

Questions and Answers...

What is Collaborative Practice?

Collaborative Practice has three key elements:

1. The voluntary and free exchange of information
2. The pledge not to go to court
3. A commitment to mutual respect and co-operation

What is the difference between Collaborative Practice and Mediation?

In mediation an impartial third party (the mediator) assists you both to negotiate and helps you try to settle issues. However, the mediator cannot give either of you legal advice or be an advocate for either side. If you each have lawyers, they may or may not be present at the mediation sessions. If the lawyers are not present you can consult with them between sessions. If you reach agreement, the mediator prepares a draft agreement for review and editing by both you and your lawyers.

Mediation is often used by couples with relatively low conflict who can negotiate without their lawyers present. Collaborative Practice can be used by couples experiencing low, medium or high conflict or trust issues, who want the support of their lawyers and other professionals during the negotiation sessions. Collaborative professionals, who have training similar to mediators, help assure a balanced process that's positive and productive. When agreement is reached the lawyers prepare a draft agreement for review and editing by both of you.

Both Collaborative Practice and mediation rely on voluntary, free exchange of information and commitment to resolutions that reflect the interests of both spouses. If mediation doesn't result in a settlement, you may choose to use your lawyer in litigation, if this is what you and your lawyer have agreed. In Collaborative Practice, both you and your lawyers sign an agreement focusing everyone on resolution. It specifically states that the Collaborative lawyers and other professional team members are disqualified from participating in litigation if the Collaborative process ends without reaching an agreement. Your choice of mediation or Collaborative Practice should be made with professional advice.

What is a Collaborative Team?

A Collaborative team is the combination of professionals you choose to work with you to resolve issues. If issues are strictly legal, it might simply be you and your Collaborative lawyers. But separation and divorce often involve challenging financial, emotional, or child-related issues. In addition to your lawyers, you may want the support of other Collaborative professionals:

- A neutral child specialist can provide insight into concerns of the children and help craft parenting plans.
- A neutral financial specialist can help gather and explain financial information and create future projections for settlement options.

- A family professional can help you and your partner improve communication and manage conflict.

What is the difference between Collaborative Practice and a conventional separation or divorce process?

A conventional separation or divorce process is based on adversarial principles. Parties choose to use, or often threaten to use, the court system and judges to resolve their dispute. Couples working within an adversarial framework often come to view each other as adversaries, and separation and divorce as a battleground. The resulting conflicts can take an immense toll on emotions – especially your children's.

Collaborative Practice is by definition a non-adversarial approach. Your lawyers pledge in writing not to go to court. They negotiate in good faith, and work together with you to achieve mutual settlement outside the courts. Collaborative Practice is designed to ease the emotional strains of a break-up and protect the well-being of children.

How does Collaborative Practice minimize hostility?

The guiding principle of Collaborative Practice is respect. A respectful tone encourages you to show compassion, understanding and co-operation. Collaborative professionals are trained in non-confrontational negotiation, which helps keep discussions productive. The goal of Collaborative Practice is to build a settlement on areas of agreement, not to perpetuate disagreement.

How does Collaborative Practice actually work, step by step?

When you choose a Collaborative approach, you each hire a Collaboratively-trained lawyer. You meet privately with your lawyers and discuss whether you could benefit from the expertise of Collaboratively-trained Family or Financial professionals. Or sometimes Collaborative Family or Financial professionals are the first ones you see and they refer you to Collaborative lawyers. Everyone agrees in writing not to go to court. Face to face meetings between you and your chosen Collaborative professionals are designed to produce an honest exchange of information and a clear understanding about needs and expectations, especially concerning the well-being of any children. Once you have this information you are supported to generate options and make mutually-acceptable choices about financial and parenting issues. The outcome reached using this team problem-solving approach is documented in your separation agreement.

Is Collaborative Practice a faster way to resolve separation and divorce issues?

Your situation determines how quickly your separation or divorce process proceeds. However, Collaborative Practice can be more direct and efficient. By focusing on problem-solving instead of blame and grievances – there's an opportunity to strive for respectful results. Full disclosure and open communications help you cover all the issues in a timely manner. And since you settle out of court, there's no wait for the multiple court dates necessary with conventional divorce. An agreement reached through mutual problem-solving (as opposed to adversarial negotiations or capitulation) is more durable and more likely to be complied with over the long run.

How does Collaborative Practice focus on the future?

Separation and divorce are both an ending and a beginning. Collaborative Practice helps you anticipate and includes your need to move forward. It also makes your children's future a top priority. Collaborative Practice helps you both establish a solid foundation and supports your goals for a smoother transition to the next stage of your lives.