

Policy briefing September 2018

A step closer to no fault divorce

On 15 September, the Justice Secretary David Gauke announced plans to introduce no fault divorce.

The plans, set out in a consultation which runs until 10 December, would remove the need for couples to have been separated or to allege 'fault' in the divorce petition. Instead, there would be a new notification process where one, or possibly both parties, can notify the court of the intention to divorce.

This is a significant step forward, and a testament to the campaigning and lobbying over many years by Resolution members.

Our spokespeople have regularly appeared in the media in recent months, both in response to this exciting new development, and in the light of the Supreme Court judgment in Owens v Owens. Together our total media presence reached over 40 million people.

Court modernisation

Following the evidence given by Resolution and others, The Public Accounts Committee has [reported on the HMCTS reform programme](#). Our member experience survey was accepted by the Committee [as evidence](#). The report showed many of our points were taken on board, especially how the fast pace of change did not allow for meaningful consultation with practitioners and led to unintended consequences.

In response, HMCTS has invited us to work more closely with them. We will be pressing HMCTS on how they will act on our feedback going forward. You are best placed to report on court performance across the country and whether the benefits of reform are being felt on the ground. We will be in touch shortly about how you can get involved. More [information about court reform and digital projects](#) can be found on the HMCTS website.

Resolution members are among a small number of firms currently initially testing the online divorce interface for legal professionals. We will let you know as the pilot is expanded.

A very small pilot to begin to test an online system for making financial remedy consent order applications has also recently started.

Cohabiting couples

In August, members across the country raised awareness on social media and in the press of the common law marriage myth. Resolution partnered with other legal, relationship and children-focused organisations in our [letter to the Guardian](#).

Members will also have seen that the Supreme Court recently handed down their [judgment on widowed parent's allowance for cohabiting partners](#), allowing Siobhan McLaughlin's appeal and highlighting the need for legislation to support cohabitants' needs on the death of a partner. Resolution took the opportunity to raise awareness and [highlight the pressing need](#) for cohabitation law reform.

Our cohabitation campaign has generated media coverage over the summer which reached millions, advancing our aims to raise public awareness on legal rights of cohabitants upon separation or death.

Supporting the most vulnerable

Thank you for completing our impact of Laspo survey which provides valuable evidence about the impact of legal aid reforms and LAA practices on both clients and providers. The results will be submitted to the **Laspo post implementation review** team at the Ministry of Justice which expects to report to Ministers by the end of the year with a view to informing future legal aid and legal support policy.

In July Resolution joined Women's Aid and The Law Society to [call on government](#) to urgently bring forward promised legislation **to ban the cross-examination of domestic abuse victims by their alleged perpetrator** in the family courts. The Lord Chancellor [has responded](#) – we will continue with partners to press the Government on this issue.

In response to news about the **closure of the Family Drug and Alcohol Court (FDAC) National Unit** this month, Resolution has [written an open letter](#) to five Ministers urging government to intervene to safeguard its future.

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Other news:

- Our Legal Aid Committee has been closely monitoring recent LAA developments and the difficulties where providers are still awaiting their **new legal aid contracts**. Resolution is supporting the work of the LAPG and The Law Society to seek to improve the situation and ensure lessons are learned.
- Andrew McFarlane is now the **new President of the Family Division**. A number of Resolution members [spoke to The Law Society Gazette](#) about the future of family law and the issues they want to be addressed and our Chair Margaret Heathcote will be meeting the President shortly.
- Following the [Supreme Court judgment](#) on **civil partnerships**, the Government should be quickening the pace of its evidence gathering around the future of civil partnerships. New figures [released by ONS](#) show civil partnership numbers have increased for only the second time since same sex marriage became available in 2014. The New Law Journal recently published an [overview of developments](#) by Cohabitation Committee Chair Graeme Fraser.
- International Committee Chair Daniel Eames provides a round-up of key developments in [our latest Brexit Briefing](#), emailed to all members and available on Resolution's website.
- The new [SRA Transparency Rules](#) are expected to come into force in December 2018. Further to consultation to which Resolution responded, the SRA will mandate price publication in some areas but **not** in divorce or finances on divorce as originally proposed. They do however encourage firms to publish price and service information for other legal services if they are able to do so and guidance for divorce is expected. [Read more](#).
- The Law Commission has published information on the Government's response to and plans around the Commission's report on the [enforcement of financial orders](#).

New resources and responses:

- Resolution has produced an [updated Guidance Note](#) in response to the revised practice direction relating to the preparation of bundles in the Family Court and High Court. This applies to all court hearings before magistrates and judges sitting in the Family Court, and judges sitting in the Family Division of the High Court.
- Have you accessed our new [online learning platform](#) yet?
- Response to the LAA on revised [Costs Assessment Guidance](#) – see our upcoming September legal aid enews for more detail on the changes now made to this Guidance including about claiming for time spent using CCMS.
- Written evidence to the Economic Affairs Committee: [The use of the retail price index \(RPI\)](#)

Get involved

Respond to the [Government's consultation on divorce law reform](#). You have until 10 December, and it's important there are as many supportive responses as possible. We're also always looking for potential case studies, ideally a separating or separated couple who can talk about why they would prefer a no fault divorce. Please [email us](#) if you know anyone who would be interested.

Look out for calls for volunteers on social media and email to help **monitor court reforms**.

Resolution's Annual Awareness Raising week will take place from 26-30 November 2018. We will focus on how separating parents can limit the impact of conflict on their children. More information, including resources to support your work and ways to get involved, will be available on Resolution's website and sent via email over the coming months.