

# Good Practice Guide to Domestic Abuse Cases

This practice guide provides an overview of working within the Code of Practice when dealing with the complex and sensitive issues that arise in cases where there is domestic abuse.

*This Guidance was reviewed in April 2024. The law or procedure may have changed since that time and members should check the up-to-date position.*

## National Centre for Domestic Violence (NCDV)

Resolution is aware of the varying different approaches by practitioners and the Courts in relation to work received via the NCDV. Some courts have also issued their own guidelines and local “housekeeping” rules concerning precedent templates to use. Some practitioners readily accept initial application/statements being prepared by the NCDV others do not. All these differences are under constant review and consideration by Resolution.

## Introduction

This practice guide provides an overview of working within the **Code of Practice** when faced with complex and sensitive matters. It does not seek to be a “how to guide” as there are many publications available for members to refer to, some of which are referred to below. It is important to recognise that the Code of Practice has to be read in conjunction with the **professional duties imposed by regulators** to act in the best interests of clients and to follow the Family Law Protocol when dealing with such cases too.

Members should stay up to date with legal aid policy and inform their clients about its availability in cases where there is or has been domestic abuse. Practitioners have a duty to make clients aware of the availability of legal aid, even where their firm cannot provide it. Information about legal aid is readily available [here](#).

Domestic abuse cases are complex and sensitive. Often the issue of domestic abuse is live and apparent at the outset, setting the context for the rest of the proceedings. However, members are encouraged to be

alert to domestic abuse throughout their work with a client. Sometimes the dynamic is not apparent at the outset or the client may not initially term their relationship as abusive. Resolution provides **information on screening for domestic abuse**, which members should be aware of and which can be used at the outside or at any time during a case.

Members are reminded that Resolution holds an up-to-date database of other lawyers who all abide by the Code of Practice. The database can be used to **find other lawyers** able to offer legal aid services and who are accredited specialists in the area of domestic abuse.

## Conduct matters in a constructive and non-confrontational way

This lies at the very heart of Resolution’s **Code of Practice**.

Sometimes the safest and most effective way of dealing with an allegation of domestic abuse is for there to be immediate action through a court-managed procedure rather than through dispute resolution (DR) processes. Taking immediate court action where necessary does not run counter to the Code and what it stands for. It is sometimes better for the court to determine these issues, sooner rather than later, for both the good of the alleged victim and the alleged perpetrator.

If a decision is taken to send a warning letter before issuing proceedings, that letter should be drafted in accordance with the guidelines provided in Resolution’s **Good Practice Guide to Correspondence**. It is important that any correspondence avoids expression of a member’s own opinions.

## Training and experience

All family lawyers should be screening for domestic abuse. If revealed, it is recommended that consideration is given as to whether the lawyer has the expertise for handling such matters. It is recommended that members do not undertake domestic abuse work without having the relevant training. If this is not in place, then the support of colleagues and other peers who have such experience is essential. Domestic abuse includes emotional, psychological, physical, sexual and economic abuse.

Resolution offers an online **Domestic Abuse and Safeguarding Module** and a “**Resolution Together: Domestic Abuse: Screening and Safeguarding Module**” for those planning to work in the two clients / one lawyer model.

## Confidentiality

Lawyers owe duties to other organisations and there are occasions when their duty of confidentiality to a client can be overridden. The lawyer is an officer of the court and a gatekeeper of public funding so has also to be alert to incidents of criminal activity, which means they may be faced with difficult decisions about breaking their confidentiality to their own client.

Members should ensure that they inform their clients at an early stage that there may be incidents when confidentiality must be overridden. This includes reminding clients of the lawyer’s duties to the court, the Legal Aid Agency, and potentially also to the police and social services if criminal activity, especially involving children, is discovered.

The SRA ethics helpline can assist in this area, by phone or email (0370 606 2577 or [professional.ethics@sra.org.uk](mailto:professional.ethics@sra.org.uk)).

Resolution also has its own safeguarding policies, and has a **Good Practice Guide to Safeguarding Children and Young People** as well as a chapter on **safeguarding in relation to domestic abuse** in the Mediation Handbook.

## Correspondence

Dealing with an allegation of domestic abuse is very often seen as inflammatory and confrontational by the alleged perpetrator. Members are encouraged to read the **Good Practice Guide to Correspondence**.

If correspondence is drafted in accordance with that Guide a member should not be seen as colluding with their client and should be seen as maintaining professional objectivity throughout. This is important whether acting for a victim or for an alleged perpetrator.

## Litigants in person

Resolution has produced a **Good Practice Guide to Working with Litigants in Person**, which all members are encouraged

to read. There are also recordings available on our website which litigants in person should be referred to.

As a Resolution member, it falls upon you to always maintain the good standing of our profession, in even the most difficult of circumstances. In this regard, you are encouraged to remind yourself of the Code of Practice and to follow the guidance set out in the **Good Practice Guides** referred to above.

## Summary

- Abide by the Code of Practice and the Good Practice Guides at all times.
- Demonstrate professional objectivity throughout.
- Draft letters and documents to be Resolution-compliant.
- Avoid becoming personally involved in a matter so you cannot be accused of colluding with a client.
- Act promptly when faced with a domestic abuse allegation and consider whether there are any immediate safeguarding issues to be put in place or whether a pre-action warning letter is more appropriate. Such a letter will not put you in breach of the Code (see above).
- Be alert when acting for a perpetrator or an alleged perpetrator that their interests are considered appropriately too, and where necessary consider whether there is a need to defend a matter or to deal with it by way of undertakings or cross-undertakings. Often victims of domestic abuse believe that if a lawyer defends an allegation, they are furthering the abuse. Tensions invariably run high in such cases and it is important to retain professional objectivity for all concerned.
- Members should encourage clients to be open and honest and remind them of circumstances where their duty to a client can be overridden.
- Members are encouraged to attend the “**Resolution Together: Domestic Abuse: Screening and Safeguarding Module**” / “**Domestic Abuse and Safeguarding Module**” before undertaking domestic abuse work.

## Publications

There are many publications available to help in how to conduct a matter where domestic abuse is involved, including:

- Resolution **Domestic Abuse Screening Information**
- The Family Law Protocol
- Resolution **Guidance Note on Instructing Experts in Proceedings Involving Children**

Finally, Resolution’s **Domestic Abuse Committee** is always willing to consider any feedback.