

J. F. L. A.

JERSEY FAMILY LAW ASSOCIATION

CODE OF PRACTICE

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INTRODUCTION

A JFLA Member believes that in resolving the problems arising at the end of family relationships and in family crisis it is preferable to promote a conciliatory atmosphere and to deal with matters in a sensitive, constructive and cost-effective way. To help put this into practice, JFLA members subscribe to a Code of Practice.

WHAT THE ASSOCIATION IS

1. Formed in 1996, it is an Association of Advocates and Solicitors and practitioners who are not qualified but generally concerned in Family Law each of whom subscribes to a Code of Practice. The JFLA recommends that all practitioners of Family Law should follow the Code of Practice. Members should inform their clients of the code as it will form the basis of the approach that they adopt.
2. It provides education for its members, to equip them to deal with both the legal and practical issues of family breakdown and the emotional consequences.
3. It is also a representative body. It is actively involved in encouraging law reform both initiating improvements and responding to proposals for change.
4. Members vary in experience from newly qualified to those qualified for many years. Membership is not a guarantee of excellence or specialisation. Admission to the Association is on the basis of a commitment to the Code and confirmation that the Member will endeavour to ensure his or her work is carried out in accordance with the Code. Members are proposed and seconded by fellow members.

WHAT THE CODE IS NOT

1. Adherence to the Code is not a sign of weakness nor does it expose the client to disadvantage. The approach adopted should be firm and fair. The Member is not prevented from taking immediate and decisive action where this is required. Even when there are ongoing discussions, they may often proceed in parallel with Court proceedings, in case negotiations do not produce a settlement.
2. It is not a straightjacket. The guidelines of the Code cannot be absolute rules in as much as the Member may have to depart from them if the Law or professional rules or duties to the client so require.

1. **General**

- 1.1 At an early stage the Member should inform the client of the approach he adopts in family Law work.
- 1.2 The Member should advise, negotiate and conduct matters so as to encourage and assist the parties to achieve a constructive settlement of their differences as quickly as may be reasonable whilst recognising that the parties may need time to come to terms with their new situation.
- 1.3 The Member should ensure that the client appreciates that the interests of the children should be the first concern. The Member should encourage the client to see the advantages to the family of a constructive and non-adversarial approach as a way of resolving their differences. The Member should explain to the client that in cases where there are children the attitude of the client to the other family member in any negotiations will affect the family as a whole and may affect the relationship of the children with the parents.
- 1.4 The Member should encourage the attitude that a family dispute is not a content in which there is one winner and one loser, but rather search for fair solutions. He should avoid using words or phrases that imply a dispute when no dispute necessarily exists.
- 1.5 Because of the involvement of personal emotions in family disputes the Member should where possible avoid heightening such emotions in any way.
- 1.6 The Member should have regard to the impact of correspondence on the other party when writing a letter of which a copy may be sent to that party. He should also consider carefully the impact of correspondence on his own client before sending copies of letters to the client. The Member should avoid expressing personal opinions as to the conduct of the other party.
- 1.7 The Member should aim to avoid mistrust between parties by encouraging at any early stage full, frank and clear disclosure of information and openness in dealings.

2. **Relationships with Client**

- 2.1 The Member should ensure that his relationship with his client is such that his objectivity is preserved and his own personal emotions do not cloud his judgement.
- 2.2 Whilst recognising the need to advise firmly and guide the client, the Member should ensure that where the decision is properly that of the client, it is taken by the client and that its consequences are fully understood, both as to its effect on any children involved and financially.
- 2.3 The Member should always ensure that the client is fully aware of the impact of costs on any chosen course of action. The Member should throughout have regard to the cost of negotiations and proceedings.
- 2.4 The Member should ensure that the client is aware of the existence and range of all other services which may be of assistance in bringing about a resolution

and helping members of the family through the process of family breakdown, such as mediation and counselling.

3. Dealings with other Practitioners

- 3.1 In all dealings with other Practitioners, the Member should show courtesy and endeavour to create and maintain a good working relationship.
- 3.2 The Member should not denigrate to the client the other Members involved in the case.

4. Dealings with the other party in person

- 4.1 In dealings with another party who is not legally represented the Member should take particular care to be courteous and restrained. Special care should be taken to express letters and other communication clearly, avoiding technical language where it is not readily understandable to the layman or might be misunderstood.
- 4.2 Wherever any party is not legally represented, that party should, in the interests of both parties and the family, be advised to consult an Advocate or Solicitor.

5. Court Proceedings

- 5.1 The taking of any action or proceedings which is likely to cause or increase animosity between the parties must be balanced against the likely benefit to the client and the family.
- 5.2 Where the purpose of taking a particular step in proceedings may be misunderstood or appear hostile, the Member should consider explaining it, at the first practical opportunity, to the other party or his legal advisors.
- 5.3 A Member should conduct family law proceedings, including the preparation, advocacy and implementation, in the most cost-effective manner and in such a way as not to increase hostility unnecessarily and as to allow reasonable opportunity for settlement.

6. Children

- 6.1 The Member should, in advising, negotiating and conducting proceedings, encourage both his client and other family members to regard the welfare of the child as the first and paramount consideration.
- 6.2 The Member should aim to promote co-operation between parents in decisions concerning the child, and should consider encouraging arrangements to be reached direct or through mediation.
- 6.3 Issues of arrangements for the child on the one hand and finance on the other must be kept separate where practicable, they should be referred to in separate letters.
- 6.4 The Member must remember that the interests of the child may not coincide with those of either parent and in exceptional cases it may be appropriate for the child to be separately represented.