



Fact Sheet

Collaborative Law - What is it?

Collaborative law is practised by some Family lawyers (including Pellys Solicitors) as a modern way to bring about a satisfactory conclusion to the legal, emotional and practical problems of a family breakdown - without recourse to the courts.

Both parties must agree in writing to reach a settlement and the matter is then pursued by the respective lawyers supported by appropriate experts. The 'team' thus formed to look after your interests may include finance professionals, child experts, stress coaches etc.

Each member of the chosen team would make their contribution to producing a 'fair agreement'. Settlement of such an agreement would be made at four way face to face meetings (involving Petitioner plus lawyer and Respondent plus lawyer).

The benefit of the Collaborative process is in greatly reduced financial and emotional costs. However, for this process to work, both parties must be prepared to give total disclosure to their team.

In the event that no settlement can be reached, new lawyers must be instructed for court proceedings and it will be the court that makes the final decisions regarding financial matters.

In order for you to make an informed choice as to whether or not you think that Collaborative law is right for you please read the following :

Q: Is it cheaper?

A: Often, but not necessarily. Every divorce is different and sometimes it is hard to compare how much something might have cost if an adversarial approach, for example, had been adopted, instead of the collaborative approach. Many cases do demonstrate the cost-savings to be achieved by all sitting round a table together talking through solutions, rather than competing via adversarial solicitors for supposedly "the best deal". Those who adopt the collaborative approach quickly recognise that the best deal is not necessarily the cheapest one, or the one in which they end up with most material things. Factor in the emotional as well as the financial cost, especially where children are involved, and the question of "cheapness" simply does not apply.

Q: Great Idea - but who needs a lawyer to do it?

A: Marriage is a legal commitment. Divorce is a legal process, and it needs to be legally untangled. Lawyers have a role to play in this process, whatever technique a couple choose to use. One of the things that makes the collaborative approach so special and effective is that it does not only involve lawyers. It is an inclusive process in which financial advisors and even life counsellors are brought in to work, together with the family and the lawyers, to agree the best holistic solution.

Q: What if I don't like it once I get started?

A: Hopefully you will go into the process with the full knowledge of what is involved. Don't think it is an easy route - it will be hard, but the alternatives are hard too. Of course, if you find the process does not suit or, is not delivering what you wanted, you can withdraw. You are in control.

Q: Are you seriously saying warring couples are going to get together and talk it through?

A: No - if couples are "warring" they are unlikely to choose to adopt a collaborative approach. Collaborative is not right for all circumstances. It is couples who know they want a negotiated, jointly "owned" settlement which minimises the emotional cost of divorce, who choose collaborative family lawyers.

Q: How can you prevent one side dominating the other?

A: It can be difficult, and involves real skill and patience on behalf of everyone involved, to get the balance right. But it would be wrong to think that there is something "soft" or weak about collaborative lawyers. They are skilled in providing balanced guidance for couples who, remember, are genuinely seeking a fair and equitable resolution.

Q: How do you square your professional duty to meet your client's best interest with the collaborative approach?

A: Don't get trapped in the outmoded perspective of the adversarial approach. In fact, there is simply no conflict. By choosing the collaborative approach the client has indicated that they want a holistic solution, in open discussion with their partners and his/her lawyer. By effecting that, we meet our professional duty to facilitate clients making their own decisions about what is best for them.

Who to contact for assistance

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