

Professional Development Division

Dispute Resolution Training Consortium (DRTC)

The Programme

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DISPUTE RESOLUTION TRAINING CONSORTIUM

The Programme

Introduction

The University of Law is offering a Consortium structured training programme covering the principal areas of civil commercial dispute resolution practice that solicitors are likely to encounter during their first three years of qualification.

The training programme is designed to provide progressive development of technical expertise, procedural understanding, and skills, reinforcing experience gained in the office. Reference to Rules, Regulations and Law will be incorporated as appropriate but the modules will be highly interactive and focus on practical tasks with updates on relevant case and procedure.

The programme as a whole is ideal for NQ to 3-year qualified solicitors. Solicitors of greater qualification can also benefit from individual modules that cover areas of which they have had limited practical experience.

Several case studies have been developed for this programme, for example, one concerns defective printed circuit boards and has an international element, while another is a wide ranging dispute between a property development company and a bank. They provide the vehicle for dealing with disputes in the domain of both the King's Bench Division and the Business and Property Courts. All modules use the same substantive civil commercial case studies, the papers for which are built upon incrementally at each stage of the programme. However, each module is discrete and can be attended on an individual basis without having attended preceding modules.

All courses are half day with, where necessary, a minimal pre-reading requirement.

Pre-Action Considerations

A half day course focusing on the practical and procedural issues to be addressed prior to the commencement of proceedings, from the initial client meeting through to the response to a letter of claim. Delegates will consider these issues from the perspective of both claimant and defendant, including particular attention to considering ADR.

Max: 16 delegates

Statements of Case

A half day course providing practical instruction on the preparation and consideration of statements of case. Delegates will consider the correct way to draft documentation, review defective documentation and deal with amendments. Delegates will come away armed with the confidence to understand and draft effective statements of case.

Max: 16 delegates

Service in and out of the jurisdiction

A half day course which focuses on service of statements of case both in and out of the jurisdiction with particular focus on CPR rules and recent case law. The course looks at procedural steps and how to overcome pitfalls.

Max: 16 delegates

Case Management I: allocation and directions

A new half-day course which guides the delegates through these practical aspects of case management. Delegates will consider allocation principles and procedure, including how the court will decide to allocate a claim to a particular track. In addition to an overview of the court's case management powers, delegates will also consider the corresponding obligations on the parties, including the consequences of non-compliance with directions and court orders.

Max: 16 delegates

Case Management II: CCMCs and Costs budgets

A new half-day course which guides the delegates through the practical aspects of case management, focusing on costs budgets and Costs and Case Management hearings. Delegates will consider what costs management means, the costs management rules, key implications for parties and practitioners and how best to prepare for, and get the most out of, costs management.

Max: 16 delegates

Case Management III: Case Management hearings

In this half day very practical course, the delegates will review the rules on directions hearings and have the opportunity to practise making submissions at a CCMC.

Max: 12 delegates

Disclosure I: pre-action disclosure

In this new half day course, delegates will develop their understanding of the rules relating to pre-action disclosure. Delegates will consider disclosure obligations under the pre-action protocols and give advice on applications for: pre-action disclosure under CP31.16, non-party disclosure under CPR 31.17, and a Norwich Pharmacal order.

Max: 16 delegates

Disclosure II: Business and Property Courts

Focusing on the Business & Property Courts disclosure scheme, this half day course will review all aspects of this fundamental area of dispute resolution. The following areas are included:

- Understand the principles behind and structure of the new disclosure scheme contained in PD 57 AD.
- Know the key steps that a solicitor must take to comply with the scheme, from the point of instruction to trial.
- Be familiar with the purpose of Initial Disclosure under the scheme, and be able to identify the types of documents falling within its purview.

- Understand the models of Extended Disclosure that can be chosen under the scheme, and the key features of each.
- Be able to apply the scheme to a factual scenario to determine which Extended Disclosure model is likely to be most appropriate.
- Be familiar with the concept of a List of Issues for Disclosure under the scheme, and how such a list should be drafted.
- Know about the options a client has where disagreements arise about disclosure under the scheme, including Disclosure Guidance and variation of disclosure orders.
- Be able to come up with outline submissions to the court on a disputed disclosure issue for a Disclosure Guidance hearing.

Max: 16 delegates

Disclosure III: Disclosure Regime under CPR 31

In this new half day course, delegates will consider the practical aspects of the disclosure process, the parameters of the disclosure duty and the main issues to consider regarding disclosure and inspection for cases subject to the disclosure regime in CPR 31, PD31A and PD 31B. The course will focus on an overview of the relevant procedural and case law before turning to consider:

- the provision of advice to the client as to what does and does not require to be disclosed, including the key principles of legal professional privilege
- completion of a disclosure report under CPR 31.5(3)
- consideration of an opponent's disclosure report
- advising on making an application for specific disclosure.

Max: 16 delegates

Privilege, Confidentiality and “Without Prejudice”

This half day course will review all aspects of this fundamental area of dispute resolution, including discussion of recent case law. By the end of the course, delegates will:

- Understand in outline the different types of privilege recognised by English law.
- Have refreshed their knowledge of the fundamental concept of Legal Professional Privilege, in relation to both legal advice and litigation privilege.
- Know how LPP applies in practice
- Understand how to deal with inadvertent disclosure.

- Have refreshed their knowledge and understanding of “Without Prejudice” correspondence.
- Understand the difference between communications which attract LPP and confidential information.

Contentious negotiation

A half day course which looks at negotiation in the context of purely contentious matters. The delegates will conduct a negotiation on a 1:1 or 1:2 basis depending on group numbers and learn techniques drawing on various theories of negotiation style and tactics. All negotiations are based on a commercial case study.

Max: 12 delegates

Issues and Evidence

A half day course which focuses on identification of the issues in dispute, consideration of the most persuasive evidence available to determine each issue, and the rules for the proper production in Court of different types of evidence. Using the case study documents, the delegates will conduct an issue analysis and evaluate the source and weight to be attached to evidence. The following areas are included:

- Identification of issues in dispute
- Proof, weight, relevance and admissibility
- Lay witnesses of fact
- Expert evidence
- Documentary evidence
- Real evidence
- Authenticity of documents
- Hearsay Notices
- Notices to prove documents and admit facts.
- Preparation for trial and last minute evidential issues

Max: 16 delegates

Witness Evidence I: Business and Property Courts

This is a practical, interactive half-day in-person workshop for dispute resolution lawyers which aims to enhance practitioners' skills in witness interviewing and drafting statements so that they are compliant with PD57AC and the Statement of Best Practice. The course will consist of group discussions and short exercises. The following areas are included:

- The process of identifying the appropriate witness for issue(s) to be dealt with.
- How to assess how clear their memories of the relevant facts might be.
- How to encourage a witness to impart those relevant facts without too much guiding/direction/ intervention which might corrupt memory.
- Techniques for witnesses to freely recollect.
- How to target and compose appropriate questions to probe deeper into facts/recollections.
- How to assess whether, when, and which documents could be introduced to help recollection.
- How to resist witnesses asking to see documents too soon/ at all and how to explain to them that the aim is to ensure memories are not corrupted in the interviewing process.
- The risks of showing documents and the inferences the other side may draw from that.
- Taking a record of what the witness freely recalled and what parts were elicited by showing particular documents; and,
- Turning the notes of interview into a witness statement format.

Max: 16 delegates

Witness Evidence II: Preparing Effective Witness Statements

This new half day course will consider all aspects of preparing effective witness evidence, including the court's powers under CPR 32 and the procedural rules applying to witness evidence under CPR 33 and 34. Using a case study, delegates will study how to approach drafting witness statements, the use of witness evidence at trial, witness summaries, inferences arising from failure to give evidence at trial, and the application of the Statement of Best Practice (SBP).

Max: 16 delegates

Experts

A half day course which deals with the rules relating to the appointment of experts, and the formulation and use of expert evidence. With reference to the case studies, the delegates will consider, in practical exercises, the appropriateness of expert evidence, the proper contents of an expert report and a pre-trial meeting between experts. The following areas are included:

- Court approach to the appointment of experts
- Finding an expert and identifying suitability
- Retainer and Instruction letters
- Onerous terms experts seek to include.
- Privilege of exchanges with experts
- Formal content of expert reports
- Questions of an opposing expert
- Use of experts individual to each party and appointment of a single joint expert
- Discussions between experts

Max: 16 delegates

Interim Hearings

A new half day course focusing on the most common pre-trial hearings and applications conducted by solicitors. It will provide delegates with practical guidance on how to prepare for a hearing, including the documents to be prepared in advance, particularly the application notice, skeleton argument and draft order. Delegates will be introduced to the likely matters dealt with at a hearing, and will have the opportunity to conduct a full or partial mock hearing relating to any of the following:

- Strike-Out
- Extension of time for service
- Summary Judgment
- Set Aside Default Judgment
- Security for Costs

Max: 8 delegates

Part 36 offers and settlement

This half day course covers various ways of settling proceedings, including: form, content and enforceability of settlement agreements, Tomlin orders, and Part 36 offers. It is a highly practical course which enables delegates to understand both the legal and tactical considerations of settlement offers, through discussion of recent Part 36 case law and hands on experience of drafting a settlement agreement and a Tomlin order.

Max: 16 delegates

Mediation

A half day course which deals with the key aspects of this important dispute resolution mechanism and allows the delegates to experience the process in role play scenarios based on the case studies. The delegates will conduct a mediation during the day. The following areas are included:

- Types of Mediation
- Choosing an appropriate Mediator
- The Mediation Agreement
- Preparatory steps for the solicitor, including pre-mediation meetings, exchanges and directions
- Confidentiality
- Role of the solicitor during the Mediation
- The mediation process
- Ethical considerations and practical problems which can arise during the mediation
- Advantages and Disadvantages of Mediation

Max 16 delegates

Enforcement

This half day course covers the following: Obtaining information on assets of the Judgement Debtor, methods for enforcing judgments within the jurisdiction including bankruptcy and insolvency orders and principles and practicalities of enforcement outside of the jurisdiction.

Max: 16 delegates

Appeals

This half day course focuses on the key considerations for all practitioners when deciding whether to appeal a decision or judgment of the court. It will provide an overview of the procedural rules relating to appealing a decision, and it will also address the requirement for permission to appeal, the permission to appeal criteria and grounds of appeal. In the context of a case study, delegates will consider how to advise on the prospects of a successful appeal against an adverse decision, and how to draft the appropriate grounds.

Max: 16 delegates

Costs in Practice: interim and final costs

This new half day course takes a very practical approach and focuses on the most common costs applications conducted by solicitors. A variety of applications will be considered. At the conclusion of the course, delegates will be able to:

- Understand the extent of the court's discretion in relation to costs, and the factors the court will consider in determining what costs order to make.
- Know the consequences of the different costs orders available to the court, and when each might be appropriate.
- Be able to make persuasive and creative submissions to achieve a favourable costs order.
- Be familiar with the procedural rules governing when summary assessment of costs is appropriate and how the parties should prepare for one.
- Understand the arguments available when the court is conducting a summary assessment.
- Be able to make persuasive submissions at a summary assessment as both paying and receiving party.

Arbitration

A half day course which covers the fundamental rules of this popular form of dispute resolution. Both domestic and international arbitration are covered. Tribunal advocacy is included within the practical exercises in the conduct of a directions hearing. The following areas are included:

- Arbitration Act 1996

- UNCITRAL model law and rules
- Seat of Arbitration and Applicable Law
- Jurisdiction of the Court and Stay of Court Proceedings
- Choice and constitution of Arbitral Tribunal
- Reference to Arbitration
- Jurisdiction, Duties and Powers of the Tribunal
- Points of Claim and Defence
- Directions
- Conduct of the Proceedings
- Disclosure and evidence
- Arbitral Awards and their enforcement
- Challenging an award

Max: 16 delegates

Investment Treaty Arbitration

This half day course covers the fundamentals of the investor protection regimes provided by Bilateral and Multilateral investment treaty agreements. Delegates will consider the current issues with regard to investor protection arbitration, and the rights afforded to investors and in particular those in relation to FET and expropriation. The course will also address the dispute resolution methods afforded by most BITs and MITs, and the problems in seeking to enforce a right to arbitrate. disputes and the use of arbitration in resolving these disputes.

Max: 16 delegates

Financial Conduct Authority Investigations

This half day course covers the important considerations and advice for a solicitor advising a client who is the subject of investigation by the FCA.

Max: 16 delegates