

Guidance for making recommendations for reappointment and removal from the national Safeguarders Panel

Purpose of Guidance

To provide clarity and understanding about the principles, process and considerations regarding recommendations for Safeguarder reappointment and removal, for the benefit of Safeguarders and the SPT, to aid transparency and consistency.

To provide clarity to other stakeholders, including those working in the Children's Hearing System, and children and families, regarding recommendations for Safeguarder reappointment and removal, to demonstrate Safeguarder accountability and uphold confidence in practice.

Principles

In considering recommendations, the SPT will be fair, transparent and impartial, upholding the best interests of children, and accountability of Safeguarders to the Practice Standards and Terms and Conditions of appointment.

Any concerns impacting upon a recommendation for reappointment will be discussed with the Safeguarder as early as practicable.

Any recommendation made by the SPT will be based wholly on the information and evidence of practice gathered throughout the Safeguarders term of appointment, considering each element of performance support and monitoring as outlined in the [Performance Support and Monitoring Framework](#).

All recommendations made by the SPT will be proportionate to the issues being considered and will include consideration of any views communicated by the Safeguarder.

Every recommendation is considered individually, based on the facts and circumstances of the Safeguarders appointment term.

Process for making recommendations for reappointment (see Appendix 1: Flowchart)

Safeguarders are appointed for a three-year term upon joining the national panel. Throughout this period of appointment, Support Managers continually review the totality of the evidence available in relation to the Safeguarder's practice against the Practice Standards. Where gaps exist in the evidence required, this is communicated to Safeguarders during Individual Support Sessions.

Six months prior to the Safeguarder's reappointment date, the SPT communicate any practice or availability issues to the Scottish Government. This can include anything that may result in a recommendation which is less than the typical 3-year appointment term. Except in exceptional circumstances, these issues will have been communicated to the Safeguarder already, however this time frame gives the Safeguarder a further opportunity to resolve the issues identified prior to reappointment recommendations being made.

Approximately two months prior to the Safeguarder's reappointment date, the relevant forms containing recommendations for reappointment are finalised and submitted to the Scottish Government for consideration. (see Appendix 2: Forms 1, 2, 3)

Scottish Ministers make decisions on reappointments and these decisions are issued to the SPT within 40 working days of receiving the SPT recommendations. The SPT then communicates this information to Safeguarders via secure email.

Support Managers have three options available to them when considering a Safeguarder's reappointment:

Recommendation for a further 3 years

Recommendation for a further 1 year

Recommendation for non-reappointment

Whilst these are the three options that SPT and the Government consider appropriate, Safeguarders can legally be appointed for any period of between 1 and 3 years.¹ In exceptional circumstances we will consider other appointment periods.

Where an appointment term for 1 year is agreed by Scottish Ministers, the requirement for evidence to be submitted and considered in advance of any further appointment term means that Safeguarders may have a total of eight months to provide new evidence, from the start of the appointment term to the recommendation date. However, advance notice to the Safeguarder of the *recommendation* for a 1 year appointment term allows the required improvements to be communicated to the Safeguarder and progress noted from this point

¹ The Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 s7(2): The period for which a person is reappointed as a member of the Safeguarders Panel is to be determined by the Scottish Ministers but must be for a minimum of 1 year and a maximum of 3 years.

onwards, giving the Safeguarder a year, from one recommendation date to the next, in which to demonstrate improvement.

The information below is not a full or exhaustive list but outlines factors which are likely to be considered when recommendations are being made:

A recommendation for a 3-year appointment term may be made in circumstances where *all three* of these factors apply:

- The Safeguarder has demonstrated evidence of each of the Practice Standards
- The Safeguarder has completed all mandatory training
- The Safeguarders has been able and willing to comply will the Terms & Conditions of appointment

A recommendation for a 1-year appointment term may be made in circumstances where *any* of these factors apply:

- Evidence is still required from the Safeguarder to demonstrate one or more of the Practice Standards and/ or Terms and Conditions of appointment, and any omissions are considered able to be overcome if given more time
- An Action Plan has recently been agreed between the Safeguarder and SPT to evidence required improvements in the Safeguarder's practice and/ or learning where there is insufficient evidence of this already
- Some practice improvement has been demonstrated already as the result of an agreed Action Plan however further improvements are required to meet the Practice Standards
- Practice improvements made to date, provide reassurance about the Safeguarder's ability to fully meet the Practice Standards if given more time
- The practice issues identified are remediable and do not represent a serious breach of the Practice Standards and/ or Terms and Conditions of appointment
- The practice issues identified represent an isolated incident and there is a low risk of the practice being repeated but more time is required to give the SPT confidence that this is an isolated incident
- The Safeguarder has not been available to take a sufficient number of appointments to allow them to demonstrate full adherence to the Practice Standards

A recommendation for non-reappointment may be made in circumstances where *any* of these factors apply:

- The Safeguarder has previously been recommended for a 1-year appointment term and the evidence available is still not sufficient to demonstrate adherence to the Practice Standards and/ or Terms and Conditions of appointment
- An Action Plan incorporating SPT support has been agreed with the Safeguarder which, after an agreed timeframe, is having little or no impact on improving the Safeguarder's practice
- The evidence available demonstrates an inconsistency in practice and the Safeguarder is unable to sustain the standard of practice required to meet the Practice Standards

- The Safeguarder has been given reasonable time and opportunities to improve their practice but with little or no evidence of improvement

Process for making recommendations for removal

The SPT are required to notify the Scottish Government immediately in circumstances where recommendations for removal from the national panel are being submitted. This can be done **at any time** during the Safeguarder's term of appointment. The same principles are applied in this circumstance however different factors may be considered when forming a view on removal (noted below).

A recommendation for removal may be made in circumstances where *any* of these factors apply:

- The Safeguarder's conduct has been deemed by the SPT to be sufficiently concerning as to require removal from the national panel (e.g the Safeguarder has acted contrary to the best interests of the child)
- The Safeguarder has not complied with a requirement in their letter of appointment and/or reappointment
- The Safeguarder has been unable and/ or unwilling to operate in accordance with the Practice Standards despite being given sufficient time to evidence this and support to improve practice
- Evidence of multiple breaches of the Practice Standards with no sufficient improvement
- Complaints have been upheld under the Complaints Policy with a timeframe agreed for the Safeguarder to evidence required improvements in practice, with no evidence of improvement available
- The Safeguarder does not engage with the support and monitoring process
- The Safeguarder does not engage with the Complaints Policy and process and/ or shows a lack of recognition of the seriousness of concerns and potential consequences
- The Safeguarder does not complete mandatory training in the required timeframe

Safeguarder's views

Recommendations will always be communicated to the Safeguarder by their Support Manager during 1:1 discussions before these are formally submitted to the Scottish Government.

In the event of a recommendation being made for a 1 year appointment term, non-reappointment or for removal, Safeguarders are provided with a copy of all information submitted to the Scottish Government by the SPT in support of the recommendation.

Safeguarders are given an opportunity to include their views on the recommendation form prior to its submission to the Scottish Government. Recommendations may be based on information gathered and recorded in Individual Support Sessions and Safeguarders already have access to these.

Non-reappointment, removal and withdrawal from Safeguarder allocations

When a recommendation for non-reappointment or removal from the national panel is submitted, the SPT may temporarily pause offering further allocations to the Safeguarder, in agreement with the Scottish Government, until a decision is made.

If a Safeguarder has ongoing allocations in the period of consideration by the Scottish Government, the Safeguarder may continue their involvement in these allocations until a decision is made. When the decision by Scottish Ministers is to accept the recommendation for non-reappointment or removal of the Safeguarder from the national panel, the Safeguarder is required to withdraw from all ongoing allocations immediately. The Safeguarder should communicate with the Children's Reporter and Sheriff Clerk at the earliest possible opportunity advising that they are no longer a Safeguarder. The SPT will also communicate with the Scottish Children's Reporters Administration (SCRA) and Scottish Courts and Tribunal Service (SCTS) in these circumstances to seek the appropriate paperwork for the child to be allocated a new Safeguarder.

It may be appropriate in the circumstances for the Safeguarder to communicate the ending of their appointment to the child and family. This should also be done by the Safeguarder at their earliest opportunity and prior to another Safeguarder being allocated.

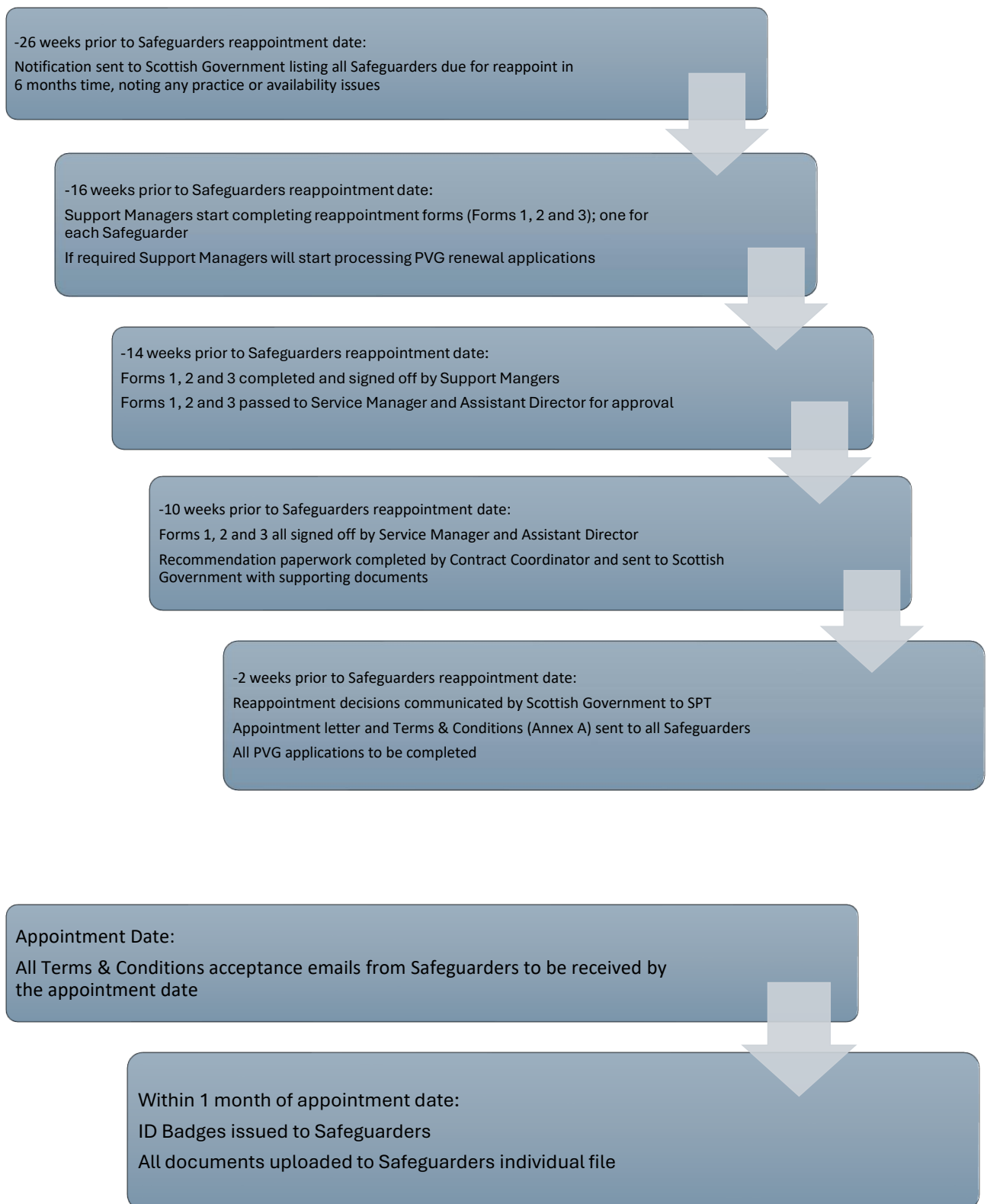
Open concerns

Where a complaint process in terms of the Complaints Policy is ongoing at the point when a Safeguarder is due to be recommended for reappointment, the SPT will manage the two processes separately. In such circumstances, the process for making recommendations will be suspended until the complaint process has ended. The complaint process is deemed to have ended when the period of review of a decision has expired or any actual review undertaken has ended.

Outcomes

If Scottish Ministers don't agree with a recommendation made by the SPT, this will be communicated to the SPT and thereafter to the Safeguarder, including the reasons for this.

Appendix 1: Flow chart – Safeguarder reappointment process



**Safeguarders Panel Team Reappointment Report Form 1:
Recommendation for reappointment 3 years**

Name of Safeguarder:

Date appointment ends:

Support Manager:

Recommendation

1. As support manager, I have considered the practice and conduct of the above Safeguarder and I am satisfied that the Safeguarder meets the Practice Standards and can be considered as being fit to be a member of the national Safeguarders Panel. I have sufficient evidence, recorded in the records of the Safeguarder's support sessions, to be satisfied regarding the Safeguarder's conduct, compliance with their letter of appointment or reappointment and ability and willingness to meet the Practice Standards.
2. That any concerns that I have had about fitness that may affect reappointment have been raised and discussed with the Safeguarder at the support sessions and the Safeguarder has either addressed these concerns or is addressing these concerns through agreed improvement plans, sufficiently to be recommended for reappointment for 3 years without any reduction in appointment timescales.

Support Manager:

Date:

Service Manager:

Date:

Assistant Director:

Date:

**Safeguarder Panel Team Reappointment Report Form 2:
Recommendation to reappoint for shorter period**

Name of Safeguarder:

Date appointment ends:

Support Manager:

Recommendation

With respect to the Safeguarder's letter of appointment, having considered and analysed all the relevant evidence, as recorded in the Safeguarder's record, the Safeguarders Panel Team has reached the conclusion that the Safeguarder is considered to be fit to be a member of the national Safeguarders Panel but for a reduced period. Further time is required to evidence necessary improvements to practice.

We therefore recommend that the Safeguarder is reappointed to the national Safeguarders Panel for one year.

As per the SPT *Guidance for making recommendations for reappointment and removal from the national Safeguarders Panel*, where an appointment term for 1 year is agreed by Scottish Ministers, the requirement for evidence to be submitted and considered in advance of any further appointment term means that Safeguarders may have a total of eight months to provide new evidence, from the start of the appointment term. However, advance notice to the Safeguarder of the *recommendation* for a 1 year appointment term allows the required improvements to be communicated to the Safeguarder and progress noted from this point onwards, giving the Safeguarder a year, from one recommendation date to the next, in which to demonstrate improvement.

This recommendation is made in accordance with:

Relevant Regulations and Duties

Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 ("the 2012 Regulations"). This is in respect of regulation 5 and 7 of the 2012 Regulations, Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) as amended by the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016. In terms of Section 7 a person can be reappointed to be a member of the Safeguarders Panel only if Scottish Ministers are satisfied that the person is fit to be member (Regulation 7(3)). Regulation 7(5) states that in assessing fitness the Scottish Ministers may in particular have regard to:

- (a) the person's conduct
- (b) whether the person has failed to comply with any requirement in that person's letter of appointment (or reappointment)
- (c) whether the person has been able and willing to operate in accordance with the practice Standards

Section 1: Background

Section 2: Evidence which demonstrates fitness to be a member of the national Safeguarders Panel

Section 3: Evidence which demonstrates the Safeguarder:

- has failed to comply with any requirement in that person's letter of appointment (or reappointment).
 - has not been able or willing to operate in accordance with the Practice Standards.
- And / or
- where there are concerns regarding Safeguarder conduct.

Section 4: Action and response by Safeguarder and Safeguarders Panel Team to address areas identified

Section 5: Conclusion (Summary) and Recommendations

Support Manager:

Date:

Service Manager:

Date:

Assistant Director:

Date:

**Safeguarders Panel Team Reappointment Report Form 2:
Recommendation to reappoint for shorter period (availability issues)**

Name of Safeguarder:

Date appointment ends:

Support Manager:

Recommendation

As Support Manager, I have considered the practice and conduct of the above Safeguarder.

With respect to the Safeguarder's letter of appointment, particularly the requirement upon Safeguarder's to meet the Practice Standards for Safeguarders, the Safeguarders Panel Team has reached the following conclusion:

That the Safeguarder, over the course of their current appointment term, has not been able to make themselves available to discharge the role of Safeguarder to the extent that sufficient relevant evidence has been generated for me to recommend their reappointment for a 3-year term. On the basis of evidence previously available to me (from previous support sessions) I am satisfied that the Safeguarder is fit to be a member of the Safeguarders Panel for the reduced period. Appropriate support work will be undertaken with the Safeguarder as required during this year period.

On this basis, I feel a further year is required to allow the Safeguarder to amass sufficient evidence which either:

- Confirms that the Safeguarder meets the Practice Standards and can be considered as being fit to be a member of the national Safeguarders Panel with a recommendation for re-appointment for the remainder of the 3-year term.
- Concludes that the Safeguarder does not meet the Practice Standards and cannot be considered as being fit to be a member of the national Safeguarders Panel, in which case a recommendation for non-reappointment would result.

We therefore recommend that the Safeguarder is reappointed to the national Safeguarders Panel for one year.

As per the SPT Guidance for making recommendations for reappointment and removal from the national Safeguarders Panel, where an appointment term for 1 year is agreed by Scottish Ministers, the requirement for evidence to be submitted and considered in advance of any further appointment term

means that Safeguarders may have a total of eight months to provide new evidence, from the start of the appointment term. However, advance notice to the Safeguarder of the *recommendation* for a 1 year appointment term allows the required improvements to be communicated to the Safeguarder and progress noted from this point onwards, giving the Safeguarder a year, from one recommendation date to the next, in which to demonstrate improvement.

This recommendation is made in accordance with:

Relevant Regulations and Duties

Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 ("the 2012 Regulations"). This is in respect of regulation 5 and 7 of the 2012 Regulations, Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) as amended by the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016. In terms of Section 7 a person can be reappointed to be a member of the Safeguarders Panel only if Scottish Ministers are satisfied that the person is fit to be member (Regulation 7 (3)). Regulation 7(5) states that in assessing fitness the Scottish Ministers may in particular have regard to:

- (a) the person's conduct
- (b) whether the person has failed to comply with any requirement in that person's letter of appointment (or reappointment)
- (c) whether the person has been able and willing to operate in accordance with the practice Standards

Support Manager:

Date:

Service Manager:

Date:

Assistant Director:

Date:

**Safeguarder Panel Team Reappointment Report Form 3:
Recommendation not to reappoint**

Name of Safeguarder:

Date appointment ends:

Support Manager:

Recommendation

With respect to the Safeguarder's letter of appointment, having considered and analysed all the relevant evidence, as recorded in the Safeguarder's record, the Safeguarder's Panel Team has reached the conclusion that the Safeguarder does not satisfy that requirement to the extent that we are not able to state that the Safeguarder is considered to be fit to be a member of the national Safeguarders Panel.

We therefore recommend that the Safeguarder is not reappointed to the national Safeguarders Panel.

This recommendation is made in accordance with:

Relevant Regulations and Duties

Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 ("the 2012 Regulations"). This is in respect of regulation 5 and 7 of the 2012 Regulations, Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) as amended by the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016. In terms of Section 7 a person can be reappointed to be a member of the Safeguarders Panel only if Scottish Ministers are satisfied that the person is fit to be member (Regulation 7(3)).

Regulation 7(5) states that in assessing fitness the Scottish Ministers may in particular have regard to:

- (a) the person's conduct
- (b) whether the person has failed to comply with any requirement in that person's letter of appointment (or reappointment)
- (c) whether the person has been able and willing to operate in accordance with the practice Standards

Section 1: Background

Section 2: Evidence which demonstrates fitness to be a member of the national Safeguarders Panel

Section 3: Evidence which demonstrates the Safeguarder:

- has failed to comply with any requirement in that person's letter of appointment (or reappointment).
- has not been able or willing to operate in accordance with the Practice Standards

And / or

- where there are concerns regarding Safeguarder conduct.

Section 4: Action and response by Safeguarder and Safeguarders Panel Team to address areas identified

Section 5: Conclusion (Summary) and Recommendations

Support Manager:

Date:

Service Manager:

Date:

Assistant Director:

Date:

**Safeguarder Panel Team Report Form 3:
Recommendation to remove from Panel**

Name of Safeguarder:

Date appointment ends:

Support Manager:

Recommendation

With respect to the Safeguarder's letter of appointment, having considered and analysed all the relevant evidence, as recorded in the Safeguarder's record, the Safeguarder's Panel Team has reached the conclusion that the Safeguarder does not satisfy that requirement to the extent that we are not able to state that the Safeguarder is considered to be fit to be a member of the national Safeguarders Panel.

We therefore recommend that the Safeguarder is removed from the national Safeguarders Panel.

This recommendation is made in accordance with:

Relevant Regulations and Duties

Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 ("the 2012 Regulations"). This is in respect of regulation 5 and 7 of the 2012 Regulations, Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) as amended by the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016. In terms of Section 7 a person can be reappointed to be a member of the Safeguarders Panel only if Scottish Ministers are satisfied that the person is fit to be member (Regulation 7(3)).

Regulation 7(5) states that in assessing fitness the Scottish Ministers may in particular have regard to:

- (a) the person's conduct
- (b) whether the person has failed to comply with any requirement in that person's letter of appointment (or reappointment)
- (c) whether the person has been able and willing to operate in accordance with the practice Standards

Section 1: Background

Section 2: Evidence which demonstrates fitness to be a member of the national Safeguarders Panel

Section 3: Evidence which demonstrates the Safeguarder:

- has failed to comply with any requirement in that person's letter of appointment (or reappointment).
- has not been able or willing to operate in accordance with the Practice Standards.

And / or

- where there are concerns regarding Safeguarder conduct.

Section 4: Action and response by Safeguarder and Safeguarders Panel Team to address areas identified

Section 5: Conclusion (Summary) and Recommendations

Support Manager:

Date:

Service Manager:

Date:

Assistant Director:

Date:

Safeguarder comments on:
Safeguarders Panel Team Report
***Form 2: Recommendation to reappoint for shorter period**
***Form 3: Recommendation not to reappoint**
***Form 3: Recommendation to Remove from Panel**
* delete as appropriate

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