

The Constitution of



As amended on October 30 2017

THE SOUTH AUSTRALIAN FINANCIAL COUNSELLORS ASSOCIATION INC

CONSTITUTION

1. NAME

The name of the Association shall be “The South Australian Financial Counsellors Association Incorporated” hereinafter referred to as “SAFCA”.

2. INTERPRETATION

Financial Counsellor:

A financial counsellor predominantly assists consumer debtors to manage the consequences of debt and advocates and/or negotiates on behalf of consumers through one or more of the following:

- direct casework,
- group or class advocacy,
- community development and education,
- social action and reform.

A financial counsellor must carry out the above activities free of any conflict of interest and must work, paid or unpaid for a financial counselling agency as defined below:

Financial Counselling Agency:

A financial counselling agency is a service which:

- Offers full and independent financial counselling services to its clients. Financial counsellors employed by the agency have adequate skills and knowledge to provide the service.
- Offers these services free of fees, charges or remuneration directly or indirectly, and
- Complies with the model described by the Australian Securities and Investments Commission.

3. PURPOSES AND OBJECTIVES

3a The purposes of SAFCA are:

- to be a not-for-profit, charitable and benevolent institution;
- to provide support to financial counsellor Members and financial counselling agencies, particularly those which are public benevolent institutions and registered charities, through professional development, training and advocating for reform and funding for members;
- providing specific support to country and sole practitioner financial counsellors;
- facilitating supervision of financial counsellors to enable them to provide assistance to members of the community that are disadvantaged and facing financial hardship; and
- educating government, business and community stakeholders on the role of members as financial counsellors and the value they provide to financially disadvantaged members of the community.

3b The objectives of SAFCA are to ensure that:

- Financial counsellors in South Australia and the Northern Territory are supported to achieve best practice;
- The financial counselling sector has secure, stable and sustainable funding while capitalizing on opportunities to increase funding;
- SAFCA engages with a wide range of stakeholders to ensure recognition of financial counselling as a highly regarded profession and SAFCA as its peak body;
- Vulnerable consumers have an effective voice; *and*
- SAFCA is a well governed, strong, adaptive organisation that is valued by members, government and other stakeholders as the peak body in South Australia and the Northern Territory for financial counsellors to assist vulnerable consumers through financial counselling.

3c INCOME AND PROPERTY

The income and property of SAFCA, however derived, shall be applied solely towards the promotion of the purposes and objectives of SAFCA, and no portion of the income or property of SAFCA shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any member or board member of SAFCA.

4. MEMBERSHIP

There are three classes of membership: Full Members, Associate Members and Affiliated members.

A Member and an Associate member cannot work for an organisation that charges fees for budgeting, financial counselling, or debt management.

All members must:

- Agree to abide by the Australian Financial Counselling Code of Ethical Practice;
- Agree to abide by SAFCA State constitution rules.

Full Member

Has had 24 months full-time experience working as a financial counsellor (including while studying if relevant) **AND**

Holds Diploma of Community Services (Financial Counselling) **AND**

If working as a financial counsellor, meets requirements for continuing professional development and supervision **OR**

If not working as a financial counsellor, meets requirements for continuing professional development.

Associate Member

Working as a financial counsellor **AND**

Actively studying for the Diploma of Community Services (Financial Counselling) **OR**

Holds the Diploma of Community Services (Financial Counselling) and has not yet had 24 months full-time experience, however meets the requirements for continuing professional development and supervision.

Affiliate Member

An individual working in the financial counselling sector in a related role **OR**

Actively studying for the Diploma of Community Services (Financial Counselling) or has completed the Diploma of Community Services (Financial Counselling) - but is not working as a financial counsellor.

Voting Rights

Full and Associate members have full voting rights. An affiliate member does not have voting rights.

5. APPLICATION FOR MEMBERSHIP

Any person may apply for membership in writing in the form prescribed by the Board.

5.1 Acceptance of Applications

Membership applications shall be sent to the SAFCA office and tabled at a meeting of the SAFCA Board. Applications must meet the membership requirements in a process approved by the Board. The Board shall have the final decision on eligibility.

5.2 Fees

All fees will be determined annually by the Board.

5.3 Resignation

Members may resign from SAFCA by giving notice in writing, by email or by nonpayment of membership fees within two months after being given notice by mail, email or personal delivery that such fees are overdue.

5.4 Removal

The Board may suspend or expel any member of SAFCA:

- a. Who breaches any rule or by-law of SAFCA; or
- b. Who, in the opinion of the Board, acts in a manner which is contrary to the interests of SAFCA;
- c. Who breaches the ***Australian Financial Counselling Code of Ethics***; or
- d. Who no longer complies with the membership requirements of SAFCA.

The process for assessing, handling and responding to complaints about Members shall be by the FCA Disciplinary Process – Policy and Procedures

6. MEETINGS

6.1 General Meetings

Meetings of all members may be called:

- a. By the request of the Chair of SAFCA
- b. By the resolution of the Board;
- c. By the request of not less than five (5) members of SAFCA

Such a general meeting shall be held not less than fourteen (14) days or more than one month after the request or resolution is made. In the case of a request by members, the members may convene the general meeting if a meeting has not been held within the required time.

6.2 Repeal

Any repeal or amendment of the Rules shall be business of which notice must be given for an annual general meeting or a general meeting and must be carried as a special resolution. No such repeal or amendment shall have effect until it has been lodged with the Commission in accordance with the Act.

6.3 Special Resolutions

Motions for special resolutions must be lodged twenty-one (21) days prior to an annual general meeting, or be contained in the request for a general meeting and shall be included in the notice of the meeting sent to members. A special resolution must be carried by not less than 75% of the voting members present in person or by proxy. It shall be the responsibility of the Executive Officer of SAFCA to receive and act on such resolutions and requests. If no Executive Officer is in the employment of SAFCA then the Secretary has this responsibility.

6.4 Notice of Meeting

Fourteen (14) days notice in writing of every general meeting shall be given to every member at the address appearing in the register of members or at the email address of the member stating the time and place of such a meeting.

6.5 Omission of Notice

Non-receipt of notice of a meeting by a member shall not invalidate any proceedings or resolutions at any meeting of SAFCA or any Board hereof.

6.6 Chairperson of Meetings

The Chairperson of SAFCA shall preside at general meetings. In his/her absence or if unwilling to chair the meeting, or at the request of a majority of the meeting, the Deputy Chairperson shall preside. If that person is absent or unwilling, a chairperson may be elected for that meeting.

The Chairperson shall encourage full balanced participation in meetings by all members and shall decide on matters of order;

6.7 Adjournment

Members present at a meeting may agree to adjourn any meeting from time to time but no business shall be transacted at any adjourned meeting other than business left unfinished at the meeting from which the adjournment took place.

6.8 Voting

Resolutions other than special resolutions shall be carried by a simple majority of voting members present and proxies. In the case of an equality of votes the Chairperson shall have a second or casting vote.

6.9 Division

At any general meeting a declaration by the Chairperson that a resolution has been carried or not shall be sufficient evidence of members voting intentions unless three (3) members call for a poll. When a poll is taken the number of votes for and against the resolution shall be recorded.

6.10 Proxies

Every full member shall be entitled to one vote at every general meeting and may appoint any other full member by proxy which shall be deposited with the Executive Officer at least twenty-four (24) hours before the time of the meeting in respect of which the proxy is appointed.

If no Executive Officer is in the employment of SAFCA then the Secretary has this responsibility.

The instrument appointing the proxy must be in the form prescribed by the Board or in a similar or common form and signed by the member appointing the proxy.

6.11 Quorum at General Meetings

At all general meetings ten (10) members or two thirds of the membership whichever is less shall constitute a quorum. If within thirty minutes from the time appointed for the commencement of the meeting a quorum is not present the meeting if convened by request of members shall be dissolved or if not so convened shall stand adjourned to the same day in the next week at the same time and place or at such a time and place as is notified to members not less than forty-eight (48) hours prior to the meeting and at such adjourned meeting those present will form a quorum for all purposes.

6.12 Minutes

Minutes of the proceedings of every general meeting shall be kept in a minute book which shall be available for inspection by members upon request, provided that sufficient time

shall be given to the Minutes Secretary to produce the minute book at a time convenient to both parties.

6.13 Annual General Meeting

The Annual General Meeting of SAFCA shall be held each year not more than five (5) months after the end of the financial year of SAFCA which shall be 30 June.

6.14 Order of Business

The following shall be the order of business at every annual general meeting:

- a. Confirmation of the general minutes of the last annual general meeting and of any general meeting or meetings held since the last annual general meeting;
- b. Receipt and consideration of the financial statement;
- c. Receipt and consideration of the report of the Board;
- d. Election of Board members;
- e. Any other business of which the required notice has been given by members or sub-committees;
- f. Appointment of an auditor.

7. SAFCA BOARD

7.1 Membership of the SAFCA Board

7.1.1 The SAFCA Board shall consist of a Chairperson, a Deputy Chair, a Secretary/ Treasurer, a Membership Officer and a Financial Counselling Australia representative, as well as a minimum of two (2) other members, all of whom must be members of SAFCA;

7.1.2 The SAFCA Board shall have the power to appoint up to three additional members, appointed for their skill set eg governance or strategic planning, **and who may or may not be** members of SAFCA, to allow a maximum of ten persons. It must be a unanimous decision of the Board to appoint board members;

7.1.3 The Board shall co-opt a representative from regional South Australia to the Board if one is not declared elected at the Annual General Meeting, within the numbers set as a maximum in 7.1.2;

7.1.4 All Board members shall have a vote at Board meetings;

7.1.5 Apart from the non-members as per 7.1.2, all members of the Board shall be members of SAFCA

7.1.6 Only two Associate Members shall be members of the Board at any one time;

7.1.7 The Board may elect further office bearers as it shall so decide.

7.2 Board Members Terms of Office

7.2.1 Members and Associate Members shall be elected to the Board for a two year period, and may stand for re-election at the end of their term;

- 7.2.2 The SAFCA Chairperson may stand for election for a two year period and two subsequent periods of two years duration (ie up to six years in total), after which at least one year must elapse before that person can stand again for election as Chairperson.

7.3 Election of SAFCA Board

- 7.3.1 All elections for the position of Chairperson of SAFCA and for membership of the Board shall be conducted by electronic or postal ballot, with the results announced at an Annual General Meeting (AGM);
- 7.3.2 deleted Nov 7 2016;
- 7.3.3 The positions of Deputy Chairperson, Secretary, Treasurer, Membership Officer and the SAFCA representative to the Financial Counselling Australia Representative Council shall be elected by the Board from its members at a Board meeting held within five (5) weeks following the Annual General Meeting;
- 7.3.4 Not less than six weeks before the AGM, the Executive Officer (or Secretary if no EO is employed) shall cause a notice to be placed in the official SAFCA publication, and by email to all SAFCA full and associate members. This notice shall call for nominations, to be on the SAFCA nomination form, from SAFCA members for membership of the SAFCA Board and the Chairperson. The time period to nominate shall be up to three weeks prior to the date set for the AGM;
- 7.3.5 Not less than two weeks before the Annual General Meeting, the Executive Officer (or Secretary if no EO is employed) shall cause an electronic or postal ballot to take place for election of candidates;
- 7.3.6 The ballot must remain open for voting for at least thirteen days, but shall not be required for the Board if the number of vacancies on the Board is equal to or exceeds the number of nominees;
- 7.3.7 Those nominees with the most votes shall be elected and the results announced at the AGM;
- 7.3.8 If a nomination has not been received for the Chairperson or one or more of the Board places, then nominations for the remaining places only shall be called for at the AGM. Those persons who were nominated and who accept the nomination shall be declared elected at the AGM;
- 7.3.9 If, pursuant to 7.3.8, there is more than one nominee for the position of Chairperson, or more nominations than positions vacant on the Board, then elections by secret ballot shall take place at the AGM;
- 7.3.10 Every full and associate member of SAFCA has one vote.

7.4 Management

- 7.4.1 Unless otherwise stated in these rules or in the Act, the management of SAFCA and its property and affairs shall be under the control and management of the Board;
- 7.4.2 The Board shall be responsible for the management of relationships with SAFCA and with members of the Financial Counselling network in other states and territories of Australia, and with all other organisations, including government and non-government agencies;
- 7.4.3 The Board shall ensure that the affairs of SAFCA are managed at all times honestly and with due diligence;
- 7.4.4 The Board may act for all purposes, notwithstanding any vacancy in its number;
- 7.4.5 All proceedings at any meeting of the Board which has a quorum shall be valid, notwithstanding that it may afterwards be discovered that any of its members have been informally elected or not properly qualified;
- 7.4.6 SAFCA may employ a paid Executive Officer and other paid staff at the discretion of the Board and subject to funding. The paid staff may assume the duties of the Secretary, Treasurer and Membership Officer as decided by the Board.

7.5 Powers

- 7.5.1 The Board may exercise all the powers of the Association and do all such things as necessary to fulfil the Purposes of the Association;
- 7.5.2 The Board may delegate (subject to such conditions as they think fit) any of their powers to subcommittees consisting of such members of the Board and other members of SAFCA co-opted for that purpose as the Board may determine and make such regulations as to the proceedings of such sub-committees as thought desirable; and may at its discretion appoint and revoke the appointment of subcommittees consisting of members of SAFCA and delegate to them such powers as it may wish.
- 7.5.3 The Board may exercise all the powers of the Association and do all such things as necessary to fulfil the Purposes of the Association, including but not restricted to;
 - a. To enter into any lease or tenancy of premises in which activities of SAFCA may be carried on;
 - b. To start and defend all legal proceedings by or on behalf of SAFCA;
 - c. To provide the necessary insurance and comply with provisions for Workcover;
 - d. To borrow raise or secure the payments of money and to sell and dispose of the assets of SAFCA;
 - e. To appoint and dismiss employees of SAFCA.
- 7.5.4 The Association shall have all the powers as conferred by Section 25 of the Act.

7.6 Vacation of Office

The office of Chairperson, Deputy Chairperson, Secretary, Treasurer or other office or ordinary member of the Board shall be vacated if the person filling it:

- a. Ceases to be a member of SAFCA;
- b. Is removed from office under rule 7.7
- c. Becomes bankrupt or assigns his estate in pursuance of any Act relating to bankruptcy or insolvency for the time being in force;
- d. Resigns the office by notice in writing to the Secretary;
- e. Becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to intellectual capacity;
- f. Is absent for three successive Board meetings without explanation acceptable to the Board.

7.7 Casual Vacancies

Any casual vacancy occurring in the Board may be filled by the Board by co-option of a member. Any person so co-opted shall hold office until the expiration of the term of the original appointee.

7.8 Removal of Board members

- 7.8.1 SAFCA in general meeting may by resolution remove any Board member before the expiration of his/her term of office;
- 7.8.2 A member removed under this Rule may, by notice in writing given to the Secretary within one calendar month from the date thereof, appeal against such a decision at another general meeting;
- 7.8.3 Such notice shall state the grounds of appeal and such appeal shall be heard at a general meeting to be held no later than one month from the giving of such notice to the Secretary;
- 7.8.4 On hearing of any such appeal the member who feels aggrieved shall be afforded a full opportunity of being heard;
- 7.8.5 Until the hearing of any such appeal the decision of the Board shall have full force and effect.

7.9 Meetings of the Board

- 7.9.1 The Board shall meet together at least six times per year;
- 7.9.2 A quorum shall be five (5);
- 7.9.3 The Chairperson of SAFCA shall preside at board meetings. In his/her absence or if unwilling to chair the meeting, or at the request of a majority of the meeting, the Deputy Chairperson shall preside. If that person is absent or unwilling, a chairperson may be elected for that meeting.

The Chairperson shall encourage full balanced participation in meetings by all members and shall decide on matters of order;

- 7.9.4 Questions arising at any meeting shall be decided by a majority of votes and in the case of an equality of votes the Chairperson shall have a second or casting vote;

- 7.9.5 The Chairperson or any two Board members may at any time summon a meeting of the Board;
- 7.9.6 A meeting of the Board can be held by teleconference, videoconference, email or other suitable electronic means, as well as in person.

8. CHAIRPERSON

The Chairperson shall:

- a. Keep the Common Seal which shall be affixed only by resolution of the Board or of a general meeting and in the presence of two Board members including at least one office bearer;
- b. Have a personal deliberative vote and a casting vote at any meeting;
- c. Chair Board and general meetings in accordance to clauses 6.6 and 7.9;
- d. Together with the Secretary prepare the agenda for Board, sub committees and general meetings;
- e. Act as spokesperson unless an alternative spokesperson has been appointed by the Board. The Spokesperson shall make statements in accordance with at least two (2) members of the Board;
- f. Represent SAFCA on the Financial Counselling Australia Representative Council as one of two SAFCA voting members. If a second representative is not in attendance at the FCA Council Meeting, then the Chairperson shall have two votes at that meeting.

8.1 DEPUTY CHAIRPERSON

The Deputy Chairperson may undertake all the duties of the Chairperson:

- a) At the written request of the Chairperson;
- b) At the request of the Board by a motion of the Board at a properly constituted meeting as per 7.8.1.

9. SECRETARY

The Secretary shall:

- a. Keep full and correct minutes of all resolutions and proceedings of every general meeting and of all Board meetings in books provided for that purpose, together with a record of all the names of persons present at all meetings;
- b. Keep a register of all members setting forth their names and addresses;
- c. Attend to all correspondence;
- d. Perform such other duties as the Board may prescribe;
- e. Delegate such duties as agreed to by the Board.

10 EXECUTIVE OFFICER

- 10.1 An Executive Officer may be appointed by the Board on such terms and conditions as the Board shall from time to time determine;
- 10.2 The Executive Officer shall be responsible to the Board for the routine operations and management of the affairs of SAFCA, for the implementation of Board decisions, and for the employment and supervision of other employees of SAFCA;

- 10.3 The Executive Officer shall be the Public Officer of SAFCA unless the Board determines otherwise, and shall be responsible for carrying out all the duties of a Public Officer as set down in the *Associations Incorporation Act*.

11. FINANCIAL RECORDS

11.1 Treasurer

The Treasurer shall:

- a. Collect and receive all monies due to SAFCA and make all payments authorised by the Board;
- b. Keep correct accounts and books showing the financial affairs of SAFCA with full details of all receipts and payments and make such books and accounts available at all meetings or as required by the Board;
- c. Prepare financial statements as required by the Associations Incorporations Act;
- d. Delegate such duties as agreed to by the Board.

11.2 Signatories

All cheques, transfers or orders in writing concerning the funds of SAFCA shall be signed by two (2) of its members authorised by the Board, and a list of all such payments, transfers or orders shall be tabled at the next ordinary Board meeting.

11.3 Keeping of documents

All securities and records, registers and other documents of value, except those in use, shall be held at the address of the Public Officer or at such other safe place as the Board shall decide.

11.4 Right of inspection

Members of SAFCA shall, on giving reasonable notice, be able to inspect books of account or registers.

12. PUBLIC OFFICER

The Board shall appoint a Public Officer who shall file such returns and notices of the Association as required by law.

13. COMMON SEAL

The Common Seal of SAFCA shall be kept in the custody of the Chairperson of SAFCA and shall be affixed to a document only by resolution of the Board. Any two (2) members of the Board shall sign and countersign every document to which the seal is affixed and the Secretary shall keep a record of all documents so sealed.

14. WINDING UP AND DISPOSITION OF ASSETS

Subject to Clause 14A, if upon winding up or dissolution of SAFCA there remains, after satisfaction of all its debts and liabilities, any assets whatsoever, the same shall not be paid to or distributed amongst SAFCA's members. Subject to any trusts affecting those assets, they shall be transferred to some other institution or institutions:

- (a) having charitable and benevolent purposes and objectives similar to the objectives of SAFCA;
- (b) whose constitution or rules prohibit the distribution of its assets, profit or income among its members;
- (c) which is a registered charity with the Australian Charities and Not-for-profits Commission if SAFCA is so registered; and
- (d) which, if SAFCA is endorsed by the Australian Taxation Office as income tax exempt, are also currently endorsed as income tax exempt,

such institution or institutions to be determined by the members of SAFCA or in default thereof the Commissioner of Corporate Affairs.

14A. DEDUCTIBLE GIFT RECIPIENT STATUS

If SAFCA is endorsed as a deductible gift recipient by the Australian Taxation Office, if that endorsement is revoked, or upon the winding up of SAFCA (whichever occurs earlier), any surplus gifts, fundraising contributions or money received because of them as set out in section 30-125(6)(b) of the *Income Tax Assessment Act 1997* (Cth) of SAFCA remaining after payment of liabilities attributable to them shall not be paid to or distributed amongst members, but will be transferred to an institution or institutions:

- (a) having charitable and benevolent objectives similar to the objectives of SAFCA;
- (b) whose constitution or rules prohibit the distribution of its assets, profit or income among its members;
- (c) which is a registered charity with the Australian Charities and Not-for-profits Commission if SAFCA is so registered; and
- (d) which is endorsed as a deductible gift recipient on the same basis as SAFCA,

such institution or institutions to be determined by the members of SAFCA or in default thereof the Commissioner of Corporate Affairs.

15. AMENDMENT OF CONSTITUTION

15.1 The Constitution may be amended from time to time by resolution passed by a three-quarters majority of the members present and voting at a duly convened Annual or Special General Meeting of SAFCA of which at least twenty one days' notice in writing specifying the proposed amendment or amendments shall have been given to the members;

15.2 The Board may make, repeal or amend Rules for the proper administration of meetings or business provided that such rules, repeals of persons present and voting at a general meeting and provided that such rules, repeals or amendments shall be declared at the subsequent general meeting.