



# Children Law Accreditation Scheme

## Guidance

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## **A. An introduction to the Accreditation Scheme**

The Children Law Accreditation Scheme covers all types of children law work.

Practitioners who are not scheme members will remain free to undertake children law work but will not be identified as specialists.

## **B. Who is eligible to apply for membership?**

Solicitors and FILEX who are employed by a solicitor, and hold the Rights of Audience Matrimonial Proceedings Certificate (or other appropriate advocacy qualification) awarded by ILEX, may apply.

You must have completed a compulsory training course with an approved provider before you apply.

A list of course providers can be found on our website.

## **C. What types of membership are available?**

There are two categories of membership;

- Private practitioner membership.

There are two types of membership are available within this category.

- 1) Children representative – representation of children in all family proceedings where there is provision to represent children, and adult parties in public law proceedings under the Children Act 1989.
- 2) Adult party representative – representation of adult parties in public law proceedings under the Children Act 1989. You may opt to be considered for adult party representative only.

- Local authority membership - you must work for a Local Authority.

Membership lasts for five years. After five years, you will be required to demonstrate your continued suitability to remain on the scheme by successfully completing the re-accreditation process.

## **D. The level of experience you will be required to demonstrate**

- Private practitioner membership

If you want to apply to be a private practitioner member, you must demonstrate experience of representing parties in public and private law proceedings under the Children Act 1989 and other family proceedings as defined in the Children Act 1989. "Representation", for the purposes of accreditation, means personal preparation and, if at all possible, subject to your overriding duty to provide the best possible representation for your client, undertaking your own advocacy at all hearings.

- Local authority membership

If you wish to apply to be a local authority representative, you must demonstrate experience of representing local authorities in public law proceedings under the Children Act 1989 and other family proceedings as defined in the Children Act 1989.

If you are a FILEX applicant for local authority representative and you have been authorised by your employing local authority under Section 223 of the Local Government Act 1972, you are not required to hold an ILEX advocacy qualification.

## **E. How to apply and what you should include**

All applications for Law Society Accreditation Schemes are in two sections.

Section 1 - Individual's details and Organisation's details.

Section 2 - Scheme specific application form.

You will be required to fully complete each section, and forward your completed application, with the relevant fee, to the Law Society.

For questions where you are asked to summarise advice, please limit your answers to 300 words where not otherwise stated. Written answers should demonstrate expertise in all relevant fields.

### **Case reports**

You are asked to complete case reports for a re-accreditation and conversion applications (case summaries are included in the initial application form only) when you are completing your application for the scheme.

Each of these reports should be cases for which you have had personal conduct and ideally should have each gone to a substantive hearing in which you personally represented a party.

It is up to you to choose cases which you feel best demonstrate the strength, depth and breadth of your expertise in children law in no more than 2000 words per case report.

You should also mention what case law and precedent you utilised, and why.

### **Referees**

Please provide the details of two referees, (for example, other solicitors, accredited member, barristers, district judges, magistrates) who have knowledge of and can comment on your children law practice and who are not employed by, or are a partner in your firm.

One of the referees would ideally be a children's guardian.

If you are applying for local authority membership you must provide the details of one referee that must be either a member of the judiciary or a private practice member of the Children Law Accreditation Scheme.

References may be taken up when your application is assessed without further contact from this office. It is essential, therefore, that your referees are aware of the fact that you have nominated them.

Please also note that the Law Society reserves the right to obtain references from other sources if considered necessary or desirable.

## **F. How you will be assessed**

On receipt of your application form, we will send your application to be marked by one of our independent assessors.

Applications are scored according to the range of practical experience you are able to demonstrate over the period leading up to your application. Depending on the overall score achieved, you will either be invited to attend (and required to pass) an interview at the Law Society's London Office, deferred/request for further information or failed.

In the case of re-accreditation, an applicant will either be re-accredited, deferred/request for further information or failed. The assessor has discretion, if they consider it necessary, to invite you to attend an interview at the Law Society's London Office.

## **G. What other checks and assessments are made?**

You must demonstrate that you are a fit and proper person to become an accreditation scheme member, and must continue to be so throughout your membership. The Law Society reserves the right during the currency of any voluntary scheme membership to investigate any matter which may call into question the fitness and propriety of any scheme member to act as such, and to take whatever action is considered appropriate at whatever stage of the investigation.

The Law Society will examine whether your past record reveals that you have committed any offences involving fraud or other dishonesty or violence.

The Law Society will also be concerned with any practice in which you may have engaged in the course of any business or employment which do not conform with the best standards of professional conduct. Evidence showing delays in dealing with cases, failure to answer correspondence and failures or delays in responding to enquiries from regulatory and revenue authorities will raise doubts as to your competence to remain a scheme member.

The assessment of fitness is not a mechanical exercise whereby compliance with a number of specific requirements ensures the grant of an authorisation. It is rather a judgement based on the review of your whole record and individual circumstances.

If the Law Society, with due regard to the rules of procedural fairness, determines that you have ceased to be a fit and proper person to continue to be a member of the scheme, or that the fitness or propriety to act as such has been compromised, it may refuse, revoke or suspend the membership or attach conditions to it. Members affected by a decision taken under this paragraph have a right to request a review in accordance with the procedures set out elsewhere in this document.

Where a complaint or other matter which may affect your suitability to remain on the scheme is considered to be of sufficient seriousness, the Law Society may suspend your membership pending the completion of the investigation and any proceedings as may arise.

## **Enhanced Disclosure & Barring Service**

All applicants for membership, whether new or for re-accreditation, will be required to apply for an enhanced disclosure from DBS.

Failure to do so will result in the application being refused.

Once your application has been received by the Law Society, you will be sent a payment form in reply. On completion and return of this payment form to the Law Society, you will be sent a DBS application form, together with guidance notes and an identity verification form. This identity verification form is to be completed by a solicitor and saves the need for you to send your identity documents to the Law Society. Once we have received your completed DBS form, we forward this to the DBS for processing. The DBS will send a copy of your enhanced disclosure to yourself and to the Law Society once it has been issued.

We can accept an enhanced disclosure that you have previously been issued, provided that it is not more than 3 months old.

### **H. Transferring or converting membership**

Children Law Accreditation Scheme membership is split into different categories. As a member, you will not be automatically transferred from one category to another: you have to apply for transfer or conversion.

- Transfer – private practice to local authority

You will need to submit an application for transfer of scheme membership to the Law Society which will then be assessed.

- Transfer – local authority to private practice

You will need to submit an application for transfer of scheme membership to the Law Society which will then be assessed. The assessor will make a recommendation on the transfer, and type of private practitioner membership to be awarded.

If you are a FILEX local authority representative who transfers to private practice you will be required to obtain the rights of audience matrimonial proceedings certificate (or other appropriate advocacy qualification awarded by ILEX) before your application for children or adult representative can be considered.

- Conversion – adult party to child representative

You will need to submit an application for transfer of scheme membership to the Law Society which will then be assessed.

### **I. What fees are payable for making your application?**

Please see the website for the most up to date fee schedule.

## **J. Information on re-accreditation**

The purpose of re-accreditation is to ensure that members are maintaining the standards, systems and experience necessary to satisfy the Law Society as to their competence. It is not a re-examination of a members' original submissions.

Members will be sent a reminder 3 months prior to the expiry of their membership that they are due to re-accredit.

Applications for re-accreditation have the same section 1 as all Law Society Accreditation Scheme applications, with a separate section 2 specific to reaccreditation for the scheme.

## **K. Our requirements for continued professional development**

Members will be expected to have attended at least six hours per year of training courses or other approved CPD events to update their knowledge of family/children law when they apply for re-accreditation.

## **L. What standards of competence are expected of a member of the scheme?**

You will be expected to;

- comply with the basic knowledge requirements set out below
- demonstrate experience by the conduct of cases for parties in public and other family proceedings as defined in the Children Act 1989
- demonstrate competence in the skills specified in Section L (below), and have a good working knowledge of procedures in the appropriate courts
- have good advocacy skills
- demonstrate thorough awareness of ethical issues that may arise in children cases.

This document details the knowledge standards that are expected of all Children Law Accreditation Scheme members, and that all applicants are expected to have prior to attendance at the approved training course.

The Law Society uses the following definitions

- **Understanding** - the identification, assimilation and comprehension of information. Members can correctly paraphrase or summarise information and can relate it to other material, including its practical application.
- **Knowledge** - familiarity with specific information, including facts, definitions, rules, methods, process or settings, without necessarily being able to see its fullest implication or application.
- **Awareness** - acquaintance with general concepts, topics, rules, methods, process or settings, without necessarily being able to summarise or paraphrase information. Members should be able to identify the limits of their awareness and be able to refer to source material for more in-depth knowledge.

In all areas applicants will be expected also to demonstrate understanding of the relevant case law.

## **Primary legislation**

Understanding of;

- Administration of Justice Act 1960 s12
- Family Law Reform Act 1969 Parts 1, 3 and 4
- Senior Courts Act 1981 Parts 2 and 3
- Family Law Act 1986 Part 1
- Children Act 1989 , Parts I - V (CA 1989)
- Family Law Act 1996, Part 4 and 4A
- Human Rights Act 1998
- Access to Justice Act 1999
- Children (Leaving Care) Act 2000
- Adoption and Children Act 2002 (ACA 2002)
- Children Act 2004
- Mental Capacity Act 2005, Part 1
- Children and Adoption Act 2006

Awareness of:

- Local Authorities Social Services Act 1970, s7.
- Immigration Act 1971
- Matrimonial Causes Act 1973
- Contempt of Court Act 1981
- British Nationality Act 1981
- Child Abduction Act 1984
- County Courts Act 1984
- Child Abduction and Custody Act 1985
- Surrogacy Arrangements Act 1985
- Family Law Act 1986 Parts 2 and 3
- Human Fertilisation and Embryology Act 1990 and 2008 Part 2
- Courts and Legal Services Act 1990 SS9-10
- Child Support Act 1991
- Education Act 1996, Part 6
- Protection from Harassment Act 1997
- Crime and Disorder Act 1998, Part 1
- Protection of Children Act 1999
- Adoption Intercounty (Aspects) 1999
- Youth Justice and Criminal Evidence Act 1999, Part II, Chapter 1
- Criminal Justice and Court Services Act 2000, Chapter 2
- Civil Partnership Act 2004 Parts 1, 2 and 5
- Gender Recognition Act 2004
- Children and Young Persons Act 2008
- Borders Citizenship and Immigration Act 2009

## **Rules and Regulations**

Understanding of:

- Blood Tests (Evidence of Paternity) Regs 1971
- Arrangements for Placement of Children (General) Regs 1991

- Emergency Protection Order (Transfer of Responsibilities) Regs 1991
- Parental Responsibility Agreement Regs 1991
- Children (Secure Accommodation) Regs 1991
- Civil Procedure Rules 1998
- Framework for the Assessment of Children in Need and Their Families, Department of Health 2000
- Children (Leaving Care) (England) Regs 2001
- Disqualification from Caring for Children (England) Regs 2002
- The Advocacy Services and Representation Procedure (Children) (Amendment) Regulations 2004
- Adoption Agency Regulations 2005
- Adoption Support Services Regs 2005
- Allocation and Transfer of Proceedings Order 2008 Supreme Court Fees Order 2009
- Family Procedure Rules 2010
- The Care Planning Placement and Case Review England Regulations 2010

Awareness of:

- Magistrates Courts (Family Law Act 1986) Rules 1988
- Children (Admissibility of Hearsay Evidence) Order 1993
- Community Legal Service (Cost Protection) Regulations 2000
- Community Legal Services (Costs) Regulations 2000
- Community Legal Services (Financial) Regs 2002
- Council Regulation (EC) 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (Brussels II revised)
- Adoptions with a Foreign Element Regulations 2005
- Special Guardianship Regulations 2005
- Justices Clerks Rules 2005
- Family Proceedings Fees Order 2008
- Magistrates Courts Fees Order 2008
- Supreme Court Rules 2009
- Family Proceedings (Allocation to Judiciary) Directions 2009

## **Guidance**

Understanding of:

- Children Act 1989 Guidance and Regulations Vol. 1: Court Orders (2008)
- Acting in the Absence of a Children's Guardian Law Society -2009
- Practice Direction (Residence and Contact Orders: Domestic Violence and Harm) 2009
- Good Practice in Child Care Cases, Law Society, 2010.
- Working Together 2010

Awareness of:

- Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses and Guidance on using Special Measures (MOJ, 2011)
- Practice Guide for the Application of the New Brussels II Regulation
- Making an Asylum Application – Best Practice Guide: Immigration Law Practitioners Association 2002



- Working with children and Young People Subject to Immigration Control: Guidelines for Best Practice, Immigration Law Practitioners' Association, 2004
- When is a child not a child? Asylum, Age Disputes and the Process of Age Assessment – Immigration Law Practitioners Association 2007
- Practice Direction (Allocation and Transfer of Proceedings) (2008)
- President's Guidance (Applications Consequent upon the Attendance of the Media in Family Proceedings) (2009).
- Immigration Law – Law Society 2009
- Reporting Restrictions in the Criminal Courts – JSB 2009
- Children Cases with a Criminal Element – Law Society 2010
- Good Practice in Child Care Cases – Law Society 2010
- The Munro Review of Child Protection – Interim Report: the Children's Journey (Feb 2011).
- Children Act 1989 Guidance and Regulations Vols 4-5 Fostering Services and Children's Homes (March 2011).
- Criminal Prosecutions of Victims of Trafficking – Law Society 2011