

Fellowship of Professional Willwriters and Probate Practitioners



CONSTITUTION

Name

1 The name of the Association is Fellowship of Professional Will Writers and Probate Practitioners ('the Fellowship').

2 Objects and powers

3 The Fellowship is established for the purpose of regulating the conduct of Professional Will Writers and Probate Practitioners so that the public may have the confidence to choose a professional, competent and ethical organisation to help them make a will, administer the affairs of a deceased and to provide related legal services.

4 In furtherance of such objects but not otherwise the Fellowship may:

4.1 employ and pay any person or persons to supervise, organise and carry on the work of the Fellowship and make all reasonable and necessary provision for the payment of pensions and superannuation to or on behalf of employees and their widows and other dependants;

4.2 bring together in conference representatives of voluntary organisations, Government departments, statutory authorities and individuals;

4.3 promote and carry out or assist in promoting and carrying out research, surveys and investigations and publish the useful results thereof for the benefit of the public;

4.4 arrange and provide for, or join in arranging and providing for, the holding of exhibitions, meetings, lectures, classes, seminars and training courses;

4.5 collect and disseminate information on all matters affecting such objects and exchange such information with other bodies having similar objects whether in this country or overseas;

4.6 undertake, execute, manage or assist any charitable trusts which may lawfully be undertaken, executed, managed or assisted by the Fellowship;

4.7 raise funds and invite and receive contributions from any person or

persons whatsoever by way of subscriptions in accordance with the Fellowship's Fee Rules published from time to time on the Fellowship website and otherwise;

- 4.8 carry on trade in so far as either the trade is exercised in the course of the actual carrying out of a primary object of the Fellowship or is ancillary or incidental to the carrying out of the objects;
- 4.9 cause to be written and printed or otherwise reproduced and circulated, gratuitously or otherwise, such papers, books, periodicals, pamphlets or other documents or films or recorded tapes (whether audio or visual or both) as shall further the said objects;
- 4.10 purchase, take on lease or in exchange, hire or otherwise acquire any property and any rights and privileges necessary for the promotion of such objects and construct, maintain and alter any buildings or erections necessary for the work of the Fellowship;
- 4.11 make regulations for any property which may be so acquired;
- 4.12 subject to such consents as may be required by law, sell, lease or otherwise dispose of all or any of the property or assets of the Fellowship;
- 4.13 accept gifts and borrow or raise money for such objects on such terms and on such security as shall be thought fit;
- 4.14 subject to such consents as may be required by law, borrow or raise money for the said objects and accept gifts on such terms and on such security as shall be deemed to be necessary;
- 4.15 invest the money of the Fellowship not immediately required for the said objects in or on such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) as may for the time being be imposed or required by law;
- 4.16 do all such other lawful things as are necessary for the attainment of such objects;

4.17 establish where necessary local branches (whether autonomous or not).

5 Membership

5.1 Any person wishing to become a member of the Fellowship may apply to the Fellowship to be either a Student, an Affiliate, an Associate, a Member or a Fellow or a Non-Practicing Member using the Registration Form publicised on the Fellowship's website from time to time

5.2 The level of Membership shall be set out on each Member's Membership Certificate and will depend upon the level of expertise which each Member has been able to demonstrate by way of qualifying employment and successful completion of training and the passing of relevant exam units in accordance with the rules prescribed by the Fellowship from time to time.

6 Issuing of Membership Certificates by the Fellowship

6.1 The Fellowship shall issue Membership Certificates to successful applicants. The rules governing the registration of Members are set out in the Fellowship's Probate Practitioners Registration Form and Will Writers Registration Form and the and the Will Writers and Probate Practitioners Code of Conduct

6.2 The Executive Committee shall have the right:

6.2.1 to approve or reject applications for membership in accordance with the rules and requirements specified on the Fellowship's Registration form for membership of the Fellowship; and

6.2.2 for good and sufficient reason to terminate the membership of any individual or organisation provided that the individual member concerned or the individual representing such

organisation (as the case may be) shall have the right of appeal to the Regulatory Committee before a final decision is made.

7 Register of Fellowship Members

- 7.1 The Fellowship shall establish and maintain, in such form as the Fellowship may determine, a register containing the names and places of business of all persons who for the time being hold Memberships of the Fellowship
- 7.2 The Fellowship shall accordingly cause the appropriate entries and deletions to be made in the register on the issue and termination of Memberships; and where any Membership held by a person is for the time being suspended by virtue of any provision of the Regulatory Committee Rules and the Fellowship shall cause that fact to be noted in the register against that person's name.
- 7.3 Any change in a Member's place or places of business shall be notified by him to the Fellowship within the period of fourteen days beginning with the date on which the change takes effect.
- 7.4 The Fellowship shall provide facilities for making the information contained in the entries in the register available for inspection in visible and legible form by any person during office hours and without payment.
- 7.5 A certificate signed by an officer of the Fellowship appointed for the purpose and stating that any person does or does not, or did or did not at any time, hold a Membership Certificate in force under these rules or that any Membership Certificate held by any person is or was at any time either free of conditions or subject to any particular conditions, shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

8. Training Qualification and Development of Members

- 8.1 The Fellowship shall make rules relating to the education and training of those seeking to practice as Will Writers and/or Probate Practitioners, and those rules

shall, in particular, include provisions prescribing—

- 8.1.1 the examinations or assessments to be taken by such persons; and
- 8.1.2 requirements as to practical training and experience.
- 8.1.3 Rules made by the Fellowship under this section may—
 - 8.1.3.1 prescribe minimum standards of general education that must have been attained by persons who seek to practice as Professional Will Writers and/or Probate Practitioners;
 - 8.1.3.2 provide for the recognition by the Fellowship of courses of study provided by educational institutions or other bodies as being adequate for the purpose of preparing candidates for any examinations or assessments held
 - 8.1.3.3 prescribe any education or training to be undergone by persons who are Members of the Fellowship, and, in connection therewith, provide for the approval by the Fellowship of courses of study provided by educational institutions or other bodies;
 - 8.1.3.4 include provision for the charging of fees by the Fellowship;
 - 8.1.3.5 make different provision in relation to different classes of persons.
- 8.1.4 Rules under 8.1.2 may provide:
 - 8.1.4.1 for the manner in which a person may satisfy the Fellowship that he has complied with any requirement of the rules as to practical experience;
 - 8.1.4.2 for attendance by a person at a training course approved by the Fellowship for the purposes of the rules to count as practical training for those purposes.
- 8.1.5 Without prejudice to the generality of subsection 8.1.3.5, rules under this section may provide for persons who:
 - 8.1.5.1 hold such qualifications as may be specified in the rules; or
 - 8.1.5.2 have acquired such experience in relation to the provision of will writing and/or probate services as may be so specified; or
 - 8.1.5.3 satisfy such other conditions as may be so specified, to be exempt from any of the requirements of the rules.

8.1.6 The Fellowship may:

8.1.6.1 appoint, or approve the appointment of, persons as examiners or moderators in connection with examinations or assessments held in pursuance of subsection 8.1.1; and

8.1.6.2 remunerate any person appointed by the Fellowship under 8.1.6.1

9. Rules as to professional practice, conduct and discipline

9.1 The Fellowship shall, in pursuance of its general duty referred to in the Objects and Powers of this Constitution, make rules for regulating the professional practice, conduct and discipline of Professional Will Writers and Probate Practitioners.

9.2 Rules made by the Fellowship under this section may provide for regulating the Fellowship of Professional Will Writers and Probate Practitioners with other persons in connection with the provision of Will Writing and Probate Services to members of the public.

10. Keeping of accounts and establishment of client accounts

10.1 The Fellowship shall make rules requiring Professional Will Writers and Probate Practitioners to keep such accounts in relation to their practices as may be prescribed by the rules and these rules can be found in the Accounts Rules

10.2 The Fellowship shall also make rules requiring Professional Will Writers and Probate Practitioners:

10.2.1 to open and keep at authorised institutions accounts for clients' money;

10.2.2 to hold and pay out money so received in such manner as may be prescribed by the rules; and

10.2.3 to keep accounts containing particulars and information as to money received or held or paid by them for or on account of their clients;

10.2.4 The Accounts Rules shall specify the institutions which are authorised for the purposes of rules under paragraph 10.2.1.

10.3 Rules under subsection 10.1 or 10.2 of this rule may empower the Fellowship:

10.3.1 to require Professional Will Writers and Probate Practitioners to deliver to the Fellowship at such intervals as may be prescribed by the rules reports given by qualified accountants and containing such information as may be so prescribed:

10.3.1.1 for the purpose of giving a true and fair view of the state of their businesses; or

10.3.1.2 for the purpose of enabling the Fellowship to ascertain whether or not the rules have been complied with;

10.3.2 to take such other steps as it considers necessary or expedient for the latter purpose;

10.4 Subject to the provisions of 10.5 subsection, an accountant shall be qualified to give any such report as is referred to in 10.3.1

10.5 An accountant shall not be qualified to give any such report in relation to a Professional Will Writer and/or Probate Practitioner if he is an employee or partner of, or an employee of a partner of, the Professional Will Writer and/or Probate Practitioner.

11. The Adjudication and Appeals Panel

11.1 The Fellowship shall establish a committee, to be known as the Adjudication and Appeals Panel, for the hearing and determination of:

11.1.1 applications and appeals made or brought under the Regulatory Committee Rules.

11.1.2 The Fellowship shall make rules as to the constitution of the Adjudication and Appeals Panel, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members of the Committee.

11.2 Rules under this section:

11.2.1 may provide for the appointment of persons to the Adjudication and Appeals Panel

11.2.2 The specific rules governing the endorsement and revocation of Member's Certificates are contained in the Will Writers and Probate Practitioner Rules.

12 Honorary officers

12.1 the Fellowship shall elect a President and such other honorary officers as the Fellowship shall from time to time decide.

12.2 the President and any other honorary officers of the Fellowship shall hold office until they resign from their positions.

12.3 The President shall be entitled to sit in on the Executive Committee meetings of the Fellowship when invited to do so but shall not be entitled to a vote.

13. Executive committee

13.1 Subject as mentioned below the policy and general management of the affairs of the Fellowship shall be directed by the Executive Chairman and with the support of the Chief Executive, finance executive and other members of the executive together known as the executive committee ('the Committee') which shall meet not less than 10 times a year and when complete shall consist of not less than 3 members of the Committee including the Executive Chairman.

13.2 Any casual vacancy in the Committee may be filled by the Committee and any person appointed to fill such a casual vacancy shall hold office in accordance with the provisions of rule 13 of this Constitution

13.3 The proceedings of the Committee shall not be invalidated by any failure to elect, or any defect in the election, appointment, co-option or qualification of, any member.

13.4 The Committee shall appoint and fix the remuneration of staff (not being members of the Committee) as may in its opinion be necessary.

- 13.5 The Committee may appoint such special or standing committees as may be deemed necessary by the Committee and shall determine their terms of reference, powers, duration and composition. All acts and proceedings of such special or standing committees shall be reported back to the Committee as soon as possible.
- 13.6 A vacancy in the office of any member of the Executive Committee shall automatically occur:
 - 13.6.1 Five years from the date of appointment unless re-elected by a majority of the Committee. Re-election shall create an appointment for a further 5 year period and the end of which period a vacancy shall occur (subject again to the possibility of re-election)
 - 13.6.2 on his death;
 - 13.6.3 on the acceptance by the Fellowship of his written resignation;
 - 13.6.4 if he is convicted of a criminal offence involving fraud, dishonesty or deception or an indictable offence which has not been spent by virtue of a period of rehabilitation without offending under the Rehabilitation of Offenders Act 1974;
 - 13.6.5 if he is adjudged bankrupt, is the subject of a bankruptcy restrictions order or makes a composition or arrangement with his creditors;
 - 13.6.6 if he lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to him; or
 - 13.6.7 if professional misconduct is proved against him by the disciplinary process of his professional body.
- 13.7 An Executive Committee Member may be removed from office by resolution passed in the following way:
 - 13.7.1 at a special meeting of all of the Committee Members
 - 13.7.2 the person who it is proposed is to be removed may appear in person at the meeting together with a nominated representative of their choice

- 13.7.3 the Committee shall then determine whether the Committee Member is to be removed by way of secret ballot.
- 13.7.4 all Committee Members (other than the Executive Committee Member in question) must vote in favour to remove the Committee Member before the Committee pass a resolution to remove that Committee Member failing which the Member in question will not be removed

13.8 Where a vacancy occurs, it shall be filled as soon as possible

13.9 If there is a vacancy in the office of Chairman or if the Chairman is unable or unwilling to act within a reasonable time, another member of the Committee (as determined by the attendee members at such meeting) shall act in his place.

14 Annual General Meetings of the Fellowship

- 14.1 Once a year an Annual General Meeting of the Fellowship shall be held at such time (not being more than 15 months after the holding of the preceding Annual General Meeting) and place as the Committee shall determine.
- 14.2 At least 21 clear days' notice shall be given in writing by the Secretary to each member. At such Annual General Meeting the business shall include the consideration of an annual report of the work done by or under the auspices of the Committee and of the audited or examined accounts; and the transaction of such other matters as may from time to time be necessary.
- 14.3 The Chair of the Committee may at any time at his discretion, and the Secretary shall within 21 days of receiving a written request so to do signed by not less than 75% of the full members of the Fellowship whether individual or representative and giving reasons for the request, call a special general meeting of the Fellowship.
- 14.4 Save as otherwise provided, all questions arising at any meeting shall be decided by a simple majority of those present and entitled to vote. Arrangements for proxy voting may from time to time be made by the Committee provided that no such arrangements shall be made with

regard to clauses 12 and 13. No person shall exercise more than one vote notwithstanding that he or she may have been appointed to represent 2 or more interests, but in case of an equality of votes the Executive Chairman shall have a second or casting vote.

- 14.5 Minute books shall be kept by the Committee and all other committees, and the appropriate secretary shall enter in the minute book a record of all proceedings and resolutions.

15 Standing orders and rules

- 15.1 The Committee shall have power to adopt and issue standing orders and/or rules for the Fellowship. Such standing orders and/or rules shall come into operation immediately provided that they shall be subject to review by the Fellowship in general meeting and shall not be inconsistent with the provisions of this Constitution.

16 Payments

- 16.1 All moneys raised by or on behalf of the Fellowship shall be applied to further the objects of the Fellowship but notwithstanding this rule 16.1 five percent of all funds received by the Fellowship shall be paid to a charity nominated by the Committee provided that nothing herein contained shall prevent:

16.1.1 the repayment to members of the Committee or of any committee appointed under clause 13 hereof of reasonable out-of-pocket expenses,

- 16.2 the Committee being entitled to effect policies of insurance or indemnity and paying any premiums thereon to cover the liability of the Committee (or any of them) which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in relation to the Fellowship; provided that any such insurance or indemnity shall not extend to any

claim arising from any act or omission which the Committee (or any of them) knew to be a breach of trust, or breach of duty, or which was committed by the Committee (or any of them) in reckless disregard of whether it was a breach of trust or breach of duty or not.

17 Finance

17.1 The Committee shall comply with their obligations under the Legal Services Act 2007 (or any statutory re-enactment or modification of that Act) with regard to:

17.1.1 the keeping of accounting records for the Fellowship;

17.1.2 the preparation of annual statements of account for the Fellowship;

17.1.3 the auditing or independent examination of the statements of account of the Fellowship; and

17.1.4 the transmission of the statements of account of the Fellowship to the Commissioners.

17.2 An audited statement of the accounts for the last financial year shall be submitted by the Committee to the Annual General Meeting as aforesaid.

17.3 A bank account shall be opened in the name of the Fellowship with HSBC Bank plc, of Stourbridge or with such other bank as the Committee shall from time to time decide. All cheques must be signed by not less than two authorised signatories.

18 Fellowship property

18.1 Subject to the provisions of clause 18.2, the Committee shall cause the title to:

18.1.1 all land held by or in trust for the Fellowship which is not vested in the members of the Committee; and

18.1.2 all investments held by or on behalf of the Fellowship

to be vested either in a corporation entitled to act as a custodian trustee or in not less than three individuals appointed by them as holding trustees. Holding trustees may be removed by the Committee at their pleasure and shall act in accordance with the lawful directions of the Committee. Provided they only act in accordance with the lawful directions of the Committee, the holding trustees shall not be liable for the acts and defaults of its members.

- 18.2 The holding trustees shall be entitled to an indemnity out of the property of the Fellowship for all expenses and other liabilities properly incurred by them in the discharge of their duties.

19 Alterations to the constitution

- 19.1 Subject to the following provisions of this clause the Constitution may be altered by a resolution passed by not less than two-thirds of the Committee present and voting at a meeting of the Committee. The notice of the general meeting must include notice of the resolution, setting out the terms of the alteration proposed.
- 19.2 No amendment may be made to clause 1 (the name of the Fellowship clause), clause 2 (the objects clause), clause 20 (the dissolution clause) or this clause without the prior consent in writing of the Committee.

20 Dissolution

- 20.1 If the Committee by a simple majority decides at any time that on the ground of expense or otherwise it is necessary or advisable to dissolve the Fellowship, it shall call a meeting of all members of the Fellowship who have the power to vote of which meeting not less than 21 days' notice (stating the terms of the resolution to be proposed) shall be given. If such decision shall be confirmed by a two-thirds majority of those present and voting at such meeting the Committee shall have power to

dispose of any assets held by or on behalf of the Fellowship. Any assets remaining after the satisfaction of any proper debts and liabilities shall be given or transferred to such other charitable institution or institutions having objects similar to the objects of the Fellowship as the Committee may determine.

21 Notices

Any notice may be served by the Secretary on any member either personally or on its appointed representative as the case may be or by sending it through the post in a prepaid letter addressed to such member at his, her or its last known address in the United Kingdom, and any letter so sent shall be deemed to have been received within 10 days of posting.