

Nicola Matthews, Partner in the Family Law team at Hay & Kilner Solicitors, provides a guide through the new Collaborative Family Law procedure.

When a couple separate there are often many issues to resolve such as those relating to children, finances and property.

Lawyers normally advise on the range of likely outcomes if a case is contested at Court and try to negotiate a settlement on behalf of their client. However, one party often becomes frustrated and begins court proceedings. During these proceedings there are many factors a judge has to take into account when reaching a decision. Judges do their best to be fair to both parties, but can impose an order on the couple with which neither is happy. It is an uncertain process, which can cause immense stress and ultimately leaves the decision in the hands of a stranger. There is now an alternative process, called Collaborative Family Law, in which the couple are assisted by their lawyers to reach their own settlement without the need for court action.

What is Collaborative family law?

In the collaborative process each person appoints their own qualified Collaborative Lawyer. Instead of the lawyers conducting negotiations on behalf of the parties by letter or phone, the parties meet together, with their lawyers, to work things out face to face. Each party benefits from legal advice as they go, but are much more involved in the settlement process.

How does the Collaborative process work?

When a person consults an accredited collaborative lawyer they will discuss all available options and processes. If that party wants to use the collaborative process, the other party needs to agree and must also instruct a collaborative lawyer.

The parties both meet privately with their own lawyers to discuss what to expect in the first joint meeting, the issues they wish to raise and the steps that need to be taken prior to the meeting. They will also discuss the agreement they are required to sign at the first joint meeting which states that:

- all discussions are confidential;
- if a party decides not to proceed with the collaborative process they will allow a 21 day cooling off period for reflection before starting court proceedings;
- nothing said in the confidential meetings can be used in Court and
- both parties will instruct new lawyers for any Court action if the process breaks down.

Next the lawyers discuss and agree upon a basic agenda for the first of the joint meetings - known as 'four way' meetings.

The first four way meeting

At the first four way meeting the lawyers will make sure that both parties understand they are making a commitment to working out a settlement without going to court and all four participants sign the agreement to this effect.

The parties will be invited to discuss any issues that need immediate resolution. This varies from case to case but may include, for example, how the children are responding to the separation.

An agenda will be agreed for the next meeting and if time permits the parties may also go on to discuss how financial information will be shared and what financial information each will bring to the next meeting.

Subsequent four way meetings

Subsequent meetings will deal with the parties' particular priorities and concerns. They might, for instance, look at involving other professionals such as specialists in financial planning or people trained to assist children in coping with the changes that separation will bring to their lives. The meetings will enable the parties to reach agreement on how finances will be shared or arrangements for any children.

The final meeting

In the final meeting documents detailing the agreements the parties have reached will be signed and the lawyers will talk through anything else that needs to be done in order to implement those agreements.

How long does the Collaborative process take?

One of the benefits of the collaborative process is that it is not driven by a timetable imposed by the court. So to a large extent the process can be built around the parties' individual timetables and priorities.



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