

## COLLABORATIVE LAUNCH

Extract from the introduction to the Collaborative Family Practice launch at the Manchester Civil Justice Centre on 1<sup>st</sup> November 2007 (Liz Tait).

Collaborative family law has at its heart the desire to facilitate positive outcomes for separating couples. It evolved from the precept that properly empowered and with specialist legal advice, guidance and support, couples are capable of working together to achieve “the good divorce”.

So what do I mean by that – well – a good divorce may entail for many a separation that allows each of the couple to move forward, albeit separately, into a new chapter of their lives, with dignity and mutual respect intact.

And where they have children, it may involve preserving their ability to work together as co-parents communicating and co-operating in a child centred way with minimal conflict in the best interests of their family.

Sound unrealistic? Maybe idealistic even – well for those who believe that fundamentally it is not divorce itself that wreaks the damage but rather the way in which people choose or are lead to divorce, collaborative family law offers the separating couple an option to resolve their issues in an open, honest and transparent forum supported throughout by their own lawyer and held in a process that has at its core, at its very foundation, a contractual commitment to proceed in good faith, with respect, towards positive outcomes for everyone:

A divorce with dignity.

Brave goals indeed but does this model deliver and will it work in practice here in Manchester – heart of the Northwest and thousands of miles removed from the states of America and in the interest based school of Negotiation Theory used by the United Nations from where it came.

Well I am delighted to report that nationally family collaborative lawyers in England and Wales have successfully completed well over 250 and 100 of those in the Northwest from Manchester to Chester, Preston through to Liverpool and we are just short of having over a thousand family collaborative specialist lawyers trained in this new model throughout England and Wales.

Indeed the growth of ADR in the past two yeas has been quote phenomenal in this country, proving that, albeit not for everyone, for some, it is a long overdue rescue remedy.

So what's it all about?

Well the process works by each of the parties agreeing with their lawyer to resolve issues without going to court. Yes, I appreciate I may have alienated the entire audience by four little words “without going to court” but bear with me for that is the glue which holds both the lawyers and the couple to the process – quite simply we all agree not to go to court for resolution of determination of any issues that arise

Instead, settlement is reached in a four-way face to face meetings (two clients with two lawyers), All information and financial disclosure is provided in the collaborative process and the clients remain in control of the process. It is truly client led – client focused but the lawyers are there throughout for legal guidance and assistance.

In the event no settlement can be reached around the table and the process breaks down, then new lawyers will have to be instructed for court proceedings. That is the glue that holds the lawyers at the table and it's very powerful – a super glue!

And it works – the evidence points to the fact that by engaging in facilitated, open communication and disclosure, shared and importantly, sustainable solutions which meet the needs and priorities of both clients are quickly created through creative option generation and interest based negotiation.

The process is multi-disciplinary. Where appropriate, specially trained professionals from a financial background - including accountants and independent financial advisors can work together with the couple as financial neutrals. We draw as well from the expertise and experience that our therapeutic professionals can offer to truly craft outcomes that add value in a holistic sense both the separating couple and their families.

Collaborative process, in essence, seeks to avoid the early positioning, best case scenarios, wishing for the moon and stars approach that our adversarial court procedure can sometimes lend itself to and seeks instead to serve the whole client throughout all the stages of separation, not just the legal and financial stages but the parental, social the practical and emotional stages as well, thereby seeking to minimise the damaging ripple effect of a divorce that can sometimes extend outwards from the eye of the storm and engulf children and extended families within a toxic conflict for many years to come.

Psychological research informs us that it can take up to two years, even when a divorce is relatively amicable, for clients to recover to the point where they were at before separation took place. The massive prejudicial impact of separation and divorce on generations of children and the potentially devastating effect of ongoing conflict, even after the decree is made absolute and the financials are concluded, should never be under estimated. As lawyers and professionals engaged within the process of divorce we have a tremendous responsibility to the families and children that our actions impact upon.

By extending the process options to families across the Greater Manchester area and by providing both mediation and collaborative law – the non-identical twins of the ADR family – clients can be truly informed about the choices they can make in relation to how they choose to divorce.

One size does not fit all.

Each family is unique and the opportunity to adopt client led agendas which are child focused, resolving issues away from the arena of the court, serves to truly enrich the choices available to work through the issues.

Collaborative law is not intended to replace either litigation or mediation. It is intended to offer clients' choice – by extending options and empowering clients at this most difficult time in their lives.

Screening for suitability, as of course with mediation, is the key to the success of the process and safe passage of clients through the model. One of the screening questions frequently used is to ask whether parents wish to sit together at Becky's graduation of Jack's sports day, but as a couple but as co-parents celebrating the achievements of their children and rightly proud of the parenting and love that each has been able to share in notwithstanding the separation.