

## **Justice Committee**

### **Alternative Dispute Resolution**

#### **Written submission from the Family Law Arbitration Group Scotland**

##### **The background**

Following the Arbitration (Scotland) Act 2010, the Family Law Arbitration Group Scotland (FLAGS) was set up to promote the use and growth of arbitration as a means of resolving family law disputes. FLAGS are a group of nearly 50 solicitors, counsel and former members of the judiciary who have undergone training to act as family law arbitrators under the FLAGS scheme, using our own bespoke rules for arbitration in family law cases.

We offer arbitration services in relation to any disputes arising from the breakdown of a relationship between two parties. The issues in dispute are usually in relation to financial matters or the arrangements for care of children of a relationship. We can offer arbitration on discrete issues, such as the amount of maintenance to be paid, or on all issues that are in dispute when a relationship breaks down. This could include, for example: the fate of the matrimonial home, the lump sum to be paid by one spouse to another on divorce, the amount of spousal maintenance to be paid (and for how long) and the amount of time the children of a relationship should spend with each parent.

##### **The advantages of arbitration in family law disputes**

- Arbitration can be faster than the court process.
- The procedure can be as simple or as complex as the dispute requires. For example, procedural hearings can be done by telephone or online.
- Arbitration can be a cheaper alternative to court.
- The parties select the arbitrator and there is flexibility when and where the arbitration is heard.
- The process is confidential, unless the parties agree otherwise.
- Arbitration in family law cases will help reduce the burden on the courts.

##### **Barriers to the use of arbitration in family law disputes**

The uptake of arbitration in family law disputes is disappointingly low. This is for a number of reasons, including a lack of knowledge of the availability of arbitration for family law disputes, the fact that some Sheriff Courts offer specialist family courts with very experienced family law sheriffs, as well as the issue of cost, whether that be perceived or real.

##### **Overcoming these barriers**

- All potential users of family law arbitration should be made aware of its availability, its cost and the process. This requires support from various bodies including the Scottish Courts and Tribunals Service, the relevant mygov.scot pages and the CAB.

- Educating solicitors and the public that with the civil court process is not, as many still think, free or negligibly cheap compared to the cost of paying for an arbitrator.
- For legal aid to be made available for arbitration.

Family Law Arbitration Group Scotland  
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