



NOVEMBER 2022

Resolution Together

Training and Learning Guidelines



Learning and Development for practitioners - Resolution Together

Introduction

We hope that all members will consider whether, in their own practice, the ability to be able to offer Resolution Together to clients would be a useful and helpful service. We also recognise that depending on your individual practice, any specialism and your client demographic, you may feel it would be inappropriate to do so.

Conversely, you may wish to offer a 'one lawyer, two clients' model of your own design. There is no bar to you doing so as long as you are careful to assess whether your model is compliant with SRA regulation, or if offered as an OCDR model, that it is compliant with any governing Code or requirements of the relevant DR process. Importantly, you must ensure that you are properly insured.

Resolution Together will not be suitable or appropriate for all clients, it should be a clear and positive choice for them rather than a preferred means of working for you and it is important that people do not feel coerced or pushed into using it.

In order to be able to offer the Resolution Together we strongly encourage members to undertake such learning and development as is appropriate to their own professional and individual need/s. We have developed an experience and competencies framework and a number of modules designed to assist you.

It is important that we make clear that at the heart of RT is the ability, competence and confidence of members to be able to work with two clients together in the room.

We are aware that there has been some confusion in respect of the learning and development for Resolution Together for which we apologise.

The initial Resolution Together Principles and procedure modules are being offered for those who are practising collaborative practitioner, mediators and/or those who are currently working with couples together (it does not mean that members must be trained mediators or collaborative practitioners in order to become RT providers). It recognises the transferable knowledge, skills and experience that these members have, and which will be required when working as a single adviser with separating and separated couples.

The remainder modules, Domestic Abuse and Safeguarding, Essential Skills, and Introduction to OCDR approaches will be released shortly for those who have little or no experience of working with separating and separated couples together or e.g. have little or no knowledge of OCDR approaches (that may be used in conjunction with Resolution Together services) and those who need to update their Domestic Abuse and Safeguarding knowledge. These modules have been designed to be completed in a range of ways which we hope are accessible for members and are competitively priced.

As is set out in the full learning and development criteria set out below, we suggest that those who do not have experience of working with two clients together, who are not fully conversant with the range of OCDR approaches or who need to update their Domestic Abuse and Safeguarding knowledge and skills will need to undertake such modules as are set out above and/or are appropriate to their needs *before* attending the Resolution Together Principles and procedures day which focuses on how the principles and standards operate, how the service fits

within current regulation and an outline of procedure/s and use of e.g. Retainer and Agreement etc. Please also see the 'quick check' and FAQs at the end of this document.

Requirements to offer Resolution Together and learning modules available

We have set out the knowledge and skills competencies we believe are essential for practicing Resolution Together in Appendix 1. We suggest all members who wish to offer Resolution Together use this framework as guidance in choosing suitable levels of learning and development.

There are four relevant learning modules for Resolution Together.

Resolution Together Principles and Procedure:

For all who wish to offer Resolution Together, Resolution requires you to undertake the Resolution Together (RT) Principles and procedure module which provides a base knowledge in respect of how the principles and standards operate, how the service fits within current regulation and an outline of procedure/s and use of e.g. Retainer and Agreement etc.

Domestic abuse and safeguarding:

A critical component of working as a Resolution Together provider is that you must be able to carry out an appropriate assessment with each client and continue to monitor for any aspect of abuse (inc. any harm to a child, young person or vulnerable adult) throughout any contact you have with your clients.

This must also include the ability to deal appropriately with such concerns and in a way that ensures the safety of everyone involved and importantly, is compliant with SRA and any other applicable regulation. This forms part of an overall assessment of whether working together would be appropriate, and if not, what might be a means forward.

If you have not undertaken such training within the last two years, you must complete an appropriate training module or course. A module of training is available via Resolution for this purpose and other courses and workshops are readily available. Please be aware that the RT Principles and procedure module will not be able to cover this subject in depth, there will be an expectation that those undertaking it will have currency of learning related to domestic abuse (in all forms), including safeguarding of children, young people and vulnerable adults.

Essential skills:

As described in the introduction, at the heart of offering Resolution Together is the ability to work with couples together. You should be able to manage client communication, their emotions on separation and in respect of discussions which might further prompt an emotional response. You will need to be able to listen, critically, you must be able to make an assessment as to appropriateness, facilitate their discussions (including their negotiations together) appropriately, professionally and effectively. For those members who currently do not work with couples together, we offer an essential skills module.

Introduction to Out of Court Dispute Resolution:

This module is designed to assist RT providers in making full use of the OADR approaches that can be used as part of RT practice. Resolution believes that RT should afford an opportunity for clients to be able to make use of additional services as they work together towards their hoped

for outcome, guided by their RT adviser. This means that RT can be delivered as a 'team' approach if needed and can be tailored to the needs of the clients. It may also be the case that an RT service is not appropriate for potential clients and where that is the case, RT providers should be able to properly and accurately assist individuals and couples in accessing an appropriate service for their needs.

Which modules do I need to complete?

Recognising the range of existing practices, professional experience and skills amongst our members, we anticipate that some members will need to complete only the Resolution Together Practice and Procedure module in order to be ready to offer RT, whereas others may need to complete all four of those listed above. As a guide in terms of experience, if you have:

- Successfully completed mediation (if you have successfully completed training in mediation or collaborative practice and actively worked as a mediator / collaborative practitioner within the last two years) or collaborative practice training within the last **two** years and with active experience of having mediated or worked collaboratively since that time or
- Experience otherwise of working with couples and families (or have trained in couples counselling) or
- Experience of working in an integrated or systemic approach with couples, including working as part of a team approach

that you may feel confident in your ability to work as a RT adviser without undertaking any other learning and development beyond the RT principles and procedure module.

As is stated earlier, there is no bar on any member who wishes to work with two clients. However, we must make clear that if you choose to use the Resolution RT materials to do so and hold yourself out as an RT provider, in the case of any concern or complaint made by a client, Resolution will assess that complaint in line with its' complaints procedure and in terms of your adherence to the Resolution Code and Statement of Ethical Principles and the principles and standards pertinent to RT practice including whether these requirements were met by you.

Please also be aware that if you choose to work with two clients in any other OCDR model, then you are subject to any regulation or Code/s which are applicable to your practice as e.g. a mediator or collaborative practitioner, you may not bring elements or aspects of RT practice into what is effectively an OCDR approach which is separately regulated or governed by a defined set of principles and you may not breach any applicable Code. You must also ensure that clients are and remain clear about your role and not change your professional role once contracted with clients as to do so would breach applicable codes and principles.

We would also point out that to be compliant with current regulation, you must have ensured that you have worked to meet the requirements set out in the RT Principles and Standards document and that if you have not, you may be found in breach of SRA regulation.

Quick guide to learning module content

- **Resolution Together Practice and Procedures** – this module includes:
 - How the principles and standards operate
 - How the service fits within current regulation
 - Outline of procedures and use of e.g. retainer and agreement
- **Essential Skills** – this module includes:
 - Working with both clients
 - Family psychodynamics and the effects of family separation
 - Communication skills
 - Engaging and contracting
 - An understanding of interpersonal emotional conflicts
- **Domestic Abuse and Safeguarding** – this module includes:
 - Understanding domestic abuse in all forms
 - Safeguarding principles and guidelines
 - Making appropriate assessments
 - Monitoring
- **Introduction to Out of Court Dispute Resolution approaches** – this module includes:
 - An outline of OADR in all forms
 - The appropriateness of each/any form of OADR
 - How OADR approaches may be used in a staged manner
 - Team approaches in practice

The attached flowchart graphic sets out the applicable modules related to working as an RT provider, they are shown in grey. The remainder modules shown in blue are an illustration of available modules for all members wishing to increase their knowledge and skills in practice.

Frequently Asked Questions

Do I need to train as a mediator/collaborative practitioner before I can offer RT?

No. As member guidance, we have said that those members who are trained and currently practising mediators or collaborative practitioners are able to undertake the RT Principles and procedure module alone, provided that they have also completed training or learning in relation to Domestic Abuse and Safeguarding in the last two years. This is because these members are already and commonly working with couples as clients and have also knowledge and experience in relation to risk assessment and the provision of information. They are also and commonly familiar with other out of court dispute resolution approaches that form part of overall RT service.

I have many years of experience as a family lawyer, why do I need to undertake other modules?

Your knowledge and experience will have been focussed on working to support, advise and represent a singleton client. Working with two clients is a fundamental change and brings with it a need to have a clear understanding of what that means and how to work effectively with two clients, how to identify different types of 'conflict' both in law and otherwise etc. The RT principles and procedure module will only deal with the principles and framework for practice and cannot cover additional areas such as domestic abuse and safeguarding, skills for working with two clients directly etc.

If I know what the procedure is, why can't I just do the work?

There is no bar to any solicitor offering a one lawyer two clients service for clients. Resolution's RT service is designed for members who want to offer a defined model, within their existing regulation as a Resolution member. We believe it is important that as this is the case, we do all that we can to ensure that members who are offering RT have the appropriate knowledge and skills to deliver the service and that is not limited to simply being aware of the procedure. We must also ensure that members and clients are fully protected in working together. RT relies very heavily on professional judgement and having the knowledge and skill to work with two people and make those judgements carefully and well. It is not just about knowing the procedure.

I trained as a mediator/collaborative practitioner but not within the 2 years recommended, why do I have to do more training?

The knowledge and skills that you have learned as a mediator or collaborative practitioner dissipate very quickly if not used. It is also the case that practice doesn't stand still and what you learned some years ago will have changed and been augmented. If you consider your own original learning and development as a lawyer, you will appreciate how practice has changed over the years and what you originally learned probably bears little relation to how you practice today. We have designed the modules to be completed as easily as is possible, at your choosing

and pace and have endeavoured to make them affordable for all our members. We know that our members appreciate that learning is lifelong and the critical importance of ensuring that you are able to practice at the top of your game.

Isn't this just Resolution making more money from training?

Resolution is a membership association, so whatever money is spent by members is invested back into your association. We have tried in developing the learning and development to ensure that you need only undertake those modules you need and that we don't duplicate learning when you do not need to. Considerable effort has also been put into ensuring that the modules are competitively priced and easy for you to undertake at a pace that suits you.

If RT isn't mediation, then why are mediators not having to undertake additional training?

RT isn't mediation or collaborative practice; in fact it isn't a dispute resolution approach. Mediators and collaborative practitioners (and those who have studied and who offer systemic working or counselling with couples or families) have knowledge and skills which are widely used in working directly with couples and families. Although these are generally referred to as 'mediation' or 'collaborative practice' skills, they are in fact drawn from many disciplines and utilised in mediation and collaborative practice in the same way as they are utilised in many other ways of working with individuals, couples or families. These same skills are essential for anyone who will be working with separating and separated couples and parents as part of their everyday practice as a lawyer working with both clients.

Appendix 1

Resolution Together – Competence Unit

Set out here are the competencies in knowledge and practice pertinent to members who wish to practice as an RT provider. It is your professional and individual decision as to whether you meet these competencies.

Knowledge and Understanding, you should know and understand:
<p>The Resolution Code of Practice, Statement of Ethical Principles, Resolution's Guides to Good Practice and Resolution Together Principles and Standards, Precedents (inc. the template Retainer, Agreement and Guidance).</p> <p>SRA Code/s of Conduct (or BSB/CILEx Code as appropriate), other relevant protocols e.g. The Law Society Family Law Protocol, the Remote Access Family Court and any associated protocols, SRA Competence Statement and over-arching Standards Framework, Family and Civil Procedure Rules.</p>
The legislative provisions of The Divorce, Dissolution and Separation Act 2020 and provisions
Legislation, case law and regulations relating to formation and consequences of all types of marriage and civil partnership and relevant provisions
The emotional impact of family separation for individuals, couples and for children and young people. The range of supporting services and support for separating families, including local provision
Active listening as a professional technique
Confidentiality and privilege in family law matters
<p>Principled negotiation, facilitation, principles in regard to working with both clients:</p> <ul style="list-style-type: none"> • Couple communication inc. managing emotions • Appropriate risk assessments • Balanced participation • Principles of negotiation • Impasse strategies
The principles of working in an integrated way with other professionals and services for the benefit of clients
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>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 • The legislation and provisions for protection from domestic abuse or molestation, violence and harassment and the way in which different measures interrelate
<p>Family dispute/out of court resolution processes (OCDR), e.g.</p> <ul style="list-style-type: none"> • 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
Financial disclosure
<p>The legislation, case law, principles and rules relating to relevant forms of financial remedy, including:</p> <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 • Costs implications <p>and including the appropriate protection of family finances, dealing with debt etc.</p>
Child maintenance provisions inc. the role and function of the CMS including assessment procedure, applicable formulae, use and enforcement
The type, nature and effect of relevant orders. Drafting orders and agreements
Legal Aid availability and eligibility criteria if/where applicable.

Performance, in your practice you should be able to:

Demonstrate appropriate application of the Resolution Code of Practice, Statement of Ethical Principles, the Principles and Standards relating to Resolution Together and all other relevant practice protocols and precedents.

SRA Code/s of Conduct (or BSB/CILEx Code as appropriate) and all other relevant protocols

Engage and work with two clients together to assist in formulating an approach that fits their needs, inc. e.g.:

<p>Providing advice involving other professionals and services as and when appropriate and helpful, inc. consideration of cost efficiency/effectiveness etc.</p>
<p>Identify and assess the appropriateness of a couple working together to reach a consensual outcome, inc. the ability to identify:</p> <ul style="list-style-type: none"> • any concern in relation to domestic abuse in all forms (inc. safeguarding of children, young people and vulnerable adults) • emotional readiness • power imbalances • any relevant equalities, diversity or cultural sensitivities or considerations • accessibility needs
<p>Explain clearly and in a way that is understandable for clients' aspects relating to:</p> <ul style="list-style-type: none"> • your own professional role and that of other professionals/services • confidentiality and privilege • The importance of financial disclosure • The aim and purpose of any retainer and agreement
<p>Use skills and techniques to listen, engage with and encourage communication between clients towards achieving an outcome</p>
<p>Identify when it would be inappropriate for a couple to work together, explain to and assist with an appropriate means forward for each, inc. other approaches that may be useful</p>
<p>Ensure the prompt protection of any individual, child or young person who is at risk because of alleged violence or harm or risk of same</p>
<p>Encourage positive communication between clients, address and manage power imbalance, monitor balanced participation</p>
<p>Identify and act when it is clearly inappropriate to continue, ensuring an informed, ordered and safe closure and a 'next step' for client/s</p>
<p>Assist in ensuring that any outcome being considered by the clients is appropriate, has been fully stress, affordability and reality tested and will be within the permissible parameters</p>
<p>Discuss an appropriate means of recording outcome including the range of agreements and orders that can be drafted</p>
<p>Identify, discuss and agree with clients when and if it would be appropriate to file any draft order or agreement drawn on behalf of both clients, having regard to the principles and standards of Resolution Together</p>
<p>Provide an appropriate draft/s on clients' instructions</p>

