

The Collaborative Law process

Family

This factsheet is designed to introduce you to the Collaborative Law process and the aims behind it. You may find it useful to visit www.resolution.org.uk for more information.

How the process works

- The parties each sign a Participation Agreement which regulates the way in which they agree to resolve their differences. The most important points to bear in mind are the clear statements that both parties agree to act in the genuine best interests of the family and the fact that the group (i.e. the two solicitors and the two parties) also agree that if the process is unsuccessful the two lawyers will withdraw and the parties will have to instruct new solicitors. A fundamental principle of the process is that the parties agree not to go to Court, so if either party changes their mind or proceedings are issued, then that will have to be done by different lawyers.
- The process starts with roundtable meetings. Agendas are agreed beforehand and set by the two of you. At the meeting you and your partner will do most of the talking, but the lawyers are there to assist and advise where appropriate with a view to facilitating a settlement. As part of the spirit of openness, any advice (other than very general advice) must be given by the solicitor to his client in the presence of the other two and the Participation Agreement specifically states that it is agreed that financial matters will only be discussed within the meetings.
- If there are issues that require resolution, eg. the value of assets, the level of income, the extent of a person's needs, the extent of a person's mortgage potential and so on, help can be obtained from independent third party experts. They will be instructed jointly by the parties on the basis that they will owe an obligation to both of them and also on the basis that any communications passing between a party and them must be copied to the other party.
- It is not possible to be exact about the number of meetings that are required to settle a case Collaboratively, but chances are that at least four meetings will be needed, apart from in exceptional circumstances.

The philosophy behind Collaborative Law

The idea is that both parties do what is best (preferably objectively) for the family, which may involve making personal sacrifices. Flexibility is required and concessions may be necessary. Listening skills are essential. It is important to act with integrity and respect for your former partner. If you proceed on this basis the chances are that the process will be successful and you will reach an agreed settlement between you, rather than having one imposed upon you by a Court. The beauty of the process is that you have control of it so the two of you determine the agenda and the issues to be considered. You also have the flexibility of reaching solutions that might not be possible through the Court process. It's a process we believe in and recommend to our clients.

Legal Advice

Everyone understands that a client comes to see a solicitor to obtain advice on his or her personal circumstances and the likely outcome. The point about the Collaborative process is to try and move people away from position based bargaining and allow them to gain control of their destiny. There is nothing wrong with advice being given privately about general principles, but specific advice about what is best for the client can't be given other than through the four-way meetings in the presence of the other group.

Costs

The Collaborative law process can be cheaper than the traditional Court route, but it may not be, as individual circumstances vary. If matters are reasonably straightforward and without much difficulty, a typical cost to each party would be between £5-10,000 depending upon whether expert evidence is required.