

Legal News: June 2006

"A pioneering approach to Divorce and Separation"

COLLABORATIVE FAMILY LAW - TURN LOSS INTO GAIN

It is a sad fact of life that divorce is here to stay. Almost half of all marriages in the UK will end in failure. Separation and divorce are times of enormous stress. At the time when separating couples are at their most vulnerable the traditional legal process can be that final nail in the coffin. The pain of a "bad divorce" or separation can arise from a husband and wife giving up control over their decision making and relying too much on others to solve problems best resolved by the parties themselves.

"When your family is in crisis you turn to your lawyer for answers and absolve yourself from all responsibility" says Family Law partner Saika Alam who is one of a pioneering group of solicitors across the country who are now offering a whole new way of making the break and surviving the aftermath.

A new alternative to divorce litigation now exists. Collaborative Family Law is for couples (both married and those living together) who prefer to end their relationship quickly, efficiently, cost-effectively and most importantly fairly. Collaborative Family Law is for those couples seeking "the good divorce or separation."

In Collaborative Family Law the threat of going to court is removed. Both husband and wife sign a contract with their solicitors agreeing not to go to court. Removing the option of going to court means that everyone (lawyers included) have to work harder at working together and developing creative win-win solutions for the whole family. In the collaborative process the parties retain control. They take part in four way meetings during which all the important and complicated legal questions are discussed in a respectful environment. The husband and wife are essential to the process stresses Saika The people who know all the facts are the people making the decisions.

Often in family battles anger over-rides reason and a husband or wife may chose to fight and "win" at all costs. In reality neither party really wins and the children suffer most of all.

Collaborative Family lawyers are trained to find a resolution to even the most difficult and challenging family conflicts. They focus on not how to wage war but on how to achieve a respectful resolution of family issues.

The lawyers trained in Collaborative Family Law have all been trained in traditional family law and the majority have substantial experience of family law hearings. We have all seen what happens when busy judges are asked to solve

families difficulties with limited information says Saika. The court process does not allow judges to see the whole picture of each family and so judges cannot know all the important facts when they make life altering decisions.

Lawyers trained in collaborative law have come to the conclusion that the court process is not only expensive but also short-sighted. Litigation is in no-one's interests. The court process does not take into account the relationship between the parties and their extended families. It does not value the costs in time and money and how such resources might be used for the greater benefit of all who are involved. It does not consider the emotional costs of expressing so many negative emotions. The trust and respect of husband and wife or of both partners typically disintegrates into resentment and anger. Instead of building a new relationship of trust the court process can have the opposite effect.

In many of our divorce cases our clients are not just warring spouses or partners. They are fathers and mothers of children. The court process causes irreparable damage to already troubled relationships and damage to the children.

So how is collaborative family law different? Each client, husband and wife or each partner, has his or her own collaborative family lawyer. All take part in four-way meetings with both lawyers and clients working together, collecting information and discussing solutions at a table in the same room.

The information gathering process includes financial information of course. However it also involves gathering personal information, information about the needs and feelings of each party, about the needs and feelings of the children and any other information that is necessary for a fully informed and fair discussion with the aim of resolving the family's conflict.

With your former partner you set the agenda.. You work at the pace at which you feel comfortable. You commit to full disclosure and you talk openly about the issues that matter to you. You don't feel as if you are being dragged helplessly along a legal conveyer belt.

Working together in this way sends out remarkably positive signals to children who research has consistently shown benefit hugely from knowing that their parents are working out their differences constructively.

Collaborative Family Law is not an easy option. It requires the right mind-set from everyone involved. It is therefore not suitable for every divorcing or separating couple. It may not even be cheaper financially but for couples for whom it is right it provides a genuine resolution to relationship breakdown. Many former couples successfully remain friends in an atmosphere of respect and understanding which they say at the beginning of the process they could never have contemplated.

To find out more about Collaborative Family Law contact Saika on telephone number 0208 989 3000 or email salam@huggins-law.co.uk or visit www.collabfamilylaw.org.uk .

This article is not intended to be a definitive analysis of legislation and professional advice should be always taken before any course of action is pursued.