

“Talk, talk - not war, war” – No-Court Divorce

The New Year is all too often a busy time for divorce lawyers ; many a New Year resolution sadly involves a decision to end a relationship.

How you deal with the emotional and practical issues of a divorce or separation really matters – to your own well-being, to your spouse/partner and most importantly, to your children. When feelings are running high it is all too easy to feel that you are entering into gladiatorial combat with your estranged spouse or partner – and having to pay a lot in legal fees for the privilege. The decisions you may have to make can seem mountainous, just at the time when you feel least equipped to make them. Going to court can often compound the problem. People who come out of the court process often wonder what it really achieved for them.

The trend amongst family lawyers and Government policy is to encourage people facing divorce and separation to consider talking methods to resolve their issues. Mediation before issuing court proceedings about money or disputes about residence/ is going to become compulsory in 2011 for most couples. It gives them a chance to have a breathing space to really consider their options and to see if they can come up with solutions that they both can live with.

You may also see a lot of publicity in late January about **Collaborative Law**. This is a method of helping couples reach solutions when they divorce or separate without going to court (court is banned under the Collaborative Law model, unless it is to ask a judge to approve divorce papers and financial agreements).

The couple and their specially-trained Collaborative lawyers meet together, face to face, to work through the couple’s needs and aspirations. All four are committed to working constructively and flexibly in a “safe space”. The outcomes are often felt by clients to be more dignified and helpful than court action ; the Collaborative model allows you to really explore the needs and feelings of each person, and their children, in a way that the court system cannot. Experts, if they are needed, are asked to advise all four people together ; everything is done by agreement and in a step-by-step way at a pace which suits the couple.

The Collaborative law model should not be seen as an “easy option” : in fact, sitting around a table face to face with your spouse or partner and talking openly and with dogged determination not to let the thing fall

apart is hard work. It takes courage and a real commitment to listening to the other person's point of view without harking back to old arguments. This includes lawyers who, in traditional court cases, have been used to arguing for their client's "position". In Four-Way meetings, both lawyers are committed to understanding both people's viewpoint and to be open to the suggestions anyone makes – regardless of whether that is from their client or not.

Mediation and the Collaborative model does not suit everyone but for many couples, however fraught things are at the point of separation, the talking method may be better than court. It may not be easy, but it may allow you both to come out of this tough time in your life with your dignity and the knowledge that you both had a hand in creating your own solutions to the issues you face.