

Court of Protection Bar Association

Proposed Constitution

1. The name of the Association shall be the Court of Protection Bar Association, to be also known as CPBA (“**the Association**”).
2. The Association shall not discriminate against any person in any way on the grounds of race, colour, ethnic or national origin, nationality, citizenship, sex, gender reassignment, sexual orientation, marital or civil partnership status, disability, age, pregnancy and maternity, religion or belief.
3. Membership of the Association (“**Members**”) shall be open to any member of the Bar of England and Wales interested in Court of Protection Law and such other persons who shall be appointed Honorary Members of the Association by the Committee.
4. The objects of the Association shall be:
 - 4.1 To promote the interests of those who through lack of mental capacity or other vulnerability are unable to take decisions for themselves and to facilitate and promote their ability to participate as fully as possible in any act done for them and / or any decision affecting them.
 - 4.2 to provide a forum for discussion of common interests among its Members;
 - 4.3 to promote the interests of the Court of Protection Bar;
 - 4.4 to ascertain and represent the views of its Members on matters relating to and affecting their professional interests;
 - 4.5 to protect and promote the interests of justice, in particular with reference to the Court of Protection;
 - 4.6 to further the study, understanding and development of the practice and procedure of Court of Protection and of the Mental Capacity Act 2005;

4.7 to promote and enhance the legal education and training of those practising or intending to practice at the Bar in Court of Protection Work

4.8 to do any act or acts in furtherance of the foregoing objects or ancillary thereto.

5. The administration of the Association shall be conducted by a Committee (“**the Committee**”), all of whom shall be Members of the Association.

6. The membership of the Committee (who, subject to paragraph 6.3, shall be elected) shall be as follows:

6.1 Five officers (“**the Officers**”), namely Chair, Vice-Chair, Treasurer, and Secretary and Membership Secretary.

6.2 Nine elected ordinary members drawn from the following categories:

6.2.1 Three members who at the date of their election were Queen’s Counsel;

6.2.2 Three junior members who at the date of their election were of more than seven years call; and

6.2.3 Three junior members who at the date of their election were of less than seven years call.

6.3 Not more than six additional Members co-opted by the Committee.

7. When co-opting additional Members under paragraph 6.3 The Committee shall seek to ensure that it has:

7.1 Representation from both property and affairs and health and welfare practitioners;

7.2 Representation from practitioners appearing regularly before the Court of Protection in Wales and before each of its English regional ‘hubs’.

8. Each Officer shall be elected for a term of two years and shall retire at the close of the Annual General Meeting in the year that their term ends. A retiring Officer

is eligible to stand for re-election to the same office on one occasion, so that no person shall hold any one office for more than two consecutive terms.

9. In the event of a vacancy arising among the Officers, the Committee shall appoint a member of the Committee to undertake the vacant role until the next Annual General Meeting. At that Annual General Meeting a new election for that office shall be held.

10. Subject to paragraph 29 below, each ordinary member of the Committee shall be elected for a term of three years and shall retire at the close of the Annual General Meeting in the year that their term ends. A retiring ordinary member of the Committee is eligible to stand for re-election.

11. In the event of a vacancy arising among the ordinary members of the Committee, the Committee may co-opt a Member of the Association to undertake the vacant role until the next Annual General Meeting. At that Annual General Meeting an election for an ordinary member of the Committee to complete the remainder of the term of the Committee member who vacated the post shall be held or (if that term would have ended at that Meeting) an election of a new ordinary member of the Committee shall be held.

12. Co-opted members of the Committee shall hold office until the next Annual General Meeting, but their co-option may be renewed.

13. Elections of Officers and of ordinary Committee members shall be by ballot of all Members present (or represented by a duly appointed proxy) at the Annual General Meeting. Each candidate for election shall be proposed and seconded by Members of the Association. In the event of a contested election there shall be a ballot of the entire membership conducted within two weeks of the

meeting. Such ballot may be conducted by post or electronically (as the Committee shall determine).

14. Members may appoint another Member of the Association to act as their proxy at any General Meeting. Such appointment must be in writing (to include e-mail) and a copy must be received by the Chair of the meeting no later than the start of the meeting. The decision of the Chair of the meeting as to the scope and validity of a proxy shall be final.

15. The Committee shall seek to obtain representation for the Association on the Bar Council. If such representation is granted the Committee shall be responsible for the appointment of a member to represent the Association on the Bar Council.

16. The Committee may determine its business and procedure at its discretion.

16.1 A quorum for a Committee meeting shall be the Chair (or his/her designate) and four other members of the Committee.

16.2 Committee members shall be entitled to attend meetings by telephone and such attendance shall count towards the quorum.

16.3 Save in cases of urgency, three days' notice shall be given of any Committee meeting.

17. An Annual General Meeting of the Association shall be held each year, and in any event shall be held no later than thirteen months after the previous Annual General Meeting. The Committee may (and if requested by at least twelve members of the Association shall) call a General Meeting at any time (other than during Vacation). Notice of fourteen days shall be given of any General Meeting. A quorum for a General Meeting shall be fifteen Members. Members who have appointed a proxy shall count towards the quorum.

18. The Constitution of the Association may be altered by resolution passed by a two-thirds majority of the Members present (or represented by a duly appointed proxy) and voting at any General Meeting. Notice of fourteen days shall be given of any proposal to make such an alteration.

19. The Chair of any Meeting shall have a casting vote.

20. Any question relating to the interpretation of this Constitution are to be settled by the Chair of the Association whose decision is to be final.

21. The Committee may from time to time appoint Honorary Members of the Association (including an Honorary President and Honorary Vice-Presidents), having regard to such person's contribution to the field of Court of Protection and Mental Capacity law. Honorary Members shall be entitled to participate in all activities of the Association save that they shall not enjoy any voting rights whatsoever or be eligible for election to the Committee or office.

22. Each Member of the Association (other than Honorary Members) shall as a condition of membership pay insofar as required an annual subscription. The Association may by resolution in General Meeting determine categories of Member, and the rates of subscription (if any) payable by persons within such categories. Such resolution may also delegate to the Committee the power:
 - 22.1 to offer a membership fee rebate, or to impose an additional fee, conditional upon the means by which the subscription is to be paid, and
 - 22.2 to offer a reduced or no fee to any category of Member for a limited introductory period.

Subscriptions shall be paid on or before 1st April each year. Any Member whose subscription is more than three months in arrears shall automatically cease to be a Member, but shall be reinstated forthwith upon payment.

23. The Committee shall be at liberty to engage secretarial and / or administrative assistance at the expenses of the Association to assist the Officers and / or the Committee in their exercise of their powers and duties under these rules.

24. The expenses incurred by the Association shall be met from the subscriptions paid by the Members and from any other funds raised by the Committee for the purposes of the Association. For the avoidance of doubt “expenses incurred by the Association” includes:

24.1 the reimbursement of out of pocket expenses incurred by any person (including Officers and members of the Committee) which in the opinion of the Committee have been incurred for the purposes of the Association; and

24.2 The provision of a gift or honorarium to any person who has provided assistance to the Association.

25. The Committee shall have power to remove any Member or Honorary Member from Membership of the Association if it considers it in the interests of the Association to do so. Any procedure adopted by the Committee in this regard shall comply with the principles of due process and natural justice.

26. The Association:

26.1 is a non-profitmaking organisation and shall not systematically aim to make a profit;

26.2 shall use any profit or surpluses of income over expenditure for the maintenance and improvement of its activities in pursuance of the Association’s objects; and

26.3 shall not distribute any profit or surpluses to its Members or to any of them or to any other person (other than in accordance with paragraphs 27 and 28 below).

27. The Committee may at any time, after prior consultation with the Membership, decide by resolution that the Association is to be dissolved. The Committee will then be responsible for the orderly winding up of the affairs of the Association.

28. After making provision for all outstanding liabilities of the Association, the Committee must apply the remaining property and funds in one or more of the following ways:

- 28.1 By transfer to one or more bodies established for purposes within, the same as, similar to or including the Objects;
- 28.2 For exclusively charitable purposes for the advancement of legal education.

29. Notwithstanding paragraph 10 above, on the first occasion of the election of ordinary members of the Committee, nine ordinary members shall be elected as follows:

- 29.1 Three members who at the date of their election were Queen's Counsel;
- 29.2 Three junior members who at the date of their election were of more than seven years call; and
- 29.3 Three junior members who at the date of their election were of less than seven years call.

Of those elected:

- (A) One Queen's Counsel, one junior member of more than seven years call and one junior member of less than seven years call shall hold office until the close of the first Annual General Meeting after their election;

(B) One Queen's Counsel, one junior member of more than seven years call and one junior member of less than seven years call shall hold office until the close of the second Annual General Meeting after their election;

(C) One Queen's Counsel, one junior member of more than seven years call and one junior member of less than seven years call shall hold office until the close of the third Annual General Meeting after their election;

and the date of each ordinary members' retirement shall be determined by the drawing of lots.