

Archbishops' Commission on Families and Households

About Resolution

Resolution's 6,500 members are family lawyers, mediators, collaborative practitioners, arbitrators and other family justice professionals, committed to a non-adversarial approach to family law and the resolution of family disputes.

Resolution members commit to our Code of Practice, which promotes a constructive and collaborative approach to family law issues. The essence of good Resolution family practice is to assist people through their family dispute in a way that best serves their personal and family interests, especially if there are children involved. Resolution members seek to solve problems outside of court, where possible.

Resolution is committed to developing and promoting best standards in the practice of family law amongst both its members and amongst family lawyers in general. Many of our members are accredited as specialists in particular areas of law and/or provide legal aid services.

We also campaign for better laws and better support and facilities for families and children undergoing family change. We hope that the Church of England, other churches and faith groups will be able to support Resolution's upcoming 'Vision for Family Justice' (our family law manifesto).

Clients bring the full range of family law problems and disputes to our members on separation and divorce.

What steps could the Church of England, other churches and faith groups most usefully take - including exploring radical new pathways - to maximise their support for individuals and couples to flourish whose relationships are or have been in difficulty?

- In family cases our members' general experience is that the earlier support and information is provided, the better, before the parties become positioned and before anger and distress becomes a dispute. For our Good Divorce Week 2020, Resolution commissioned YouGov polling of over 1,000 divorcees to find out more about the current state of divorce in England and Wales. Just over half (53%) of parents who responded to the survey said that they wanted to put the best interests of their children at the heart of the process but found it difficult to do so. Parents need support to resolve issues together.
- It isn't the only resource available but the type of information in [our Parenting through separation guide](#) could be shared with individuals and couples by churches and others to improve education and awareness.
- For many people seen by our members it isn't necessarily the case that they have a 'dispute' in the first place, they just want a clear means of sorting things out between them.

- We believe that many people cannot currently find information on and a pathway to out of court services together with the additional legal and/or other professional support they may need, or to assist them with post-litigation life. The number of unrepresented parties reflected in the [Family Court Statistics](#) evidence that at least some parties must not have had the necessary information to make informed choices. There is no clear 'pathway' and a general lack of education and currency of knowledge across the population.
- Whilst being mindful that domestic abuse, child protection or other safeguarding issues may be in play, being aware and supportive of and helping promote awareness of the broad spectrum of out of court tools already available for separating parents and couples, would be really helpful. Family mediation is an important and successful process in suitable cases. But even if mediation is not suitable this doesn't mean that a dispute necessarily needs to go through court. Our members help clients reach agreement through mediation, the collaborative process, solicitor negotiation, arbitration, roundtable discussions and other processes. Information on the main processes and their benefits is [here](#). Resolution has also recently launched a new model of working that allows lawyers to work with and advise couples jointly, including providing appropriate legal advice, through a divorce or separation. The innovative new model, known as 'Resolution Together', comes after the implementation of the Divorce, Dissolution and Separation Act 2020 which allowed couples, for the first time, to make joint applications to end a marriage collectively.
- Familiarity with your local professional networks who are able to assist in the resolution of family issues is of benefit to the wider community, including how to [find a Resolution member](#).
- Family mediation vouchers are currently available under a Ministry of Justice Mediation Voucher Scheme until at least the end of March 2023 to aid couples in difficult who want to resolve arrangements for their children amicably. Information on the scheme is [here](#).

What changes in public policy across all areas of government are most needed to support and enable conflicted couple relationships to be resolved in the best interests of each party and any children of the relationship?

- Families are changing. There is an urgent need for a legal framework of rights and responsibilities when couples (not married or civil partnered) who live together split up, to provide some legal protection and secure fair outcomes at the time of a couple's separation or on death. Please see [our June 2021 written evidence to the House of Commons Women and Equalities Committee](#). The [Committee's report, The rights of cohabiting partners](#), highlights the risks faced, often by women, upon relationship breakdown or the death of a partner; and makes recommendations for change. The Law Commission has already made recommendations for reform that would provide financial relief to cohabiting couples (including those in religious-only marriages) when the relationship ends through breakdown or death.
- Over time we believe that the implementation of the Divorce, Dissolution and Separation Act 2020 implementing no fault divorce earlier this year (for which Resolution campaigned over many years) will assist the development of a more general understanding of the need to simply 'sort things out' as far as parenting and money post-separation is concerned. We

see the removal of the fault-based grounds and the possibility of contesting the decision to divorce from the divorce process, and the ability to make a joint application, as key to reducing conflict between the parties to a couple so increasing the co-parenting abilities of those with children, and the chances of success for out of court processes in resolving matters.

- But people also need access to other support, including early advice that is pertinent to their individual circumstances (and not just generalised). Trained legal professionals can actively identify and encourage use of out of court processes, or can provide them as part of the services they offer. A recent Resolution member survey indicated that lack of support from a legal professional is one of the main reasons for parties not taking up non-court dispute resolution where it could resolve their case, or for a process not resulting in agreement.
- More people should have access to legal advice and information at an earlier stage. In their July 2021 Future of Legal Aid report, the House of Commons Justice Committee, having heard evidence from Resolution about our proposal for a form of “family law credit” (where anyone who meets the criteria for legal aid for family mediation is able to have an initial meeting with a family lawyer) and from others, recommended investing in early legal advice to help people to avoid court: that the government should consider developing and piloting an early legal advice scheme, funded through legal aid, to help families understand their legal position and access services, where appropriate.
- The importance and positive impact of early access to legal advice (which advice is not representation) is well recognised¹. Early legal advice helps people understand their legal rights and responsibilities and where court is inappropriate, manage expectations on outcomes and is a point of appropriate referral away from or to court to resolve issues and/or be legally protected.
- The greater impact, in terms of the ability to resolve disputes, on those amongst lower socioeconomic and vulnerable groups who don’t have family or others who can fund them or support them is evident to our members on a daily basis. We encourage non-governmental organisations to press for the completion and implementation of the Ministry of Justice’s Legal Aid Means Test Review. New non-means tested areas should be urgently implemented, including non-means testing of all applicants under 18 for family legal aid and for legally aided family mediation. And to preserve access to justice for the most vulnerable, we do not agree with the proposed introduction of an earnings threshold for applicants in receipt of Universal Credit who are currently passported through the income assessment for civil legal aid - the current passporting approach should be retained.

¹ Academics including [Anne Barlow](#) and [Mavis Maclean](#), recommend from research, including [Mapping Paths to Family Justice](#), that early legal advice would help more families to make use of mediation, and avoid the risks of escalating problems.

[A review of the Child Arrangements Programme June 2019](#) (para 73).

[Law for Life’s Affordable Advice Service pilot September 2021](#) confirms that there is potential for the advice provided by this pilot service, involving Resolution members, to reduce conflict when a potential / LiP reaches that service at earlier stages, and by empowering LiPs to get a better grasp of the parameters of family law proceedings. The recent introduction of the ‘Where do I stand?’ advice session, which provides a broad overview of the divorce process for LiPs at an earlier stage, was also successful, with positive impacts on the emotional preparedness of clients, particularly those who were less advanced in the process.

What practical actions could non-governmental organisations working to enable families to flourish take to increase the effectiveness of their work?

- Call for the Government to adopt a more coordinated approach to parental separation and keeping the child's welfare at the centre to better bring together the strands of policy that currently sit with various departments. The [Family Solutions Group](#) has recommended that, in England (like Wales), government should establish a family lead to provide coherent oversight of the provision for children and parents. The needs of the separating family extend beyond access to justice as provided by the Ministry of Justice
- Promoting co-parenting information and education as suggested above.
- Understanding the different tools and professionals available to help those in conflict; and mapping what is available in your area. This might include, for example, finding out about the services provided by any government funded local authority family hub; or helping people to [find a Resolution member](#).

For further information please contact:

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