



## **Guardianship and Mental Health Representation Panel Information**

Section 65 of the *Guardianship and Administration Act 1993* and section 84 of the *Mental Health Act 2009* provide for the establishment of schemes for legal representation in relation to particular proceedings under these Acts.

The schemes entitle a person to whom the relevant proceedings under the *Guardianship and Administration Act 1993* or the *Mental Health Act 2009* relate to be represented by a legal practitioner—

- a) chosen by the person; or
- b) if the person has not chosen a legal practitioner, assigned by the Legal Services Commission.

A practitioner will only be assigned a matter by the Legal Services Commission under these Acts if the practitioner is a member of the Guardianship and Mental Health Representation Panel.

### **Minimum requirements for consideration for inclusion on the Guardianship and Mental Health Representation Panel**

To be considered for inclusion on the Guardianship and Mental Health Representation Panel a practitioner must—

- a) be a member of the General Panel established by the Legal Services Commission; and
- b) if holding a practising certificate with the restriction that the practitioner must complete supervised practice in accordance with LPEAC 2018 Rule 11, be able to be supervised by a practitioner employed within the same legal practice who holds an unrestricted practising certificate and is also a member of the Guardianship and Mental Health Representation Panel; and
- c) either—
  - i. have experience in appeals under the *Guardianship and Administration Act 1993* or the *Mental Health Act 2009*; or
  - ii. have experience in administrative law; and

- d) if the practitioner is an employee, have the consent of their employer to the practitioner's inclusion on the Panel; and
- e) agree to comply with the attached Guardianship and Mental Health Representation Panel Practice Standards and relevant fee scales.

### **Application for inclusion on the Guardianship and Mental Health Representation Panel**

An application for inclusion on the Guardianship and Mental Health Representation Panel must be made on the attached form and submitted to the Legal Services Commission.

### **Removal from the Guardianship and Mental Health Representation Panel**

A practitioner will be removed from the Guardianship and Mental Health Representation Panel if the practitioner is removed from the General Panel.

A practitioner may be removed from the Guardianship and Mental Health Representation Panel if—

- a) the practitioner fails to comply with the Guardianship and Mental Health Representation Panel Practice Standards (attached); or
- b) the practitioner's employer withdraws, in writing, their consent to the practitioner's inclusion on the Panel; or
- c) the Director forms the view that the practitioner is no longer an appropriate person to be included on the Panel.

Notice to a practitioner removing the practitioner from the Guardianship and Mental Health Representation Panel must state the reason for removal.

### **Appeal to the Commission**

If a practitioner receives written notice—

- a) refusing the practitioner's application for inclusion on the Guardianship and Mental Health Representation Panel; or
- b) removing the practitioner from the Guardianship and Mental Health Representation Panel,

the practitioner may, within one month of receiving the notice, appeal in writing to the Commission against the decision.



**APPLICATION FOR INCLUSION ON THE GUARDIANSHIP AND  
MENTAL HEALTH REPRESENTATION PANEL OF THE LEGAL  
SERVICES COMMISSION**

Name:.....

Are you a member of the General Panel of the Legal Services Commission?

☐ Yes      ☐ No      If not, please apply for inclusion on that Panel concurrently.

Please state the nature and extent of relevant experience you have had in appeals under the *Guardianship and Administration Act 1993* or the *Mental Health Act 2009* and the dates of that experience.

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In that time, approximately how many clients have you represented?.....

If you do not have experience in appeals under the *Guardianship and Administration Act 1993* or the *Mental Health Act 2009*, please provide details of any administrative law experience, including how many years you have worked in administrative law, the nature of the administrative law work you have undertaken and the tribunals or other decision-making bodies before which you have appeared. Please also explain why you are now applying to undertake these matters.

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To be included on this Panel you must accept the following terms and conditions:

I,..... (full name) agree—

- a) to comply with the attached Guardianship and Mental Health Representation Panel Practice Standards; and
- b) to undertake relevant matters assigned by the Legal Services Commission consistent with relevant prescribed scales of fees under section 65 of the *Guardianship and Administration Act 1993* and section 84 of the *Mental Health Act 2009* as amended from time to time.

.....  
Signature

.....  
Date

If you are an employee, please ensure the following is completed by your firm principal:

I, ..... (full name) of

..... (firm name)

..... (title) consent to the above named applicant undertaking assigned matters under the schemes of legal representation established under the *Guardianship and Administration Act 1993* and the *Mental Health Act 2009* at the prescribed scales of fees as amended from time to time.

.....  
Signature

.....  
Date

If you have a restricted practising certificate, please ensure your proposed supervisor completes the following:

I, ..... (full name) of

..... (firm name)

..... (title), being a current member of the Legal Services Commission Guardianship and Mental Health Representation Panel,

and a holder of a current unrestricted practising certificate, undertake to supervise the above named applicant in their conduct of assigned matters under the *Guardianship and Administration Act 1993* and the *Mental Health Act 2009*.

The Legal Services Commission reserves the right to seek further information from you before finally determining your application.

Please forward this application, with a copy of your practising certificate, to—

The Panels Officer  
Legal Services Commission of South Australia  
PO Box 1718  
Adelaide SA 5001

or by email to—

[panels@lsc.sa.gov.au](mailto:panels@lsc.sa.gov.au).



## **Guardianship and Mental Health Representation Panel Practice Standards**

A practitioner to whom a case is assigned by the Legal Services Commission under the scheme of legal representation established under section 65 of the *Guardianship and Administration Act 1993* or under the scheme of legal representation established under section 84 of the *Mental Health Act 2009* (**a legal representation scheme**) must—

- (1) comply with the General Panel Agreement and General Practice Standards, where applicable, for which purpose a reference in the Agreement or Practice Standards to—
  - a) “a case for which legal assistance has been granted” is to be read as “a case assigned by the Legal Services Commission under a legal representation scheme”; and
  - b) a “legally assisted person” is to include a person represented under a legal representation scheme; and
- (2) read and observe the objects and principles contained in the *Guardianship and Administration Act 1993* and the *Mental Health Act 2009*; and
- (3) make every attempt to establish contact with and take instructions from the represented client prior to the client’s review or appeal hearing and, when appropriate, attend the hospital, facility or other residence of the client for this to occur; and
- (4) ensure all medical notes and files received from SACAT in relation to a client are read prior to the client’s review or appeal hearing; and
- (5) in place of General Practice Standard 2(12), when submitting a tax invoice—
  - a) attach an accurately completed case finalisation form; and

- b) comply within a reasonable period with a request by the Commission for further information concerning the legal costs claimed; and
- c) ensure the invoice—
  - i. is submitted within three months of the conclusion of the review or appeal hearing to which the invoice relates; and
  - ii. is in accordance with the scale of fees prescribed under section 65 of the *Guardianship and Administration Act 1993* or section 84 of the *Mental Health Act 2009* (whichever is applicable).