



Guidelines for Lawyer for Child interview panels

The goal of the Family Law Section (FLS) is to ensure that:

- (a) persons appointed to the role of lawyer for the child in proceedings under the Care of Children Act 2004 (COCA), the Children, Young Persons and Their Families Act 1989 (CYPTF Act), the Family Proceedings Act 1980, the Domestic Violence Act 1995, the Property (Relationships) Act 1976 and the Child Support Act 1991 have appropriate knowledge of the law, best practice and child development; and
- (b) there is a nationally consistent approach by the FLS nominees on lawyer for child selection panels.

Candidates should meet the criteria set out in paragraph 9.9 of the 2015 Practice Note *“Lawyer for The Child: Selection Appointment and Other Matters”* which requires that they have:

- (a) A current Practising Certificate;
- (b) The ability to exercise sound judgement and identify central issues;
- (c) A minimum of five years practice in the Family Court;
- (d) Proven experience in running defended cases in the Family Court;
- (e) A sound knowledge of COCA, CYPTFA, the Domestic Violence Act 1995 and the Family Courts Rules 2002.
- (f) An understanding of, and an ability to relate to and listen to, children of all ages;
- (g) Good people skills and an ability to relate to and listen to adults;
- (h) Sensitivity and awareness of gender, ethnicity, sexuality, cultural and religious issues for families;
- (i) Relevant qualifications, training and attendance at courses relevant to the role;
- (j) Personal qualities compatible with assisting negotiations in suitable cases and working co-operatively with other professionals;
- (k) Independence; and
- (l) Knowledge, understanding, and a commitment to comply with the Law Society’s Lawyer for the Child Best Practice Guidelines.

It is suggest that the FLS nominees on the selection panel ensure that the following matters are addressed and that candidates demonstrate adequate knowledge and understanding of:

1. The role as prescribed by section 9B of the Family Courts Act 1980 by exploring with the candidate his or her knowledge of:
 - (i) the welfare and best interests paradigm (noting the subjective element contained within that);
 - (ii) the duty to place before the Court the views that may be expressed by a child and which are relevant to the proceedings;
 - (iii) the role of assisting parties to reach an agreement where that is congruent with the best interests of the child; and
 - (iv) issues concerning a child's right to appeal.
2. The distinction between section 9B of the Family Courts Act 1980 and the actual appointment provision under the relevant statute (primarily COCA and the CYPTF Act).
3. The distinction between the role as prescribed by section 9B and any brief that may be directed by a judge.
4. Relevant literature on the role – for example, papers delivered at the NZLS CLE Ltd 2013 Family Law Conference and 2014 (and previous) Lawyer for Child Intensives.
5. Child development and the relevance of family dynamics and context on children's views. This should embrace the knowledge of candidates of children being "Gillick" competent and understanding of how this may operate in any given instance in respect of their child client.
6. The operation of section 9C of the Family Courts Act 1980 and the limits on the appointment of lawyer to assist the court, particularly in cases where the expressed views of a child may be divergent from the lawyer's assessment of the child's welfare and best interests.