



MEMBERSHIP APPLICATIONS GUIDELINES

1 Constitution

1.1 Paragraph 4 of the Articles of Association provides:

4. Membership

4.1 The initial members are the subscribers who signed these Articles.

4.2 Membership is open to the following :-

- (a) solicitors, legal executives, employed barristers, or clerks employed by or supervised by solicitors who are substantially engaged in Property Litigation or Property Mediation in England and Wales;
- (b) solicitors, legal executives, employed advocates, or clerks employed by or supervised by solicitors who are substantially engaged in Property Litigation or Property Mediation in Scotland;

who support the Objects.

1.2 Absent change in the Articles of Association, the criteria set for membership for the PLA must be in accordance with the Articles of Association.

1.3 The key test therefore for admission to membership is whether or not the applicant is 'substantially engaged' in Property Litigation or Property Mediation.

1.4 For clarity, 'Property Litigation' is defined as:

"the resolution of contentious property matters (including professional negligence claims relating to property transactions and advice) by means of litigation and other forms of dispute resolution. It excludes matters relating to planning and construction."

1.5 There does not appear to be a similar definition for 'Property Mediation'.

1.6 There is no established purpose in the Articles of Association as to why membership is so limited to those being substantially engaged in Property Litigation or Property Mediation. It would however appear logical to limit membership to those with a genuine and practical

interest in Property Litigation and Property Mediation – the aim being for members having a common professional practice to have a body that represents their interests and is a forum for meeting other similar professionals to share ideas and benefit from social and educational functions relevant to Property Litigation and Property Mediation.

2 Substantially Engaged

- 2.1 Substantial engagement has no precise legal definition and is subjective. This by itself is not a problem. With uncertainty comes a degree of flexibility, which can be helpful in making decisions concerning applications for membership.
- 2.2 Substantial engagement would be engagement in Property Litigation or Property Mediation that is not wholly frivolous or insignificant. Therefore, there would be cause for rejecting an application where the applicant was not a practitioner of Property Litigation or Property Mediation and only very rarely dealt with such matters, if at all.
- 2.3 Further, an application should be rejected where the applicant's application is based not on engagement with Property Litigation or Property Mediation, but instead on providing or selling services to members. Such applicants would not be substantially engaged in Property Litigation or Property Mediation.
- 2.4 To be substantially engaged does not require a set percentage portion of an applicant's workload to be dedicated to Property Litigation. It is possible that a figure of less than 50% of an applicant's workload would still qualify as being substantially engaged as the engagement could well be not insignificant and more than frivolous.
- 2.5 Where an applicant applies from a firm that has a dedicated Property Litigation practice, applications should be approved in all but the most exceptional circumstances. The fact that an applicant practices in a Property Litigation specialism should be determinative of substantial engagement.
- 2.6 It is less clear-cut and therefore more subjective where the applicant is applying from a firm that does not have a Property Litigation specialism. In such circumstances, the PLA will have to ascertain if there is genuine substantial engagement in Property Litigation and Property Mediation. The PLA should not be reticent about contacting a Proposer and Seconder of the applicant in order to discuss the application and to gauge the nature of the applicant's practice.
- 2.7 A more generalist practitioner may have periods when they are heavily practicing Property Litigation and periods when they are not practicing much Property Litigation. In such circumstances, a longer view can be taken by the PLA as to the overall substantial nature of the engagement. An applicant should not be rejected simply because of a lean period. However, the PLA should seek to ascertain if looking to the future, the applicant over time would be considered to be substantially engaged in Property Litigation or Property Mediation.

3 Objects

- 3.1 It is vital that the application support the PLA's Objects. These are:
 - (i) Promoting specialist Property Litigation skills within the property industry and among others with interest in property;
 - (ii) Providing a network for the exchange of information among members of the Association;

- (iii) Promoting and encourage education and training in Property Litigation; and
- (iv) Developing a public voice of Property Litigation with a media profile and a lobbying capacity.

3.2 Any evidence that the Objects are not supported should lead to a rejection of the application.

3.3 It is possible that an application may be made by a person seeking access to the PLA's database of members. Such an application is for the commercial interests of the applicant and not the promotion of the Objects and therefore should be rejected.

4 Former and Lapsed Members

4.1 Issues have arisen in respect of former and lapsed members of the PLA. This could be a person who has been between firms, or who has taken a sabbatical or been on maternity/paternity/compassionate/other leave. In the event of an application from such former or lapsed members, the application criteria applicable to new members applies.

4.2 In such circumstances, the prior engagement of the applicant may be a relevant factor in the decision-making process as to whether or not the applicant should be admitted.

5 Current Members

5.1 Current members are obliged to certify that they are substantially engaged in Property Litigation or Property Mediation and support the PLA's Objects at annual renewal of their membership. Subject to this and payment of the annual subscription, current members' memberships will be renewed.

6 Decision Making

6.1 All new applications for membership of the PLA will be determined at a meeting of the PLA Executive Committee whose decision is final and binding. Applicants are at liberty to re-apply as often as they wish should their application be rejected.

7 Guidelines

7.1 Whilst determining who should be a member of the PLA is (subject to the requirements of the Articles) a subjective decision for the PLA, the appended summary guidelines may assist in application assessment.

Property Litigation Association

13 September 2016

Application Guidelines

1. Membership

- a. Membership is open to solicitors, legal executives, employed barristers or clerks employed or supervised by solicitors who are substantially engaged in Property Litigation or Property Mediation in England and Wales.
- b. Membership is open to solicitors, legal executives, employed advocates or clerks employed or supervised by solicitors who are substantially engaged in Property Litigation or Property Mediation in Scotland.
- c. Membership is not open to trainee solicitors.
- d. Membership is not open to planning or construction practitioners.

2. Property Litigation

- a. Property Litigation means the resolution of contentious property matters (including professional negligence claims relating to property transactions and advice) by means of litigation and other forms of dispute resolution.
- b. Property Mediation is not defined, but falls within the above definition of Property Litigation.
- c. Any applicant not satisfying the above criteria should be rejected.

3. Substantial Engagement

- a. 'Substantial engagement' is engagement in Property Litigation that is not frivolous or insignificant.
- b. Substantial engagement is subjective.
- c. Applications demonstrating only frivolous and/or insignificant engagement should be rejected.
- d. Substantial engagement need not necessarily be engagement in Property Litigation that is more than 50% of an applicant's practice.
- e. Substantial engagement could be engagement that is less than 50% of an applicant's practice in Property Litigation. In such circumstances, greater scrutiny of the application will be required.
- f. Any engagement in Property Litigation that is more than 50% of an applicant's practice will in all likelihood be 'substantial engagement'.

- g. Where an applicant applies from a firm with a specialist Property Litigation practice and the applicant is practicing within the specialist practice, in all likelihood the substantial engagement criteria will be satisfied.
- h. Applicants from firms without specialist Property Litigation practices require greater scrutiny to ascertain if they are genuinely substantially engaged in Property Litigation or Property Mediation.
- i. If necessary, references from the Proposer and Secunder should be followed up to assist the PLA in determining if the applicant is substantially engaged in Property Litigation.
- j. A practitioner applying at a time when their Property Litigation practice is not substantial should not automatically be rejected if there is evidence that a) the applicant previously has been substantially engaged in Property Litigation and b) that there is a reasonable prospect that the applicant will be substantially engaged in Property Litigation within 12 months from the date of the application.

4. Objects

- a. All applications (regardless of the issue of substantial engagement) must support the following Objects:
 - (i) Promote specialist Property Litigation skills within the property industry and among others with interest in property;
 - (ii) Provide a network for the exchange of information among members of the Association;
 - (iii) Promote and encourage education and training in Property Litigation; and
 - (iv) Develop a public voice of Property Litigation with a media profile and a lobbying capacity.
- b. Any evidence that the Objects are not supported must be rejected.
- c. The PLA is keen to avoid the organisation being used for inappropriate marketing purposes and should be vigilant to ensure that any application whose primary purpose is to advance the commercial interest of the applicant as opposed to the promotion of the Objects should be rejected.

5. Former and Lapsed Members

- a. Former and lapsed members are entitled to re-apply to join the PLA. They will require to apply in the same way that a new applicant would be required to apply.
- b. If there is doubt concerning the former or lapsed member's application, the PLA is entitled to consider the applicant's prior engagement in the PLA as part of the decision-making process in respect of the consideration of the application.

6. Current Members

- a. Existing members shall have their membership renewed upon payment of the annual subscription and certifying that they continue to be substantially engaged in Property Litigation or Property Mediation and support the Objects.

7. Decision Making

- a. All new applications for membership of the PLA will be determined at a meeting of the PLA Executive Committee whose decision is final and binding.
- b. Applicants are at liberty to re-apply as often as they wish should their application be rejected.

**Property Litigation Association
13 September 2016**