

27 February 2017

His Hon Judge Walker
Principal Youth Court Judge
DX SX11240
Wellington 6143

By email: walkerj@courts.govt.nz

Dear Judge Walker

Appointment and Review Procedures for Youth Advocates — revised draft February 2017

Thank you for your letter of 2 February 2017 and revised draft of the Appointment and Review Procedures for Youth Advocates, February 2017 (February 2017 draft).

The Law Society appreciates that the Court has taken into account many of the suggestions made in its letter of 16 December 2016 with respect to the earlier draft (July 2016 draft Procedures). The Law Society's Youth Justice Committee provides the following comments on the February 2017 draft.

Conditions of appointment — Category 3 cases

Proposed paragraph 4.9.2 provides for conditions of appointment, for example, that the Youth Advocate may not be assigned in respect of category 3 or higher offences. Proposed paragraph 4.11 provides that:

An applicant may demonstrate suitability to act in Category 3 cases by the fact of having Legal Aid Provider Approval (PAL) 3 or by otherwise demonstrating sufficient experience and competence in acting in such cases.

There is inconsistency between Category 3 offences (defined in section 6 of the Criminal Procedure Act 2011) and the offences to which PAL 3 relate (defined in the Schedule to the Legal Services (Quality Assurance) Regulations 2011). For the avoidance of doubt, the Court may wish to clarify in paragraph 4.11 that a Youth Advocate could otherwise demonstrate "sufficient experience and competence in acting in ~~such~~ Category 3 cases".

In addition, although Category 4 cases are relatively infrequent in the Youth Court, the Court may wish to include a similar provision referring to PAL 4.

The Court will be aware that His Honour Judge Fitzgerald has contacted the Law Society, seeking the views of the Youth Justice Committee with respect to the categories of work Youth Advocates are approved to accept in terms of the Criminal Procedure Act 2011 (letter dated 13 December 2016 **enclosed**). The Law Society anticipates that detailed comments on the Youth Advocate categorisations will be consistent with the high level provisions of paragraphs 4.9.2 and 4.11 of the

February 2017 draft, as discussed above. However, the Court may wish to reflect the Law Society's detailed comments to Judge Fitzgerald in the Appointment and Review Procedures. The Law Society will respond to Judge Fitzgerald ahead of the meeting of the regional Youth Court Judges on 13 March 2017 and will send Your Honour a copy of the letter.

Procedure for appointment of new Youth Advocates

Proposed paragraph 4.4 states that the Appointment Panel must provide the applicants with an opportunity to appear before the Panel in person. Whilst proposed paragraph 3.2 states that it is the Appointment Panel's role to conduct interviews with applicants, it is not clear from the wording of proposed paragraph 4.4 that interviews must be carried out, or the process for selection and appointment if interviews are not carried out or if the applicant declines to appear before the Panel.

Procedure for review of Youth Advocate list

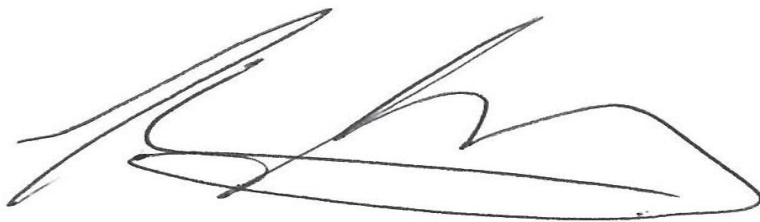
Proposed paragraph 6.7 provides matters the Review Panel should take into account in the case of existing Youth Advocates. The third bullet point should be amended to read "Any upheld complaints that have been received about the Youth Advocate" so that it is consistent with the provisions of paragraph 4.5.

There is a typographical error in proposed paragraph 6.9. The word "Panel" in the sentence "The Review Panel may balance the need to refresh the *Panel* with new Youth Advocates from time to time" should be replaced with "*list*".

Conclusion

I hope these comments are helpful to the Court. Please contact the secretary of the Youth Justice Committee, (karen.yates@lawsociety.org.nz / 04 4632962) if we can provide further assistance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kathryn Beck', written in a cursive style.

Kathryn Beck
President

Encl: letter dated 13 December 2016