

Collaborative law

Frequently asked questions



Why collaborative law now?

The way family law works in England is changing: the legal system is developing from an adversarial approach to a more collaborative approach which tries to bring the separating couple together to agree matters of importance (such as contact with children and finances) rather than pitting them against each other in the courtroom. This method of avoiding court proceedings is known as 'Dispute Resolution' and covers mediation and collaborative law.

How does collaborative law work?

The collaborative process deals with family disputes in a non-confrontational way, avoiding inflammatory language and conduct. What happens is both parties will instruct their own specially-trained collaborative lawyers who will then draw up an agreement known as the Participation Agreement. This document has some important features:

- Neither party should, where possible, go over past events
- The children and their welfare must be the priority in any discussions
- There should be complete transparency in dealings with financial matters and any children
- All discussions are regarded as "privileged", which means they cannot be brought up later in a subsequent court case

Both parties and the lawyers will sign the agreement and matters are then resolved in a series of 'four-way' meetings involving both parties and their solicitors, all in one room together.

The court can still be used to rubber-stamp agreed matters such as agreed financial settlements or an agreed divorce petition to make them legally binding, but the key thing is that the people involved have reached agreement on the content of these documents themselves in a dignified, consensual way.

What sort of cases can be dealt with?

The collaborative process can help resolve issues including:

- Divorce and resolving financial settlements
- Pre and Post-Nuptial agreements
- Separation of cohabiting couples, including property disputes
- Child disputes – residence (custody) and contact (access), both for parents and other family members
- Dissolution of civil partnerships and financial settlements
- Cohabitation or "living together" agreements
- Financial settlements for children that do not involve the CSA

Is it suitable for everything?

No, not all situations will suit collaborative law: for example it will not be appropriate where there has been domestic abuse or a party is not willing to be honest and transparent in the way they deal with things.

Does it mean you won't end up in court?

Not necessarily but going to court is an absolute last resort. If the discussions completely break down and court proceedings need to be issued, the collaborative lawyers must not act any further and you must instruct new lawyers.

How does collaborative law differ from mediation or going to court?

Mediation is a voluntary process where both parties sit in the same room as the mediator who is impartial and who is not there to give legal advice, and you must both agree on solutions or there is no agreement. During the confidential sessions the mediator will help you and your former partner to identify all the issues that need to be resolved, discuss the options and reach a settlement that is acceptable to both of you. At the end of the sessions the mediator will prepare a detailed summary of the proposals reached, which you can then have made into a legally binding agreement or court order.

With collaborative law you each have your own solicitor to represent your interests, important in cases where one party may feel intimidated by the other or unsure about how to address matters. Your solicitor is also on hand to give you legal advice, support and guidance at all times, including during the face-to-face negotiations (unlike mediation).

In mediation and collaborative law the couple arrive at the agreements themselves, but if you go to court, a judgment will be imposed on you by a third party (ie a judge).

Why does collaborative law work?

It works because it's non-confrontational and you will be dealing with highly competent, trained lawyers who are sympathetic, approachable and will understand what you are going through. The priority is to resolve matters your way, not how the lawyers think it should be resolved and of course the welfare of your children and your hopes and aims come first.

It will work well in Basingstoke because the family lawyers involved have mutual respect for each other. They have worked well in the past and this is a good basis for civilised, calm and constructive dispute resolution.

You can find qualified collaborative lawyers in the North Hampshire Collaborative Law Pod at Phillips Solicitors, Lamb Brooks, Brain Chase Coles, Shentons, Rowberry Morris and Child Law Partnership.

What's the best possible outcome?

By resolving matters through the collaborative law process, it can be so much quicker, cheaper and more dignified. This then enables you to get closure sooner, in stark contrast to the conventional drawn-out court approach where you are bound by a strict timetable and each case has to wait its turn.

Where there are children, a great outcome is to resolve the issues in a calm and non-aggressive way and provide the possibility of retaining an agreeable, working relationship as co-parents in the future. If both of you are parents of your children, you'll want to consider their needs and feelings because you will have a continuing relationship and responsibility even after your relationship as a couple has broken down. You may feel able to attend future events involving your children together and even communicate effectively with one another over the day-to-day arrangements for the children, without the need for lawyers.

If you'd like to find out more, visit the Resolution website at: www.resolution.org.uk or simply [click here](#) and speak to one of our trained lawyers.

- **Phillips Solicitors:** Rob Parker, t. 01256 854676 www.phillips-law.co.uk
- **Brain Chase Coles:** Nick Massey-Chase, t. 01256 354481 www.brainchasecoles.co.uk
- **Lamb Brooks:** Ann Davies, t. 01256 305507 www.lambbrooks.co.uk
- **Child Law Partnership:** Rita Veitch, t. 01256 630080 www.childlawpartnership.co.uk
- **Shentons:** Jayne Davies, and Nicholas Bell, t. 01962 844544 www.shentons.co.uk
- **Rowberry Morris:** Julie Gallimore, t. 0118 9812992 www.rowberrymorris.co.uk