

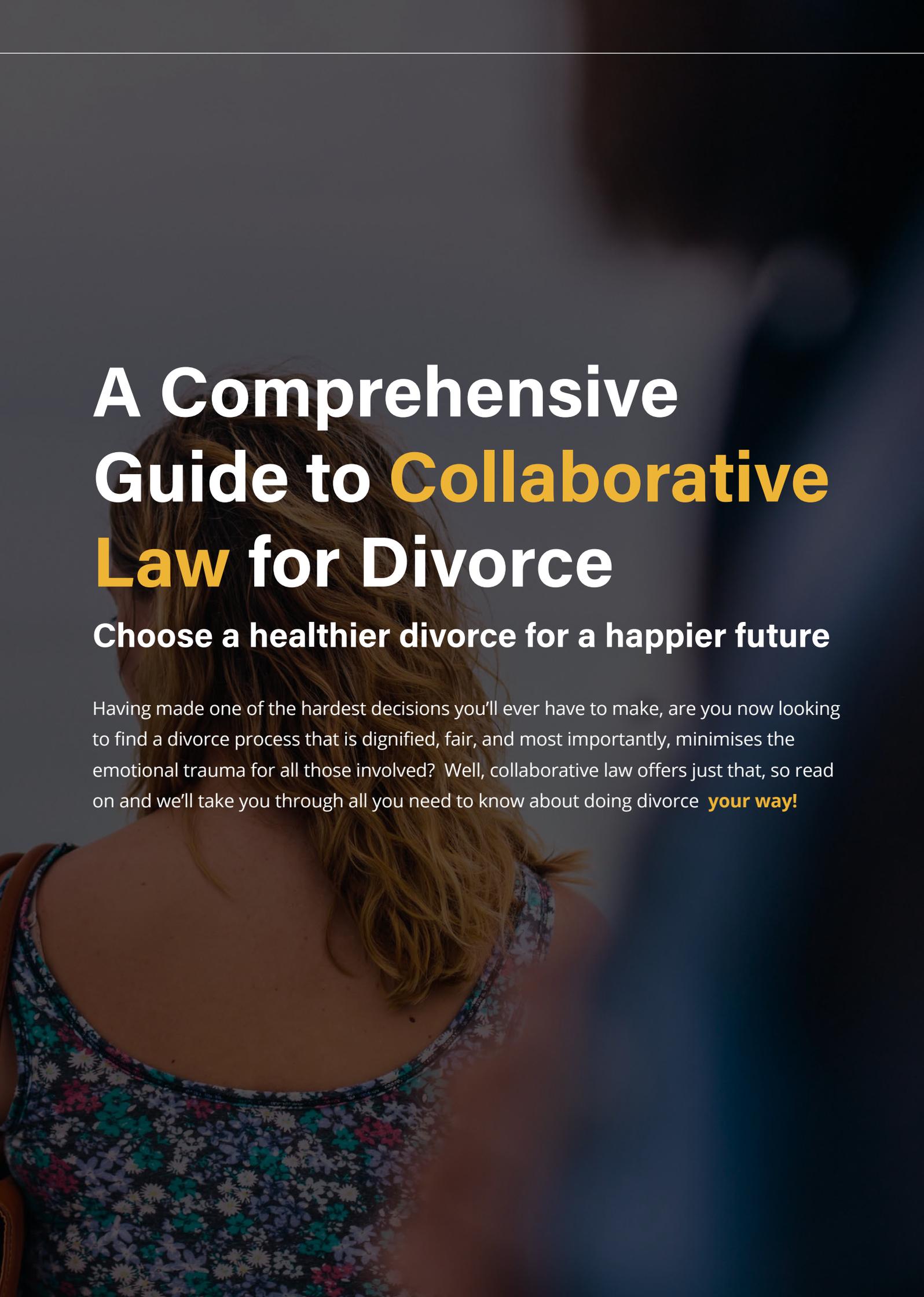
A Comprehensive Guide to Collaborative Law for Divorce



Choosing a healthier divorce for a **happier future**

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A Comprehensive Guide to Collaborative Law for Divorce

Choose a healthier divorce for a happier future

Having made one of the hardest decisions you'll ever have to make, are you now looking to find a divorce process that is dignified, fair, and most importantly, minimises the emotional trauma for all those involved? Well, collaborative law offers just that, so read on and we'll take you through all you need to know about doing divorce **your way!**

What is Collaborative Law?

Collaborative Law is a new approach to the resolution of family issues such as divorce, financial agreements and child contact arrangements. A settlement is reached in a non-confrontational manner and without the need for court involvement, based upon cooperation between parties and the assistance of collaboratively trained lawyers in face to face meetings.

What are the benefits of Collaborative Law for the Divorce Process?

- More dignified than the traditional divorce process
- Control is maintained (control is lost once judges are involved in the traditional process), avoiding the uncertain outcome of court
- Ensures a fair outcome for both parties
- Minimises negative emotional impact on the couple, their children (if applicable) and the wider family
- Gives the best chance of maintaining an amicable relationship
- Potentially cheaper because the process is usually shorter, only one set of specialist professionals are used (those brought in to advise on your financial matters, children, parenting or for emotional support) and court costs avoided. In fact, 90% of these cases are resolved without seeking further legal advancements.
- No imposed Court timetable allows parties the freedom to work matters out at their own pace, and the space to decide on the best compromise available
- Enables a settlement that best meets the specific needs of both parties and their children without the underlying threat of litigation

Each of the benefits above will be discussed in more detail throughout this guide.

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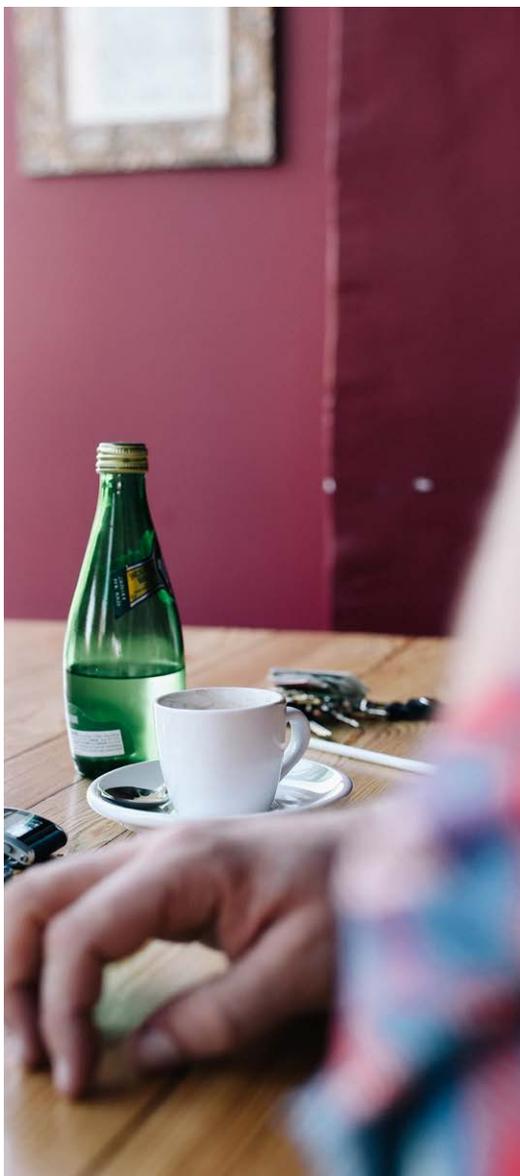
How does Collaborative Law work for a Divorce?

The foundation for the Collaborative Law model for divorce is a couple's agreement to resolve all issues surrounding their separation without going to court. Both parties and both solicitors sign a contract formalising their resolution in favour of this route and their commitment to stick to it. The table below outlines the commitments that you will be making jointly to facilitate a smooth process and a successful outcome.

We will work with	We will avoid
a focus on the future, fairness and the interests of any child involved as being our goals and our guides	bad faith, dwelling on the past; or attaching solely to our own interests
good faith and integrity, seeking through transparency to ensure a future relationship that can be built on trust	denigrating the other person or putting at risk the future relationship
a commitment to truth, being open and honest in the information we provide, volunteering relevant information even if it appears to be contrary to our interests to do so	being unbalanced or less than honest in the way information is presented
respect and kindness, using first names (rather than "he" or "she")	criticism and sarcasm
patience and a desire to learn the other person's perspectives and concerns	interruptions (because we will get a chance to contribute and be heard in our turn)
a focus on the underlying things that are important to us	taking positions, making threats or issuing ultimatums
a creative and constructive approach	becoming fixed on one point to the exclusion of the whole
commitment and energy to be properly prepared and to meet deadlines and to help the process reach its conclusion	<p>failing to express our point of view, failing to speak up if things are not working or having the professionals take over resolving issues.</p> <p>trying to process the substantive discussions outside the meetings, unless agreed by all involved and all then immediately brought up to date</p>
the intention that all our needs for information, guidance and advice will be met through this process, rather than obtaining such support secretly from third party professionals who are not conversant with all our discussions	relying on any such support without disclosing it to those involved in the collaborative process
making "I" statements (eg "it makes me [] when you []")	speaking for the other person

A series of meetings then follow (as many as are required), where each of the issues arising from the separation are discussed until agreements are reached. With the exception of financial disclosure, these meetings are privileged and confidential, encouraging everyone to talk openly and propose solutions that they may not put forward otherwise. Should the collaborative process subsequently break down, neither party are permitted to refer to the discussions in future court proceedings. Consequently, more often than not, this results in an accelerated conclusion.

How does Collaborative Law differ from Mediation?



Mediation and Collaborative Law are both based on principled negotiations. However, unlike mediation, where both parties meet with one neutral mediator who can't offer legal advice, Collaborative Law involves each party instructing their own collaboratively trained lawyer who is present in each session and able to offer advice when required. All issues are discussed in meetings as they would be with the mediation process, the difference being that there are four people instead of three: the two parties and their lawyers.

The lawyers prepare for each meeting with each other and with their respective clients, attend all meetings and are both likely to have a debrief with their client after each one. Consequently, by comparison to mediation, the collaborative law process requires more of the lawyers' time and therefore can be more expensive. However, this potential cost difference is not without obvious benefits. The collaborative law process has the distinct advantage that the lawyers who will draft and agree a final version of the court papers have been part of the process and therefore fully understand how you arrived there, reducing the chance of delays resulting from misunderstanding at this stage. The only way to reduce the risk would be to find a good mediator and lawyers who are fully conversant with the mediation process, or perhaps even mediators themselves.



How long has Collaborative Law been practiced in the UK?

Collaborative law first came to the UK in 2003. The growth of the collaborative process in England and Wales has been encouraged by both the judiciary and the family lawyers' organisation.

Is Collaborative Law successful for divorce?

Yes, absolutely. As mentioned above, 90% of Collaborative divorce cases result in a successful resolution, minimising the impact on any children involved and making the whole process as dignified and controlled as possible.



"The Collaborative process was ideal for us and I feel should be the starting point for most people regardless of how they are feeling about each other....Every divorce requires discussion, negotiation, understanding and compromise. It is much better to be able to do this with the support of experts together in a room than entirely by email and letter in an adversarial process."

What does the Collaborative Law divorce process involve?



STEP 1

An initial meeting with your collaboratively trained lawyer

Initially, both parties meet individually with their separate lawyers to talk about what to expect in the collaborative meetings, which you might hear referred to as 'four-way' meetings because they are meetings between the four of you - you and your ex-partner and your respective lawyers. You and your lawyer will discuss what you both need to do in order to prepare for the first four-way meeting.

STEP 2

Opportunity to add other professionals to your collaborative team

If you choose to, you can include other professionals in your team to provide advice on matters concerning your financial situation, children, parenting or emotional support. Such individuals might be an Independent Financial Adviser or an accountant, a child specialist or a family consultant. The two collaboratively trained lawyers together with these other professionals form your collaborative team. This team will communicate with one another to plan how they can facilitate the best way forward for you and your ex-partner. These additional professionals can either be added to your team at the beginning or at any time during the process, when you feel that their services may be useful.



STEP 3

The two lawyers will have initial communications with one another

Your lawyer and your ex-partner's lawyer will speak to each other either face to face or over the phone in order to plan for your first meeting.



STEP 4

The first four-way meeting

At the first four-way meeting, the lawyers will make sure that you both understand that you are making a commitment to work out an agreement without going to court and that the agreement prevents them from representing you in court if the collaborative process breaks down. You will then all sign a contract to this effect.

You and your partner will then be invited to share your own reasons for choosing the Collaborative Law process and you will plan, as a team, the agenda for the next meeting. This agenda will depend on your own individual circumstances. You may also go on to discuss how any children you have are responding to the situation and how financial information will be shared, agreeing on who will bring what financial information to the next meeting.

What does the Collaborative Law divorce process involve? *(Continued)*



The issues requiring agreement will vary from couple to couple but typically, you might work together with other team members to resolve specific financial matters, to address issues associated with any children you have together, or to help you manage the transition. Once an agreement is reached, your solicitors can share between them who will draft the relevant documents and you can then use a further meeting to go through the draft and agree a final version.

STEP 5

Subsequent meetings

Subsequent meetings will deal with yours and your ex-partner's specific priorities and concerns until each of them are resolved and agreements reached. These meetings will usually take place at the office of one or the other solicitor and may alternate each time. This obviously means that one of them will need to travel.

Your respective lawyers can put forward your case and the case of your ex-partner during the meetings. Often the lawyers will give their advice whilst you are all together so that it can be heard by both parties. If the advice being given is similar from both sides, an agreement is typically reached quickly, but when the advice on a particular point differs, more time will be needed to reach an agreement. However, in this scenario, both parties tend to appreciate how the litigation route could prove to be a gamble. Control is lost once a judge is involved with the judge taking one or the other view, or a different view altogether, one which might not be acceptable to either party.



STEP 6

The final meeting

In the final meeting, documents detailing the agreements you have reached will be signed and your lawyers will guide you through anything else that needs to be done in order to implement those agreements. A timetable for implementation will also be agreed but this can often be hindered by the unknown, as would be the case if the financial agreement between you hinged upon the sale of the family home. After the final meeting, your lawyers will then put your agreements into effect by making them legally binding.

How long does the collaborative process take?

One of the benefits of the collaborative process is that it's not driven by a timetable imposed by the court. This means that the process can be built around your family's individual timetable and priorities, as these meetings follow agendas set by you and your ex-partner. Sometimes, only a couple of meetings are needed, in other cases four or five, either way, for as many meetings as it takes, your lawyers will be present with you, giving support and legal advice as you go.

How much does a Collaborative divorce cost?

Your solicitor should be able to give you an estimate of costs at the beginning of the process, however, this will depend on how many meetings it takes to come to an agreement. Both solicitors will charge for their time at an hourly rate plus travel expenses if applicable, so the cost can sometimes be higher than those for mediation. Costs are broadly comparable to those of the traditional divorce process providing your situation is reasonably straightforward and agreements do not take an inordinate amount of time to be reached. However, as court costs are avoided with the collaborative process, the potential is there for this process to be cheaper than the litigation route if agreements are reached quickly. In addition, the Collaborative law divorce model assigns the necessary tasks to specialist professionals avoiding the duplication of effort and allowing cost savings to be realised.

When might collaborative law not work for you?

Although generally a healthier route to divorce with more successful long-term outcomes, collaborative law is not right for everyone. In cases where there is a history of domestic abuse, for example, the collaborative law divorce process would not be considered suitable.

Generally, both partners need to be very committed to a positive and fair outcome and still function well together in many respects. Finally, remember that you can only collaborate if you both have lawyers who are trained in Collaborative Law. Therefore, if one of you has already instructed a non-collaborative lawyer and is unwilling to change, the Collaborative Law divorce route will not be an option for you.

Other considerations relating to the collaborative law process

The contract signed when entering into the collaborative law divorce process removes the rights of the solicitors involved to represent either part in any future family-related litigation. Although unlikely, as 90% of collaborative law divorces reach a successful conclusion, should either or both parties decide to take their situation to court after all, both solicitors are obliged to stop acting and both parties must change solicitors. Only an emergency application would bring about exception to this rule. This contract provides all parties involved with a strong incentive to stick to their guns and reach a resolution through collaborative law, even when agreement on any given matter seems to be eluding them, but nonetheless must be borne in mind.



Very happy with the service I received and would recommend to anyone, indeed I already have. Dipika, I can't thank you enough you've guided me through a very difficult time."





How to Find a Collaborative Lawyer

In England and Wales, Resolution is the only organisation who trains collaborative lawyers. You can visit their website to find a Collaborative Lawyer in your area.

If you are looking for a Collaborative Lawyer in the Solihull area, why not find out more on our website or make an appointment to talk to one of our friendly family law solicitors here at Wallace, Robinson and Morgan? **Kathryn and Dipika**, our collaboratively trained lawyers are ready to listen and understand your situation in order to provide the right advice for you.

Simply call us on **0121 705 7571** to book an appointment or complete our **online enquiry form** and we will contact you to arrange a convenient time to come in and see us.

The content in this guide was written by our experts in collaborative law -



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