

Family Law Code of Practice 2017



Noreen Maguire assesses the latest edition of the Law Society's Family Law Code of Practice and its message of conciliation, responsibility and thinking long-term

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Having worked in Family Law for almost 20 years, I am acutely aware of how complicated an area of law it can be. Indeed, I have long felt that Family Law is not suited to everyone, as it requires clarity, patience and, most of all, sensitivity. Family Law practitioners deal with extremely emotional clients who are going through a traumatic life event. It makes complete sense that any professional dealing with such a complex and emotionally charged area of law should have a guide or reference point to assist them.

The latest edition of the Law Society's Code of Practice ensures that solicitors can be left in no doubt of what is expected of them. Indeed, the fact that the Code is online and openly available to the public, will further guarantee its relevance and importance.

The Code is a practical guide for solicitors and outlines how best to approach this area of law. It also provides solicitors with a helpful framework from which we can best explain to our clients the type of approach we will take with their case. It emphasises how important it is for solicitors to encourage clients to resolve their problems in a non-confrontational way. In particular, it stresses that we should pay attention to the type of language used in correspondence, and be careful not to inflame already delicate situations. Indeed, the Code of Practice reminds us that clients

often see 'assertive letters between solicitors as aggressive declarations of war'.

This is an important point. As solicitors, we are trained to think of one side versus the other, often referring to the other party in letters as 'the other side'; obviously, this is never appropriate in a family breakdown situation.

This new edition of the Code of Practice extends this warning about inflammatory language to drafting court pleadings. For example, it urges legal professionals to take care not to include controversial facts which may cause long-term damage to the family as a whole: 'When taking any step in the proceedings, the long-term effect on your client and other family members must be balanced with the likely short-term benefit to the case.'

Overall, the Code of Practice reminds us that our job as solicitors is to assist our clients to find reasonable and fair solutions to their issues and not to up the ante. Certainly, if all Family Law solicitors followed this Code – and it is, of course, the intention of the Law Society that they should – I believe we could cut down on much pointless and often needlessly confrontational correspondence.

The Code of Practice is broken down into various useful headings including guidance on how to deal with the lay litigants, children as clients and court proceedings. The Irish courts have always put children's welfare first, but with the enactment of the Children and Family Relationships Act 2015, they are now obliged to hear the voice of the child. The Code of Practice reflects this emphasis on the child and children's welfare. As Family Law practitioners, we are asked to encourage clients to focus on their children and, in this regard, the Code includes suggestions and tips for clients to draw up a survival plan for parents/parenting plan to help reduce conflict, provide structure and security and thereby minimise the trauma and negative effects of the family breakdown situation for their children.

There can be no doubt that since the last edition of the booklet was issued in 2008, the Family Law landscape in Ireland has dramatically changed. With its overall message and emphasis on conciliation, resolution and thinking long-term, I believe this new edition of the Code of Practice is a welcome and essential tool for both Family Law practitioners, clients and the courts alike. ☐

