



## CONSTITUTION

APPROVED NOVEMBER 2003

### 1. NAME

The name of the association is the 'Family Law Association', hereinafter referred to as the 'FLA'.

### 2. AIMS

The FLA's aims are as follows;

- To promote Family Law as a branch of law in its own right, rather than as a type of litigation.
- To promote and provide education and training in Family Law and in skills necessary for good practice.
- To provide opportunities and facilities for members to meet and to exchange knowledge, views and ideas, both at national and regional level.
- To monitor law reform which has a bearing on Family Law and to engage, where possible, in the process of reform at whatever level.
- To provide a point of reference for the public and for other organisations on Family Law issues.
- To undertake such other activities as the committee or membership may from time to time determine.

### 3. MEMBERSHIP

The FLA's membership will comprise members, associate members and honorary members.

Members will include:

Solicitors

Reporters to the Children's Panel

Such other persons as the committee will, from time to time, deem fit. Association members may include:

Trainee solicitors or devils engaged in Scots Family Law work

Advocates

Sheriffs

Senators of the College of Justice

Persons qualified to practice law in accordance with the requirements of jurisdictions other than Scotland

Academics teaching Scots Family Law at any institution

Paralegals engaged in Scots Family Law work

Such other persons as the committee will, from time to time deem fit

Whether retired from, or in practice, whose application for membership, in the form prescribed below, has been approved by the committee.

All members and associate members must reapply for membership annually.

All applications for membership or associate membership will be in the prescribed form set out in appendix 1.

Each new application and relative declaration must be signed by the applicant and by two existing members, one of whom is prepared to propose the application, the other of whom is prepared to second it. Existing members are not required to obtain signatures from a proposer and seconder.

Any member may nominate a candidate for honorary membership of FLA, which nomination will be considered by the committee in the usual way. Such nominations must be accompanied by a summary (not to exceed 250 words) which must include;

■ reasons for the nomination

- Details of the applicants suitability for honorary membership

Each nomination for honorary membership must be signed by the candidate to indicate a willingness to be a member and by two existing members, one of whom is prepared to propose

the application, the other of whom is prepared to second it.

All applications for membership will be considered by the committee in terms of clause 11.

#### **4. MEMBERS DUTIES**

The duties of members, whatever the nature of their membership, in addition to any other professional duties that they may have are as follows;

- to be aware of the FLA's aims and actively to support the FLA in the furtherance of these
- to co-operate with and assist fellow members in the good and efficient administration of the FLA
- To use contact with other practitioners, whether in person, by correspondence, or by telephone, as constructively as possible and with a view to resolving rather than inflaming issues between parties.
- to encourage clients to explore different methods of resolution following the breakdown of a relationship and regularly review the appropriateness of the method chosen
- To handle contact with clients (both the member's client and any opponent) with professionalism and sensitivity

#### **5. OFFICERS**

The officers of the Association will consist of;

- Chair  
Vice-chair
- Secretary
- Treasurer

Each officer will be elected from amongst committee members who have served on the committee for a period of at least one year prior to the AGM at which he or she is to stand for election as officer.

The term of office will be one year.

If he or she wishes to stand for a further term in that office, he or she may stand for re-election as such along with any other candidate for that office. A vote in such a situation will not, however, take place until he or she has been re-elected for a further term as a committee member, if election as a committee member is required in terms of s.10 below.

The maximum period in any one office will be two years (subject to the vacancy provisions below). No committee member will hold more than two offices in any three year period, subject to the vacancy provisions below.

In the event that any office becomes vacant, and no officer is elected, the committee may appoint one of its number to fill the vacancy for the remainder of the unexpired term of office.

## **6. CHAIR**

The duties of the chair will include:

- ensuring that any meeting of the committee or membership is chaired and good order kept at all meetings
- ensure good order is kept at any vote or election, and that account is taken of all votes properly made; ensure that time is allocated for discussion at the meeting of any items on the agenda issued in terms of clause 8
- allocating at the meeting following the AGM, in the absence of consent, special responsibilities and regional responsibilities to the committee members in terms of clause 11
- reporting to the membership of the AGM on the implementation and furtherance of the FLA's aims and the discharge of their duties as an officer since the last AGM
- reporting to the membership in every edition of the Bulletin on the discharge of their duties as an officer on any matter of importance that has arisen since the last bulletin
- producing to each committee meeting a short report on the discharge of their duties as an officer since the last committee meeting
- representing the FLA as and when required by the committee
- such other duties as the committee will from time to time determine

## **7. VICE CHAIR**

The duties of the vice chair will include:

- Acting as chair in the chair's absence
- ensuring that a publication (hereinafter referred to as The Bulletin) is published at least once per calendar year, which publication will contain the officers and nominated committee member's reports (in terms of clauses 6,7,8,9 and 10) inform the membership of any issues having a bearing on the aims of the FLA and provide a forum for the membership to raise issues relevant to the aims of the FLA and the duties of the members, committee members and officers
- liaising with the editor or editors of the Bulletin to ensure that matters of importance to the committee are brought to the editor(s) attention
- reporting to the membership of the AGM on the discharge of their duties as an officer since the last AGM
- reporting to the membership in every edition of the Bulletin on the discharge of their duties as an officer on any matter of importance that has arisen since the last bulletin
- producing to each committee meeting a short report on the discharge of their duties as an officer since the last committee meeting
- representing the FLA as and when required by the committee
- such other duties as the committee will from time to time determine

## **8. SECRETARY**

The duties of the secretary will include;

- maintenance of a register of members
- annually issuing a certificate of membership to each member
- annually intimating to relevant bodies the identity of the committee members and officers
- ensuring that an agenda is prepared and intimated for each committee member; 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

- ensuring that minutes are taken at each committee meeting and disseminated to each committee member prior to the next committee meeting
- promptly acknowledging, and bringing before the committee, correspondence addressed to the Association, the Committee or any of the Officers
- advising the membership of any intimation of an intention to stand as a committee member or officer received in terms of clause 12 and copying to them the accompanying summary, all to be received no later than 14 days before the AGM
- ensuring that all postal and proxy votes timeously received in terms of clause 12 are taken account of at the relevant meeting or election
- promptly arranging any EGM called by the committee or requested by members (where no previous EGM has been requested in the preceding 3 months)
- 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 requested an EGM within the preceding 3 months
- intimating in writing to the membership the date, time and place of any proposed AGM or EGM, such intimation to be received no later than 42 days before the proposed meeting
- preparing and intimating an agenda for the AGM or EGM to the membership to be received no later than 14 days before the meeting which agenda will include any matters raised in terms of clause 15
- ensuring that the committee are advised of any appeal against expulsion made in terms of clause 18
- reporting to the membership of the AGM on the discharge of their duties as an officer since the last AGM
- reporting to the membership in every edition of the Bulletin on the discharge of their duties as an officer on any matter of importance that has arisen since the last bulletin
- producing to each committee meeting a short report on the discharge of their duties as an officer since the last committee meeting

- representing the FLA as and when required by the committee
- such other duties as the committee will from time to time determine

## **9. TREASURER**

The duties of the treasurer will include:

- ensuring that all income is credited to a bank account in the name of the FLA
- ensuring that proper accounting records are kept
- produce to each committee meeting a short financial report
- ensuring that accounts are audited annually
- effecting such intromissions as are instructed by the committee
- reporting to the membership at the AGM on the discharge of their duties as an officer since the last AGM
- reporting to the membership in every edition of the Bulletin on the discharge of their duties as an officer on any matter of importance that has arisen since the last bulletin
- producing to each committee meeting a short report on the discharge of their duties as an officer since the last committee meeting
- representing the FLA as and when required by the committee
- such other duties as the committee will from time to time determine

## **10. COMMITTEE**

The committee will consist of

- The officers
- not more than 8 elected members
- such other members as the committee may from time to time co-opt

(i) For a specific purpose, and

(ii) For a specific term (which will not exceed three years),

which purpose and term will be introduced to the membership not later than three months after such members have been co-opted.

It is a prerequisite of an application for committee membership that the applicant be a member, associate member or honorary member of the FLA. The term as a committee member will be three years.

If he or she wishes to stand for a further term, he or she may stand for election along with any other candidates.

In order for the Committee to make any decision, no fewer than 6 Committee members must be present at the relevant committee meeting. All decisions shall be shown on 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 a tied vote, the chair (or in the absence of the chair, the vice chair) shall have a casting vote in addition to his or her ordinary vote.

The committee will meet at least once every two calendar months.

The committee will nominate a committee member whose responsibility it is to report to the membership at the AGM on the discharge of the committee's duties since the last AGM.

The committee will nominate a committee member whose responsibility it is to report to the membership in every edition of the Bulletin on the discharge of the committee's duties on any matter of importance that has arisen since the last bulletin.

#### **11. DUTIES OF COMMITTEE MEMBERS**

The duties of each committee member will include;

- meeting with the officers following the AGM and accepting for the duration of their term as a committee member, (1 a special responsibility as defined in terms of this clause (whether done or jointly with other committee members) and (2) a regional responsibility as defined in terms of this clause {whether alone or jointly with other committee members)
- Meeting with the 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.
- To attend at least 60% of the committee meetings in any given year

- to take 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 but for which it would be impractical or there would be insufficient time to inform the membership by way of intimation in the next Bulletin or by calling an EGM, or at the AGM
- to draw the attention of the committee at the next meeting any correspondence received in his or her capacity as a committee member or officer, and any response made
- to consider any request by members for an EGM received in terms of clause 16 in a manner which promotes representation for the members, and is seen to exemplify the characteristics of accountability and transparency
- to consider applications for membership, expulsion and appeals against expulsion in a manner which is seen to exemplify the characteristics of accountability and transparency
- to admit to any person who has made an application in accordance with Clause 3 unless it appears to the committee that the applicant is an unfit person to be a member. In the event that the committee take the view that an applicant is not to be admitted to membership they must notify the applicant of their intention to refuse membership in writing, giving reasons for the refusal. The applicant must be given the opportunity to appear before the committee to show cause why he or she should be admitted to membership. Any applicant not admitted to membership after appearance before the committee is entitled to require the committee to call an EGM at which the EGM an appeal against the decision of the committee will be heard and at which EGM the applicant must be given the opportunity to be heard. Any such EGM will be convened in terms of clauses 8 and 16. At said EGM a two thirds majority is required to confirm the refusal of admission to membership. If the necessary confirmation is not obtained the member is deemed to have been admitted from the date of their initial refusal of admission of membership.

A special responsibility in terms of this clause will be a responsibility for (i) ensuring that there is a programme of seminars for the membership and thereafter ensuring that such seminars

take place, OR, (ii) ensuring that any issues relating to the legal aid and its effect on the membership are monitored, information thereon is disseminated to the membership and any process of consultation is engaged in fully, OR. (iii} ensuring that any consultation process on law reform which may have a bearing on the membership is monitored, information thereon is disseminated to the membership and that any process of consultation is engaged in fully, OR, (iv) monitoring, ensuring that updating is carried out and development of the FLA's website, OR. (v) any other project that the committee will set.

A regional responsibility in terms of this clause will be a responsibility (i) to jointly with at least one other committee member, act as a point of contact for members in one of the sheriffdoms of Grampian Highland and Islands, North Strathclyde, South Strathclyde, Dumfries & Galloway and Tayside, Central and Fife. (ii) To meet no less than twice each year with members practising in the relevant sheriffdom and (iii) to raise points arising from such meetings at the next appropriate committee meeting.

## **12. ELECTIONS & VOTES**

Each member will have one vote.

Postal votes will be accepted provided that they are received by the secretary no later than 1 week before the vote is to take place.

Proxy votes will be accepted provided that the member getting the proxy has intimated to the secretary his or her intention to grant a proxy no later than one week before the vote is to take place.

All elections shall be by way of secret ballot a simple majority is sufficient in all instances except where otherwise provided for. In the event of a tied vote, the chair (or in the absence of the chair, the vice chair) shall have a casting vote in addition to his or her ordinary vote.

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.

Intimation of an intention to stand as a committee member or officer will be in the prescribed form set out at Appendix 2 and will include a summary (not to exceed 250 words) which must include;

- the reasons for seeking election to the Committee or as an officer, as the case may be,

- details of the candidate's suitability for the post, and
- 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 two existing members, one of whom is prepared to propose the applicant's candidacy, the other whom is prepared to second it.

### **13. SUBSCRIPTIONS**

Membership subscription rates will be set annually at the AGM.

### **14. ACCOUNTS**

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

The accounts of the FLA will be audited annually.

### **15. AGM**

The AGM will be in October, November or December each year, as appropriate, at a time and place to be determined by the committee.

At the AGM

- Each officer and the nominated committee member (in terms of clause 10 will report to the members.
- the accounts will be considered and adopted,
- the annual subscription will be fixed
- elections will take place
- there will be consideration of any other matters on the agenda

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 that they wish to have raised at the AGM.

There must be a minimum of 11 members present for the AGM to take place. If there are fewer than 11 members present the AGM will be continued not later than 2 months after the original AGM; at which continued AGM business will be concluded irrespective of the number

attending. The intimation requirements for such continued AGM are as set out in clause 8 and are the same as those for the AGM.

## **16. EGM**

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 10 members.

An EGM requested by the members will be dealt with by the secretary in terms of clause 8. In the event of an EGM being called by any members who 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 to call on EGM if it considers that the purpose of the EGM is substantially similar to business which has already been disposed of by the FLA in general meeting. In the event that the committee refuse to call an EGM the request for an EGM and the reasons for its refusal will be reported to the members in writing within 28 days of the decision to refuse.

Any EGM may be adjourned to, but no more than once. There must be a minimum of 11 members present for the EGM to take place. If there are less than 11 members present the EGM will be continued to a date not later than 2 months after the original EGM; at which continued EGM business will be conducted irrespective of the number attending. The intimation requirements for such continued EGM are as set out in clause 8 and are the some as those for the EGM.

## **17. TERMINATION OF MEMBERSHIP**

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,
- declared by the Law Society of Scotland to be an unfit person to be employed by solicitors

The committee will have the power to expel members from membership of the FLA, to expel a member the committee must

- Notify the member in question of its intention to expel providing at least 42 days notice of the intention to expel
- Notify the member in question of the reasons for that intention to expel
- Afford that member the opportunity to appear before the committee to show cause why he or she should not be expelled
- Any member expelled may appeal to an EGM (at which he or she must be given the opportunity to be heard) by writing to the secretary within 14 days of the intimation of the expulsion intimating an appeal against the committee's decision and the committee shall then call on EGM in terms of clauses 8 and 16. At said EGM a two-thirds majority is required to confirm the expulsion. If the necessary confirmation is not obtained the member is deemed never to have been expelled.

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.

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 resignation of the member.

Any member who is expelled or otherwise ceases to be a member forfeits all rights to, or claim upon, the FLA or its property or funds that he or she would have 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.

#### **18. PAYMENT OF HONORARIA**

The committee will fix annually honoraria. The committee will decide to whom honoraria are to be paid and at what level. The identity of the payees and the level of the honoraria will be reported to the membership at the next AGM.

#### **19. PAYMENT OF EXPENSES**

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

#### **20. 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 omissions shall be borne by the FLA alone and the officers and committee members will be indemnified against risk and expense out of the FLA property.

**21. AMENDMENTS TO THE CONSTITUTION**

Amendment to the constitution requires a two-thirds majority 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 in clause 8 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 twenty-one days before the General Meeting at which the amendments will be considered.

**22. DISSOLUTION**

Dissolution of the FLA requires a two-thirds majority at a general meeting which must be constituted in terms of clause 15 or 16, as appropriate, the intimation requirements in clause 8 having been complied with affording notice to the membership of the intention to dissolve. In the event of dissolution any surplus funds or assets after satisfaction of all debts and liabilities of the FLA shall be distributed for charitable purposes in such a manner as may be decided by a two-thirds majority at the general meeting which takes the decision to dissolve the FLA.

Appendix I

**CONFIRMATION OF INTENTION TO STAND AS OFFICER**

I, (full name)

Of (business address)

hereby confirm my intention to stand as (office) of the FLA. I understand that the term of office is 1 year and that after the expiry of the term that I may stand for a further term of 1 year. I am aware that the maximum period in any one office is 2 years (subject to the vacancy provisions).

I confirm that I am aware of the duties of (office) set out in the constitution and agree, if elected, to discharge these duties to the best of my ability.

My reasons for seeking election as (office) and details of my suitability for the post are as set out below: (not to exceed 250 words)

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..... (Signed) ..... (Date)

I, (proposer)

Of (business address)

hereby confirm that I am an FLA member and propose  
(Candidate)

for the post of of the FLA.

..... (Signed) ..... (Date)

I, (seconder)

Of (business address)

hereby confirm that I am an FLA member and propose  
(Candidate)

for the post of of the FLA.

..... (Signed) ..... (Date)

Appendix II

**CONFIRMATION OF INTENTION TO STAND AS OFFICER**

I, (full name)

Of (business address)

hereby confirm my intention to stand as (office) of the FLA. I understand that the term of office is 1 year and that after the expiry of the term that I may stand for a further term of 1 year. I am aware that the maximum period in any one office is 2 years (subject to the vacancy provisions).

I confirm that I am aware of the duties of (office) set out in the constitution and agree, if elected, to discharge these duties to the best of my ability.

My reasons for seeking election as (office) and details of my suitability for the post are as set out below: (not to exceed 250 words)

..... (Signed) ..... (Date)

I, (proposer)

Of (business address)

hereby confirm that I am an FLA member and propose

(Candidate)

for the post of of the FLA.

..... (Signed) ..... (Date)

I, (seconded)

Of (business address)

hereby confirm that I am an FLA member and propose

(Candidate)

for the post of of the FLA.

..... (Signed) ..... (Date)