

Resolution Specialist Accreditation

Complex Financial Remedy (Complex Middle to High Income & Assets)

Portfolio Competence Unit - Lawyers

This portfolio unit focusses on the specialist knowledge, understanding and application in practice to provide advice and representation to clients where complex mid to high (or exceptional) income/assets is a feature of their case. Candidates must be able to demonstrate and evidence from cases where s.25 'Needs' element

Competency code	Knowledge and Understanding Candidates must know and understand:
SACMH1	The Resolution Code of Practice and of other relevant protocols (e.g. The Law Society Family Law Protocol, the Remote Access Family Court and any associated protocols), the SRA Competence Statement and over-arching Standards Framework, Family and Civil Procedure Rules. Resolution's Guides to Good Practice and Precedents and demonstrate their appropriate application.
SACMH2	Application of the s.25 MCA legislation over and above applying the 'Needs' principle (please see guidance notes at the end of this unit).
SACMH3	Relevant case law required to advise on a case over and above applying the 'Needs' principal (please see guidance notes at the end of this unit).
SACMH4	The Family Procedure Rules 2010, court procedure, guidance and DR considerations.
SACMH5	Relevant law and considerations in respect of inherited assets, pre acquired and post separation assets.
SACMH6	Relevant law and procedures in relation to Trusts, information is outstanding, reference to any tax issues, the Courts powers to vary, and offshore trusts.
SACMH7	Relevant law and procedures in relation to company assets, their division upon divorce, tax consequences, liquidity issues.
SACMH8	Treatment of marital agreements post-Radmacher, the report of the Law Commission, to include awareness of international aspects.
SACMH9	International aspects in general, for example jurisdiction, assets held abroad, how the courts of England and Wales deal with such and enforcement.
SACMH10	Law and procedure in interim maintenance (maintenance pending suit) applications.
SACMH11	Law and procedure in Legal Services Payments applications inc. MCA 1973 s.22ZA/B.
SACMH12	Child Maintenance when income exceeds CMS maximum assessment: school fees orders: tertiary education orders.
SACMH13	Relevant legislation and case law on the treatment of maintenance to include, types of orders, the quantum of orders, length of orders and capitalisation.
SACMH14	Law and procedure in Variation of Maintenance applications.
SACMH15	Tax liability including Income Tax, Capital Gains Tax (including in relation to asset transfers, tax year of separation, SDLT, etc) and Entrepreneur's relief.
SACMH16	Awareness and procedure of costs and their implications.
SACMH17	Law and procedure s under s.37 (injunctions) and/or under the inherent jurisdiction and supervening or Barder events and the procedure, to include appeals.
SACMH18	Relevant pensions legislation
SACMH19	Law and procedure for joinder of parties (third party interveners such as trustees, companies and/or family members)
SACMH20	Relevant legislation and case law on the treatment of share options, bonuses and future income.

SACMH21	Law and procedure relating to the status of without prejudice offers, open offers, interim offers, final orders and consent orders.
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Competency code	Performance Candidates must be able to:
SACMH22	Demonstrate appropriate application of the Resolution Code of Practice and all other relevant practice protocols throughout their practice.
SACMH23	Identify and explain the law and likely procedures in relation to financial remedy focusing on the particular client circumstances.
SACMH24	Identify and explain the various stages of proceedings and required hearings to the client (inc. the requirements of s.10 Children and Families Act 2014).
SACMH25	Demonstrate an ability to consider proportionality and consider the balance between risk and certainty.
SACMH26	Assess and consider the client's objectives and those of their family.
SACMH27	Assess and explain the required disclosure in relation to client finances, including any need for forensic reports, experts and valuations.
SACMH28	Explain the range of family dispute resolution processes that may assist the client, including the potential for narrowing issues, exploring options, and where appropriate, for family arbitration.
SACMH29	Explain to a client and analyse s.25 and the case law in relation to their financial remedy case, the case containing issues over and above the 'Needs' principle (please see guidance notes at the end of this unit).
SACMH30	Identify, assess, explain and apply the issues surrounding companies, business interests, trusts and third-party interests
SACMH31	Show an ability to set out offers and settlement options in a logical and thorough manner.
SACMH32	Identify, assess, explain and apply the range of capital orders applicable to the particular case.
SACMH33	Identify, assess, explain and apply the range of child maintenance orders where income exceeds maximum assessment (school fees etc) applicable to the particular case.
SACMH34	Identify, and assess client, pensions including obtaining relevant CEV/actuarial reports and State Pension forecasts to include the range of pensions valuation methodology; pension attachment; off-setting; and pension sharing
SACMH35	Assess and consider referral to other services of advice and support, financial advisers, actuaries and valuers, family consultants.

Guidance Notes to Unit:

- The expectation for CFR2 is to have knowledge and technical ability over and above satisfying a client's needs case. This must include more complex issues such as business assets, third party assets, tax implications, assets overseas, more problematic business assets. Complex, technical litigation, such as cases involving interveners, preliminary TOLATA issues, companies being joined as parties, the OS being instructed, inheritance act issues, to name but a few. This is often found but not limited to mid to high net worth assets. **It is not enough to assume that experience in "big money cases" is sufficient to be competent in complex cases.** Candidates should take guidance from the competencies' description as to whether their caseload meets the criteria.

- Candidates must be able to demonstrate knowledge and their ability to have advised over and above applying 'Needs' principal in their application.
- Additionally, candidates undertaking this unit should be aware that they must demonstrate cases of sufficient complexity and not simply high or exceptional income or asset value.
- All candidates should be aware that not all competencies will feature in case studies but must be prepared and able to answer all that are listed in the unit. Assessment is adjusted to match competencies tested.