

# Guardian ad Litem Information Sheet

## Designation of a person to the Guardian ad Litem Panel

The Secretary of the Department of Communities and Justice (DCJ) 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, they are eligible for appointment as a Guardian ad Litem (GAL) in proceedings under order of a participating Court or Tribunal and at the discretion of DCJ. A person designated as a GAL Panel member is bound by the GAL Code of Conduct.

## Allocation of GALs

When it is determined that a GAL is to be appointed, the Court or Tribunal notifies DCJ, who administer the allocation of a GAL from the GAL Panel.

When allocating a GAL, DCJ will take into consideration:

- the skills and experience of the GAL;
- the location of the GAL's residence in relation to the proceedings; and
- any other factors such as cultural requirements or other criteria specified by the Court or Tribunal.

Although it is recognised that GALs have work and other commitments they must be reasonably available to accept appointments as a GAL.

## The role of a Guardian ad Litem

A GAL is someone who must make decisions relating to the conduct of legal proceedings for a person, where that person is:

- incapable of representing themselves
- incapable of giving proper instructions to their 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.

A GAL may also be referred to as a tutor or special representative.

The role of a GAL is to protect and promote the interests of the person in relation to whom they have been appointed (the client). In most cases a GAL is appointed by the Court or Tribunal in which the proceedings are being conducted.

## **Children's Court proceedings**

The majority of Court ordered appointments are for 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 their 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. GALs are regularly appointed in the NSW Civil and Administrative Tribunal (NCAT), and have been appointed in proceedings in the Supreme Court and District Court.

## **Responsibilities**

A GAL is responsible and authorised to make decisions in the best interests of the client only in relation to the legal proceedings in which they have 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; and/or
- take into consideration any other special circumstances.

## **Allowance**

Membership of the GAL Panel is on a volunteer basis however an allowance is paid in relation to a GAL appointment. The allowance is paid in accordance with the GAL Fee Schedule.