



CONSTITUTION

1. Name

The name of the association is “Family Law Arbitration Group Scotland,” hereinafter referred to as “FLAGS”.

2. Purpose

- 2.1 To produce and maintain Rules and relative Codes of Practice for Family Law Arbitration in Scotland in terms of the FLAGS scheme.
- 2.2 To promote arbitration as an effective means of dispute resolution in family cases.
- 2.3 To provide or approve appropriate training to be undertaken by members prior to them practising as and holding themselves out as arbitrators in family law matters.

3. Membership

- 3.1 FLAGS’ membership will comprise of individual members.
- 3.2 Members will include solicitors who are accredited by the Law Society of Scotland as Specialists in Family Law, Scottish advocates with more than seven years’ experience either as a solicitor or advocate during which there has been a material family element to their practices and who have provided to FLAGS Committee a reference from an office bearer of the Advocates Family Law Association and retired members of the judiciary.
- 3.3 Each new member must certify to the satisfaction of the Committee that he or she meets the requirements for membership and has undertaken family law arbitration training approved by the Committee.

3.4 All applications for membership will be considered by the Committee, whose decision shall be final.

4. **Members' Duties**

All members must follow the code of practice published by the FLAGS Committee.

5. **Officers**

5.1 The Officers of FLAGS will consist of:-

Chair
Secretary
Treasurer

5.2 Each Officer will be elected by the members of FLAGS.

5.3 The initial term of office for the Officers will be three years.

5.4 An Officer may resign from office during the currency of their elected term. Such resignation shall be intimated to the Committee in writing. Such resignation shall not take effect until 1 month from the date of such written intimation.

5.5 In the event that any office becomes vacant and no Officer is elected, the Committee may appoint one of its members to fill the vacancy for the remainder of the unexpired term of office.

5.6 In the event of illness, incapacity or material breach of duty it will be open to the Committee to terminate any office prior to expiry of its term. In order for the Committee to make such a decision a majority of two-thirds will be required.

6. **Chair**

6.1 The duties of the Chair will include:-

- (a) Ensuring that any meeting of the Committee or membership is chaired and good order kept at all meetings.
- (b) Ensuring good order is kept at any vote or election and that account is taken of all votes properly cast.

- (c) Ensuring that time is allocated for discussion at meetings of any items on the agenda issued.
- (d) Allocating at the meeting following an AGM, special responsibilities of Committee members.
- (e) Reporting to the membership annually on the implementation and furtherance of the aims of FLAGS and the discharge of their duties as an Officer since the last report.
- (f) Reporting to the membership via the website on the discharge of their duties as an officer on any matter of importance.
- (g) Representing FLAGS when required by the Committee.
- (h) Such other duties as the committee shall from time to time determine.

7. Secretary

7.1 The duties of the Secretary will include:

- (a) Annually intimating to relevant bodies the identity of the Committee members and Officers.
- (b) Ensuring that an agenda is prepared and intimated for each Committee meeting; the agenda to include any matters arising from the last minutes, reports by the Officers, any matters requested for inclusion on the agenda by any Committee member, any applications for membership and any other competent business.
- (c) Ensuring that minutes are taken at each Committee meeting and disseminated to each committee member prior to the next committee meeting.
- (d) Promptly acknowledging and bringing before the Committee, correspondence addressed to FLAGS, the committee or any of the Officers.
- (e) Advising the membership of any intimation of an intention to stand as a Committee member or Officer no later than 7 days before an AGM or EGM.

- (f) Ensuring that all votes timeously received are taken account of at the relevant meeting or election. It is the responsibility of the Secretary to preserve the confidentiality of the voting process.
- (g) Arranging any EGM called by the Committee or requested by the members (where no previous EGM has been requested in the preceding 3 months).
- (h) Ensuring that the Committee are advised of any request for an EGM at the next Committee meeting held following such a request where that request is made by any member who has not requested an EGM within the preceding 3 months.
- (i) Intimating in writing to the membership the date, time and place of any proposed AGM or EGM.
- (j) Preparing and intimating an agenda for the AGM or EGM to the membership to be received no later than 7 days before the meeting.
- (k) Responsibility for maintaining the register of members and membership discipline.
- (l) Reporting annually to the membership on the discharge of their duties as an Officer since their last report.
- (m) Representing FLAGS when required by the Committee.
- (n) Such other duties as the Committee will from time to time determine.

8. Treasurer

8.1 The duties of the Treasurer will include:

- (a) Ensuring that all income is credited to a bank account in the name of FLAGS.
- (b) Ensuring that proper accounting records are kept.
- (c) Producing to each Committee meeting a short financial report.
- (d) Effecting such intromissions as are instructed by the Committee.

- (e) Reporting annually to the membership on the discharge of their duties as an Officer since their last report.
- (f) Representing FLAGS as and when required by the Committee.
- (g) Such other duties as the Committee will from time to time determine.

9. Committee

9.1 The Committee will consist of:

- (a) The Officers.
- (b) Not fewer than 5 and no more than 10 elected members (including Officers).
- (c) Such other members as the committee shall from time to time co-opt:
 - i. for a specific purpose, and
 - ii. for a specific term (which will not exceed 3 years),

which purpose and term shall be intimated to the membership not later than 3 months after such members have been co-opted.

9.2 From the elected members (excluding Officers) shall be drawn the following:

- (a) The Convenor of Training and Education;
- (b) The Convenor of Policy and Development; and
- (c) The Convenor of Marketing and Promotion;

9.3 It is a prerequisite of an application for Committee membership that the applicant be a member of FLAGS. The term as a Committee member will be 3 years.

9.4 If a Committee member or Officer wishes to stand for a further term, he or she may stand for re-election along with any other candidate.

- 9.5 For the committee to make any decision, no fewer than 3 Committee members must be present at the relevant committee meeting. All decisions shall be on a show of hands and approved by a simple majority of those Committee members present. The Committee will try to pass all decisions by way of consensus but in the event of tied vote, the Chair, or in the absence of a Chair, the Secretary shall have a casting vote in addition to his or her ordinary vote. Meetings may take place electronically.
- 9.6 The Committee will meet quarterly.
- 9.7 In the event that any matter requires to be addressed in between Committee meetings the agreement of two Officers and one Committee member will be required to make any decision.

10. Duties of Convenors

- 10.1 It shall be the duty of each Convenor to establish a sub-committee of members to assist in fulfilling the duties of each Convenor as follows:
- (a) The duties of the Convenor of Training and Education shall include the maintenance and enhancement of continuing professional training and development of the membership.
 - (b) The duties of the Convenor of Policy and Development shall include responsibility for drafting, amending and maintaining the Constitution, Code of Practice, Rules, Practice Notes of FLAGS, responding to consultation papers, liaison with Government, SLAB and other stakeholders.
 - (c) The duties of the Convenor of Marketing and Promotion shall include maintenance and development of the FLAGS website, twitter accounts and other social media and promotion of the positive image and profile of FLAGS, its aims and objectives.
- 10.2 Each Convenor shall be responsible to the Committee for the management and duties undertaken by the sub committee appointed by them.
- 10.3 Each Convenor shall present an annual report at the AGM of the workings of the sub committee appointed by them. This report

shall include a note of all recommendations made by the relevant sub-committee and shall record any dissention made by a member of the sub-committee to any recommendations so made.

11. Duties of Committee Members

11.1 The duties of each Committee member will include:

- (a) Meeting with Officers following the AGM, and agreeing, and committing to, an outline programme for the Committee to meet in the coming year to ensure that there are regular, well attended meetings to allow the Committee to function efficiently and productively.
- (b) Attending the Committee meetings.
- (c) Taking all reasonable steps to make the membership aware of any issues that arise during the period of Committee membership which are likely to have a bearing on members.
- (d) Drawing the attention of the Committee at the next meeting to any correspondence received in his or her capacity as a Committee member or Officer and any response made.
- (e) Considering any request by members for an EGM.
- (f) Considering applications for membership and the expulsion of members.
- (g) Admitting any person who has made an application who meets the requirements set out in clause 3 above.
- (h) Promoting the organisation.
- (i) Co-ordinating initial arbitration training and further intermediate/advanced training as required.
- (j) Such other duties as may be determined by the committee from time to time.

12. Elections and Votes

12.1 Each member will have one vote in any election.

- 12.2 Postal votes or votes received by e mail will be accepted in any election provided that they are received by the Secretary no later than 1 week before the vote is to take place.
- 12.3 Proxy votes will be accepted provided that the member granting the proxy has intimated to the Secretary his or her intention to grant a proxy, that intimation of the grant of the proxy is received by the Secretary in writing or e mail and that the proxy vote is then received no later than 1 week before the vote is to take place.
- 12.4 All elections shall be by way of secret ballot. A simple majority is sufficient in all instances. In the event of a tied vote the Chair (or in the absence of the Chair, the Secretary) shall have a casting vote in addition to his or her ordinary vote.
- 12.5 Any member seeking election as a Committee member or Officer will intimate his or her intention to stand to the secretary no later than 28 days before the date of the AGM.
- 12.6 Intimation of an intention to stand as a Committee member or Officer shall be in writing and will include a summary (not to exceed 250 words) which must include:
- (a) The reasons for seeking election to the committee or as an officer as the case may be.
 - (b) Details of the candidate's suitability for the post, and
 - (c) A commitment to discharge the relevant duties.

A separate summary will be required for each appointment sought. Each summary must be signed by the candidate and by 2 existing members, one of whom is prepared to propose the applicant's candidacy, the other of whom is prepared to second it.

13. **Subscriptions**

Any membership subscription rates will be set initially by the Committee and thereafter at the AGM.

14. **Accounts**

The administration of any bank account held in the name of FLAGS will be effected in such manner as the Committee will from time to time determine.

15. **AGM**

15.1 The AGM will be held annually, at a time and place to be determined by the Committee. Intimation of that AGM shall be by writing or e mail and shall be intimated to the members not less than 42 days before the date of the proposed AGM.

15.2 At the AGM:

- (a) Each Officer and each Convenor will report to the members.
- (b) The accounts will be considered and if approved, adopted.
- (c) Elections of Officers and Committee members will take place.
- (d) The annual subscription (if any) will be fixed.
- (e) There will be consideration of any other matters on the agenda.

15.3 A member can request that any matter is added to the agenda for the AGM by writing to the Secretary no later than 28 days before the proposed AGM specifying in detail the matter which they wish to have raised at the AGM.

15.4 There must be a minimum of 5 members present for the AGM to take place. If there are fewer than 5 members present the AGM will be continued to a date not later than 1 month after the original AGM. At any such continued AGM, business will be concluded irrespective of the number attending. The intimation requirements for such continued AGM are the same as those for the AGM.

16. **EGM**

16.1 Extraordinary general meetings may be called by the Committee or requested by members when a question of urgent importance arises. An EGM requested by members requires intimation in writing to the Secretary of the purpose of the EGM and specification of the urgency. The intimation must be signed by at least 5 members.

16.2 In the event of an EGM being called by any members, all or any of whom have requested an EGM within the preceding 3 months the Secretary shall refer the request to the Committee. The Committee will have the authority to refuse, at its sole discretion, to call an EGM if it considers that the purpose of the EGM is substantially similar to business which has already been disposed of by the FLAGS in general meeting. In the event that the Committee refuses to call an EGM the request for an EGM and the reasons for its refusal will be reported to the members in writing within 14 days of the decision to refuse. In the event of the Committee permitting an EGM, the Secretary shall intimate the date of the EGM to the membership. The date of the EGM shall be not less than 28 days from the date of intimation of said request.

16.3 Any EGM may be adjourned but no more than once. There must be a minimum of 5 members present for the EGM to take place. If there are fewer than 5 members present the EGM will be continued to a date not later than 1 month—after the original EGM; at which continued EGM business will be concluded irrespective of the number attending. The intimation requirements for such continued EGM are the same as those for the EGM.

17. Termination of Membership

17.1 A member shall automatically cease to be such during any period that they are removed from or suspended from the Roll of Solicitors in Scotland or the Faculty of Advocates.

18. Expulsion of Members

18.1 The Committee will have the power to expel members from membership of FLAGS.

18.2 A member may be expelled from membership of FLAGS if that member has seriously or consistently failed to adhere to the Code of Practice and/or has brought arbitration or FLAGS or its members into serious disrepute.

18.3 Where it comes to the attention of the Secretary that an allegation of serious or consistent failure to adhere to the Code of Practice and/ or an allegation that a member has brought arbitration or FLAGS or its members into serious disrepute has been made, the Secretary shall investigate the allegation.

- 18.4 If the Secretary is satisfied that there is a prima facie case for the member to answer, the Secretary shall notify the Committee and that member, in writing, that the member is alleged to have seriously or consistently failed to adhere to the Code of Practice and/or has brought arbitration or FLAGS or its members into serious disrepute.
- 18.5 That written notice shall set out the reasons for alleging that the member has seriously or consistently failed to adhere to the Code of Practice and/or has brought arbitration or FLAGS or its members into serious disrepute. It shall explain that the member has the right to rebut the allegations in writing and has a right to be heard orally in respect of this rebuttal by a quorum of the Committee. Any rebuttal in writing shall be provided to the Convenor of Membership Administration within 28 days of the date of the written notice.
- 18.6 In the event that the member wishes the opportunity to be heard orally on the rebuttal, a hearing of the Committee shall be fixed not less than 7 days from the date of the rebuttal in writing.
- 18.7 The hearing (including, if there is no request by the member for an oral hearing, consideration of the written notice and the rebuttal in writing, if any) shall be before a quorum of the Committee. That quorum shall not include the Secretary. The Secretary shall be in attendance and shall present the Committee with all evidence ingathered in the Secretary's investigation of the allegation. The member may be represented at any such hearing. The hearing shall be conducted in a fair and reasonable manner and the procedure adopted at the hearing shall be determined by the chair of the Committee quorum having regard to the nature of the allegations. Minutes of the hearing shall be taken.
- 18.8 Following the hearing or the consideration of reasons and rebuttal provided in writing, the Committee may decide to expel the member. That decision to expel may be by majority of the Committee quorum. The Secretary shall not vote, participate in or be present during the deliberations of the Committee quorum.
- 18.9 The member shall be advised of the decision of the Committee quorum at the oral hearing (if such a hearing occurred) or in writing within 7 days of such a decision being taken. The decision of the Committee quorum shall be final.

19. Suspension of Members

19.1 The Secretary shall have the power to suspend a member from membership of FLAGS as follows:

- (a) where that member has been or is being investigated in terms of Clause 18 but only until the decision of the Committee quorum in terms of Clause 18; and
- (b) where, at the Secretary's sole discretion, the Secretary is satisfied that the seriousness of the allegation against the member justifies the suspension of the member.

20. Effect of cessation of membership

20.1 A member may resign from membership or as a Committee member or Officer at any time by giving notice in writing to the Secretary. A member who resigns continues to be liable for any annual subscription due and unpaid at the date of his or her resignation.

20.2 In the event of a member failing to pay his or her subscription for a period of 6 months after it has become due, the committee may treat such non-payment as a resignation by the member.

20.3 Any member who is expelled or otherwise ceases to be a member forfeits all rights to, or claim upon, FLAGS or its property or funds that he or she would have had by reason of his or her membership, is not entitled to any return of subscription and remains liable for any subscription or other fees outstanding at the expulsion/cessation of membership.

21. Payment of Expenses

The Committee may authorise the Treasurer to reimburse any member expenses incurred whilst undertaking activity on behalf of FLAGS. The Committee may instruct the purchase of (and authorise payment for) goods or services on behalf of FLAGS.

22. Indemnity

The Officers and Committee members will not be liable for their acts or omissions in management carried out in good faith and in accordance with this constitution and any losses incurred as a result of such acts or omission shall be borne by FLAGS alone and the Officers

and Committee members will be indemnified against risk and expense to the extent of FLAGS property.

23. Amendments to the Constitution

Amendments to the constitution require a two-thirds majority of votes cast at a general meeting which must be constituted in terms of clause 15 or 16 as appropriate. In order to allow the Secretary to comply with the intimation requirements clause and to ensure that notice of the intention to amend is given to the membership, any proposed amendments must be received by the Secretary no later than 21 days before the general meeting at which amendments will be considered.

24. Dissolution

Dissolution of FLAGS requires a two-thirds majority of votes cast at a general meeting which must be constituted as set out in terms of clauses 15 or 16. In the event of dissolution any surplus funds or assets after satisfaction of all debts and liabilities of FLAGS shall be distributed to charitable purposes in such a manner as may be decided by two-thirds majority at the general meeting which takes the decision to dissolve FLAGS.