services Branch ('LSB').

A person designated as a GAL Panel member is bound by the GAL Code of Conduct.

Allocation of GAL to cases

When it is determined by a Magistrate/Judge that a GAL is to be appointed to a child/young person or parent, the Registrar of the Court notifies the Legal Services Branch ('LSB'). LSB then administers the allocation of a GAL from the GAL Panel.

When allocating a GAL, LSB will take into consideration:

- the skills and experience of the GAL to see if they are suitable for the type of proceedings and the needs of the client;
- the location of the GALs residence and the location of the proceedings; and
- any other circumstances necessary such as cultural requirements or other criteria specified by the court.

Although many GALs have work and other commitments they must be reasonably available to accept appointments as a GAL in proceedings.

The role of the guardian ad litem

A GAL is generally appointed in legal proceedings where a person is:

- incapable of representing him or her self,
- incapable of giving proper instructions to his or her legal representative, and/or
- under legal incapacity

due to age, mental illness or incapacity, disability or other special circumstances in relation to the conduct of the proceedings. The role of a GAL is to protect or promote the interests of the person in relation to whom they have been appointed ('the client').

Children's Court Proceedings

Majority of Court ordered appointments are from the Children's Court, in a variety of locations across the State.

Section 100 of the *Children and Young Persons (Care and Protection Act) 1998* ('the Act') enables the Children's Court to appoint a GAL for a child or young person when there are special circumstances to warrant the appointment and the child or young person will benefit from the appointment.

Section 101 of the Act enables the Children's Court to appoint a GAL for the parent of a child or young person if it is of the opinion that the parent is incapable of giving proper instructions to his/her legal representative. A GAL may be appointed where a child, young person or parent has an intellectual disability or mental illness.

Other Proceedings

GAL Panel members may also be appointed to other Courts and Tribunals in New South Wales. Occasionally, a GAL may be appointed to the Supreme Court, District Court or the Administrative Decisions Tribunal.

Responsibilities

A GAL is responsible and authorised to make decisions in relation to the client **only** in relation to the legal proceedings in which they he/she has been appointed.

A GAL when making decisions shall:

- promote the autonomy of the client
- safeguard and represent the interests of the client

- take into account views, opinions, wishes and feelings as expressed by the client
- instruct the legal representative of the client in the conduct of the proceedings
- or take into consideration any other special circumstances.

GAL Allowance

Membership on the GAL panel is on a volunteer basis however an allowance is paid in respect of a GAL appointment. The allowance is paid in accordance with the scheduled fee.