



FAMILY CLIENT INFORMATION

1. WHERE TO GO FROM HERE

2. USEFUL WEB LINKS

1. WHERE TO GO FROM HERE – YOUR CHOICES

Some couples resolve all issues without any professional assistance at all. Other couples have battles at court that cost dearly in emotional and financial terms and can take a long time to complete. Most people fall somewhere in between these extremes and can consider the following:

SPECIFIC ISSUE LEGAL ASSISTANCE

The client takes primary responsibility for their divorce, making use of professional legal advice on an ad hoc basis.

MEDIATION

A single neutral person (or two people) who may be a solicitor or professional counsellor acts as a mediator for the couple. The mediator helps the couple reach agreement but does not give legal advice. Having your own solicitor for independent legal advice during this process is recommended by the mediators and the solicitors would draw up any agreements reached.

COLLABORATIVE LAW

Each person retains his or her own trained collaborative solicitor to advise and assist in negotiating an agreement on all issues. All negotiations take place in “four way” meetings that both clients and both solicitors attend. The clients and solicitors cannot go to court or threaten to go to court. Settlement is the only agenda. If either client goes to court, both collaborative solicitors are disqualified from further involvement. Each client has built-in legal advice and advocacy during negotiations, and each solicitor’s job includes guiding the client toward reasonable resolutions. The legal advice is an integral part of the process, but all decisions are made by the clients. The solicitors will prepare and process all papers required for divorce and settlements.

CONVENTIONAL REPRESENTATION

Each client hires a solicitor. The solicitor may be good at settling cases, in which case they work toward a goal at the same time that they prepare the case for the possibility of trial. If the solicitors are not particularly good at, or interested in, settling the case all solicitor efforts are aimed solely at preparing for trial. Either way, the pacing and objectives of the legal representation tend to be dictated by what happens in court. Cases handled this way generally involve higher fees, and take longer to complete, than Collaborative Law cases or mediated cases. The risk of a

high conflict divorce is higher than with mediation or Collaborative Law and the outcome is decided by the Court rather than by the clients.

WHAT IS COLLABORATIVE LAW?

In Collaborative Law both clients retain separate, specially trained solicitors whose only job is to help them settle the case. If the solicitors do not succeed in helping the clients resolve the issues, the solicitors can never represent either client against each other again. All participants agree to work together respectfully, honestly and in good faith to try and find win-win solutions to the legitimate needs of both parties. No one may go to court, or even threaten to do so, and if that should occur the Collaborative Law process terminates and both solicitors are disqualified from any further involvement in the case. Solicitors hired for a Collaborative Law representation can never under any circumstances go to court for the clients who instructed them.

IS COLLABORATIVE LAW ONLY FOR DIVORCES?

Collaborative Law can be used to negotiate children and financial matters in divorce, separation, and dissolution of civil partnerships. In both marital and civil partnership agreements, collaborative solicitors can do everything that a conventional family solicitor does except go to court. They can negotiate non-marital child custody agreements, pre and post marital agreements, and agreements termination gay and lesbian relationships. Collaborative Law can also be used in probate disputes, business dissolutions, employment and commercial disputes – any situation where disputing parties want a contained, civilized process that builds in legal advice and distributes the risk of failure to the solicitors as well as the clients.

WHAT IS THE DIFFERENCE BETWEEN COLLABORATIVE LAW AND MEDIATION?

In mediation, there are one or two neutral Mediators who help the disputing parties try to settle their case. Mediation can be challenging where the parties are not on an equal footing with one and other, because the negotiator cannot give either party legal advice, and cannot help either side advocate its position. If one side or the other becomes unreasonable or stubborn, or lacks negotiating skill, or is emotionally distraught, the mediation can become unbalanced, and if the mediator tries to deal with the problem, the mediator may be seen by one side or the other as being biased, whether or not that is so. If the mediator does not find a way to deal with the problem, the mediation can break down, or the agreement that results can be unfair. If there are solicitors for the parties they are not present at the negotiations and their advice may come too late to be helpful.

Collaborative Law was designed to address these problems while maintaining the same absolute commitment to settlement as the sole agenda. Each side has legal advice built in at all times during the process. Even if one client or the other lacks negotiating skills or financial understanding, or is upset, emotional or angry, the impact is eliminated by the solicitors. It is the job of the solicitors to work with their own clients and, if the clients are being unreasonable, to make sure the process stays positive and productive.

HOW IS COLLABORATIVE LAW DIFFERENT FROM THE TRADITIONAL ADVERSARIAL DIVORCE PROCESS?

- In Collaborative Law, all parties participate in an open and honest exchange of information. Neither party takes advantage of the miscalculations or mistakes of others but instead identifies and corrects them.
- Both parties insulate their children from their disputes.
- Both parties use joint accountants, valuers, and other experts.

- A respectful, creative effort to meet the legitimate needs of both clients replaces tactical bargaining backed by threats of litigation.
- The solicitors guide the process to settlement or withdraw from further involvement, unlike traditional solicitors who remain involved whether the case settles or decided at court.
- Finally, there is a parity of payment to each solicitor so that neither party's representation is disadvantaged by lack of funds.

WHAT KIND OF INFORMATION AND DOCUMENTS ARE AVAILABLE IN THE COLLABORATIVE LAW PROCESS?

Both sides sign a binding agreement to disclose all documents and information that relate to the issues fully, voluntarily and on time.

WHAT HAPPENS IF ONE CLIENT DOES NOT ADHERE TO THE AGREEMENT, IS DISHONEST IN SOME WAY, OR TRIES TO USE THE PROCESS TO TAKE ADVANTAGE OF THE OTHER CLIENT?

There are no guarantees that rights will be protected if a client in the Collaborative Law process acts in bad faith and there are no guarantees in conventional legal representation. What is different about Collaborative Law is that the collaborative agreement requires a solicitor to withdraw, upon becoming aware that their client is acting in bad faith or being less than honest. For instance, if documents are altered or withheld, or if a client is deliberately delaying matters for economic or other gain or failing to keep agreements, the solicitors have promised in advance that they will withdraw and not continue to represent the client.

HOW DO I KNOW WHETHER IT IS SAFE FOR ME TO WORK IN THE COLLABORATIVE LAW PROCESS?

The Collaborative Law process does not guarantee that all income and assets will be disclosed, any more than the conventional process can guarantee you that. A dishonest person who works very hard to conceal money can sometimes succeed simply because the time and effort involved in uncovering concealed assets can be high and the results uncertain. However, far greater efforts to track down concealed assets and income can be expected in conventional litigation than in Collaborative Law which relies upon voluntary disclosure.

You are generally the best judge of your partner's basic honesty. The choice is ultimately yours.

IS COLLABORATIVE LAW THE BEST CHOICE FOR ME?

It isn't for everyone but it is worth considering if some or all of these are true for you:

- You want a civilised and respectful resolution of the issues.
- You want to keep open the possibility of friendship with your partner.
- You and your partner will be jointly responsible for parenting your children and you want the best relationship possible in those circumstances.
- You want to protect your children from the harm associated with the conventional litigated dispute resolution between parents.
- You and your partner have a circle of friends and extended family in common whom you both want to remain connected to.
- You value control and autonomous decision making and do not want to hand over decisions about your financial and/or parenting arrangements to the Courts.
- You recognise the restricted range of outcomes and 'rough justice' generally available in the Court System and want a more personal and individual settlement.

- You understand that conflict resolution with integrity involves not only achieving your own goals but also finding a way to achieve the reasonable goals of the other person.
- You and your partner will try to commit towards a finding a solution to the problem, without recriminations.

MY SOLICITOR SAYS THEY SETTLE MOST OF THEIR CASES. HOW IS COLLABORATIVE LAW DIFFERENT FROM WHAT THEY DO WHEN SETTLING CASES IN A CONVENTIONAL WAY?

Any experienced Collaborative Solicitor will tell you that there is a big difference between a settlement that is negotiated during the conventional process and a settlement that takes place in the context of an agreement that there will be no court proceedings or even the threat of court. Most conventional family law cases settle within the Court Process. By that time, a great deal of money has been spent and a great deal of emotional hurt can have been caused. The settlements are reached under the conditions of considerable pressure, tension, anxiety and time constraints. The settlements are reached in the shadow of a trial and shaped largely by what the solicitors involved think the Judge will do.

Nothing could be more different from what happens in a typical Collaborative Law settlement. The process is designed from day one to make it possible for creative, respectful problem solving to happen. It can be adapted to each client's needs; is quicker, less costly, more creative, less stressful, and more satisfying overall in its results than what occurs in most conventional settlement negotiations.

HOW DO I ENLIST MY PARTNER IN THE PROCESS?

Talk with your partner and see whether there is a shared commitment to the Collaborative Law process. Show your partner some literature about the process (available from your solicitor) and encourage them to choose a solicitor with experience of Collaborative Law and who can work effectively with your own solicitor.

HOW DO I AND MY PARTNER FIND A COLLABORATIVE LAW SOLICITOR?

You can contact Lisa Broddle, Family and Matrimonial Partner, at Stone Rowe Brewer, to discuss your matter further and help you decide if Collaborative Law is for you. Please telephone 0208 891 6141 or email l.broddle@srb.co.uk to make an appointment.

Lisa is a member of Thameside Collaborative Lawyers and you may visit the website at www.thamesidecollablaw.co.uk where details of the members of Thameside Collaborative Lawyers can be found, or you can visit <http://www.collaborativefamilylawyers.co.uk> for a full list of Collaborative Lawyers nationwide.

HOW LONG WILL THE COLLABORATIVE LAW PROCESS TAKE?

The process is flexible and can be tailored to suit the needs of the clients but most people require from three to seven of the 'four-way meetings' to resolve all issues. The meetings can be as close together or as far apart as the clients would like. By agreement or once the issues have been resolved the solicitors can complete the paperwork.

HOW EXPENSIVE IS COLLABORATIVE LAW?

Collaborative solicitors generally charge by the hour (as do conventional family solicitors). Please contact us for more information on rates and fees.

No one can accurately predict exactly what you will pay for this kind of representation because each case is different. Your issues may be simple or complex; you and your partner may have already reached agreement on most, or none, of your issues.

HOW CAN I FIND OUT MORE?

Lisa Broddle, Family and Matrimonial Partner at Stone Rowe Brewer will be happy to discuss your matter further and help you decide if Collaborative Law is for you. Please telephone 0208 891 6141 or email l.broddle@srb.co.uk to make an initial appointment, for which we would charge our standard rate.

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REGULATED BY THE SOLICITORS REGULATION AUTHORITY

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2. USEFUL WEB LINKS

Organisation	Web Address
Resolution (Solicitors Family Law Association)	www.resolution.org.uk
Cambridge Collaborative Family Law Group	www.ccflg.co.uk
Collaborative Family Lawyers	http://www.collaborativefamilylawyers.co.uk/
International Academy of Collaborative Professionals	www.collaborativepractice.com
Relate	www.relate.org.uk
Richmond, Kingston and Hounslow Relate	http://www.relaterkh.org/
The Citizens Advice Bureau	www.citizensadvice.org.uk
Child Support Agency Information regarding child maintenance	www.csa.gov.uk
The Court Service Information and leaflets about court procedure	www.hmcourts-service.gov.uk
Parentline Plus offers advice, information and support to all divorcing couples	www.parentlineplus.org.uk
National Family Mediation Service	www.nfm.org.uk
Find a Psychotherapist or Counsellor: BACP UKCP Details of the two main accreditation bodies	www.bacp.co.uk www.psychotherapy.org.uk
Christina McGhee Information and advice for parenting during and after divorce and separation	www.divorceandchildren.com www.divorceandfamilies.com
BBC General information about separation and divorce	www.bbc.co.uk/relationships/couples/heartaches/divorce.shtml

National Family and Parenting Institute UK charity providing support with parenting matters	www.nfpi.org
Families Need Fathers UK charity offering help, advice and support to separating or divorcing fathers	www.fnf.org.uk