

Resolution Specialist Accreditation Core Competence Unit – Lawyers – amended 2022

This unit focusses on the specialist knowledge, understanding and application to practice required in the core aspects of family law. Please remember that you are expected to demonstrate and evidence your general knowledge and application in your practice of the Resolution Code (and of applicable protocols as at SAC01 and SAC030) in your responses

Competency code	Knowledge and Understanding Candidates must have <u>general knowledge and understanding</u> of:
SACO01	The Resolution Code of Practice and associated ethical principles of practice. Other relevant protocols (e.g. The Law Society Family Law Protocol, The Financial Remedies Court and Remote Access Family Court and any associated protocols), the SRA Competence Statement and over-arching Standards Framework, Family and Civil Procedure Rules, Resolution Good Practice Guides and Precedents, including those relating to Protection from Harm (of all kinds), Equality, Diversity and Inclusion.
SACO02	Legislation, case law and regulations relating to formation and consequences of all types of marriage and civil partnership and relevant provisions: <ul style="list-style-type: none"> • Difference between void and voidable marriage/civil partnership • The grounds for a decree of nullity • Judicial separation, the effects for separating individuals and couples, when and how it may be applied for • Preparation of pre nuptial/civil partnership and separation agreements • The effects of a final order under the Divorce, Dissolution and Separation Act 2020 (including on the status of children, inheritance) • The effects of a valid marriage/civil partnership on rights/obligations (e.g. of inheritance, occupation of the family home, financial support, and in relation to children)
SACO03	Legislation and case law relating to the unmarried couple/family, including the position of a co-habitant: <ul style="list-style-type: none"> • During the relationship in terms of financial support and occupation of the property • In relation to cohabitation agreements • On termination in terms of occupation and ownership of property inc. TOLATA claims, • financial support, protection from molestation and violence • The status of children • The position and rights of the unmarried father
SACO04	The legislative provisions of The Divorce, Dissolution and Separation Act 2020 and provisions

	<ul style="list-style-type: none"> • Effect/s relating to the dissolution of marriages and civil partnerships • Applications, including registration and joint registration • Timetable and costs • Effects in relation to inheritance, wills etc. • Orders and outcomes, including use of Standard Orders, Financial Remedy Omnibus, appropriate drafting
SACO05	<p>Appropriate conduct in litigation:</p> <ul style="list-style-type: none"> • Adherence to Court protocols and timetables • Conduct at attended/remote hearings •
SACO06	<p>The principles taken into account by a court when considering issues relating the upbringing and welfare of children to include the major provisions of the Children Act 1989, Children and Families Act 2014 and of the Child Arrangements Programme.</p>
SACO07	<p>Legislative provision relating to parental responsibility, how this may be acquired, including in relation to the unmarried father.</p>
SACO08	<p>Law and legislative procedure relating to the protection of vulnerable adults and of any/all child/ren because of:</p> <ul style="list-style-type: none"> • Domestic abuse (in all forms) • Safeguarding/Child Protection concerns • Forced Marriage • Female Genital Mutilation
SACO09	<p>The legislation and provisions for protection from domestic abuse or molestation, violence and harassment and the way in which different measures interrelate:</p> <ul style="list-style-type: none"> • Occupation of, and exclusion from, the matrimonial home and the circumstances in which such an order may be made • The available methods for enforcement • Injunctions under family law legislation • Understanding of criminal sanctions, in particular the legislation relating to domestic abuse/violence crime and victims • Appropriate protection for children in instances of domestic violence
SACO10	<p>The principles of Part 2, the Human Fertilisation and Embryology Act 2008 and case law in relation to parenthood.</p>
SACO11	<p>Family dispute/out of court resolution processes, e.g. mediation (including the availability of legal aid), collaborative practice, early neutral evaluation, private FDR, family arbitration, and so on. The role/function of supporting professionals.</p>
SACO12	<p>The emotional impact of family separation for individuals, couples and for children and young people.</p>

SACO13	The range of available services of support for separating families and especially for parents and children, including local provision
SACO14	Wills, including the appointment of any testamentary guardian/s, including where there is another parent/carer with parental responsibility
SACO15	Awareness of legislative, procedural and practical provisions affecting separating couples in relation to: <ul style="list-style-type: none"> • Home ownership, declaration of beneficial interest • The rented family home • Joint tenancies/Severance of
SACO16	Conveyancing and matrimonial rights, cautions, restrictions and non-co-operation including SCA inherent powers, liberty to apply directions.
SACO17	Child maintenance provisions; <ul style="list-style-type: none"> • Principles, scope and extent of the obligation/s • reaching agreements in relation to Child Support, • the role and function of the CMS including assessment procedure, applicable formulae, use and enforcement (inc. provisions relating to non-co-operation and enforcement
SACO18	The legislation, case law, principles and rules relating to relevant forms of financial remedy, including: <ul style="list-style-type: none"> • s.25 MCA 1973 criteria • Factors to be considered by the courts • Principles relating to the duration of orders • ‘Clean break’ principles and when a clean break might be appropriate • The division of pension entitlement • Safeguarding of assets s.37 MCA • Marital agreements • Costs implications
SACO19	Legislation and rules relating to financial support for children of married/unmarried parents, including: <ul style="list-style-type: none"> • Children Act sch. 1 Applications • Residual powers of the Court to order child maintenance/lump sums in respect of children • Availability of reciprocal enforcement via REMO
SACO20	Practice and procedures in private law children’s cases, including: <ul style="list-style-type: none"> • procedure in contested cases,

	<ul style="list-style-type: none"> • emergency procedures, allocation, and • the role of CAFCASS.
SACO21	The type, nature and effect of relevant orders, including who may apply for which order in what circumstances and the factors to be considered.
SACO22	<p>Legislation and case law in relation to public law proceedings under the relevant sections of the Children Act 1989, Children and Families Act 2014 including:</p> <ul style="list-style-type: none"> • S.31 -38 CA 1989 • S.44 CA 1989 • S.47 CA 1989
SACO23	The legislative and procedural interface between private and public law proceedings, including issues of safeguarding, threshold criteria and the duties and responsibilities of the local authority, any criminal issues raised and the potential for criminal proceedings.
SACO24	An outline of practice and procedures in public law children’s cases, including emergency procedures, allocation and timetabling, the role of any CAFCASS officer or Independent Guardian and in relation to adoption.
SACO25	<p>The statutory obligations and powers of local authority Children’s Services/local Health Authorities in relation to children:</p> <ul style="list-style-type: none"> • Care orders • Supervision orders • Child assessment orders • Emergency protection orders
SACO26	The framework of international and UK law relating to child abduction and the Hague Convention, including emergency steps to be taken.
SACO27	The availability of Legal Aid, Legal Aid eligibility and how eligibility can be assessed.
SACO28	Human rights legislation in terms of how it has an impact on family law.
SACO29	Possible implications for domestic law of relevant foreign jurisdictional legislative requirements, including the effect of BREXIT withdrawal arrangements.

Competency code	Performance (you must be able to evidence/demonstrate how you <i>apply</i> the following in your practice) Candidates must be able to:
SACO30	Demonstrate appropriate application of the Resolution Code of Practice and any other relevant practice protocols in all cases.
SACO31	Explain and apply (as appropriate) the legislative provisions of the Divorce, Dissolution and Separation Act 2020 as they relate to the dissolution of marriage, civil partnerships and judicial separation
SACO32	Explain the procedures for the registration of divorce, dissolution of civil partnerships and judicial separation <ul style="list-style-type: none"> • The online registration process • Costs • The purpose of the ‘cooling off’ period • Arrangements for children • Family finances
SACO33	Identify, explain and apply as appropriate the legislative provisions relating to cohabittees and to the unmarried family, including e.g. the provisions of TOLATA.
SACO34	Identify and consider with clients the emotional impact of their situation and identify and signpost to the range of supporting professionals/services that may assist.
SACO35	Identify and explain the type/nature of various family agreements and when they are appropriate, including pre and post-nuptial, civil partnership and/or separation agreements
SACO36	Identify and explain the relevant practice and procedures in private law children’s cases and explain the principles taken into account by courts when considering issues relating to children.
SACO37	Identify and explain the legislation, principles and rules relating to relevant forms of financial remedy and the importance of appropriate financial disclosure
SACO38	Explain the approaches and procedures relating to financial remedy: <ul style="list-style-type: none"> • Use of dispute resolution approaches; solicitor negotiation inc. ‘round table’, mediation, working collaboratively, early neutral evaluation and private FDR • The role of the Financial Remedy Court and its’ operation
SACO39	Explain the legislative provisions relating to parental responsibility.

SACO40	With clients identify, assess and explain the provisions for protection from domestic abuse and violence and explain how the different available measures interrelate (including the evidential requirements for legal aid eligibility).
SACO41	Explain to, and consider with, clients the range of family dispute/out of court resolution processes that may be of assistance to them and their circumstances, including the provisions of the Children and Families Act 2014 and the Mediation Information and Assessment Meeting (MIAM), use of e.g. collaborative practice, early neutral evaluation, private fdr and arbitration.
SACO42	Identify and deal with legal and practical considerations in relation to, for example, wills, appointment of testamentary guardians, rented accommodation, debt, severance of tenancy and conveyancing (as appropriate).
SACO43	Identify and describe the principles, legislative provisions and rules for child support and explain the Child Maintenance Service (CMS), CM Options and gov.uk website provision, how child support is worked out, costs and enforcement arrangements.
SACO44	Where applicable, identify with, and explain to, parents the options for arranging their parenting for the future, including the use of Parenting Plans.
SACO45	Identify, assess and consider the legislation and statutory guidance in relation to safeguarding of children and child protection.
SACO46	When and where appropriate, identify and explain the duties and responsibilities of the local authority in relation to the protection of children where there is or may be an identifiable interface between private and public law proceedings, including any potential of, or for, criminal proceedings.
SACO47	Identify, assess and explain the framework of international, European and UK law relating to child abduction and what emergency steps can be taken in the event of child abduction.
SACO48	Explain how human rights legislation has an impact on family law.
SACO49	Identify with, and explain, to clients the availability of and eligibility for Legal Aid and explain the process for making application.

Guidance Notes

- Candidates should be aware that not all competencies will feature in the case studies and corresponding questions, but must be *prepared* and able to answer all that are listed in the unit. Assessment is adjusted to match competencies tested.
- Candidates for the Core Section should note that they should have a **general** knowledge and understanding of each of the competencies as set out above.
- All candidates are expected to be familiar with e.g. 'Family Court Practice' (The 'Red Book'), online procedures for the registration of divorce, the conduct of remote hearings and as set out in SACO01 and SACO30 etc.
- Candidates are also expected to have the ability to research those areas of law, statute, principles or procedures and to demonstrate what they would do in order to properly deal with an area of law or practice with which they are less familiar.
- Candidates should also demonstrate where or to whom they might refer in relation to any case where they did not have appropriate expertise.