

**COLLABORATIVE LAW:  
More Than Another ADR Tool for Legal Practice  
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**Slide 1**

Collaborative Law

- A frame of mind
- A dynamic
- A range of processes
- A redefinition of professional boundaries

**Slide 2**

A Frame of Mind

- Lawyers
  - deliberate creation of settlement atmosphere
  - more than a client-alone mediation
  - setting aside the tensions and stressors of simultaneously running both litigation and conducting settlement negotiations
  - focusing on client-centred problem solving

(Stu Webb)

**Slide 3**

- Counsellors / Social workers
  - supporting divorcing clients through grieving process
  - considering the 'best interests of the child'
  - assessing serious social, emotional and relationship issues
  - minimising the personal and social harm of divorce
  - skilling couples to deal with divorce process and transition to next life phase (Nancy Ross)

**Slide 4**

- Clients
  - choosing a divorce process that meets their value system – integrity, respect, dignity, minimising harm to the family
  - controlling their own rites of passage and decision making
  - reaching a settlement agreement that is tailored to their circumstances

## Slide 5

### A Dynamic

- Facilitative and Advisory process
- Interest-based approach in a rights framework – interest broadly defined
- Amalgamation of negotiation and mediation skills, tools and models
- Normalising a specialist team approach
- Cultural shift in legal advocacy

## Slide 6

### A Range of Processes

- Lawyer settlement negotiation - L/L
- Mediation – M + C + C; M + L/C + L/C
- Collaborative Practice –  
L/C + L/C  
L/C + L/C + M  
C + C + M, [Coach], Expert Advisor [Child, Financial, other]

## Slide 7

### A Redefinition of Professional Boundaries

- New Family Law System
  - Emphasis on relational functioning
  - Rights coexisting with super-ordinate value frame (best interests of child, parenting)
  - Family Dispute Resolution Practitioners as new gatekeepers to Court access
    - **“genuine” attempt to reach agreement**
    - **emphasis on conflict resolution in training**

## Slide 8

### Study

- Training Collaborative Practitioners
  - Added skills for lawyers:
    - **Legal problem solving**
    - **Relationships - couple**
    - **Social Context – children and family**
    - **Goals – personal and family**
  - Role of lawyer:
    - **Member of specialist team**
    - **Extended professional boundaries**

## Slide 9

### Collaborative Law Possibilities

- Legal instructions from client at highest functioning state (Tesler)
- Contextualising divorce on life scale
- Focusing on future goals and assisting client to strategise to move from

high conflict/low functioning to  
low conflict/high functioning

**Slide 10**

- A potentially transformative process to afford transition from separation to next life phase
- Evolution of a new specialist team approach as the norm
- Moving from settlement/dispute resolution frame to conflict resolution/ functioning competence frame
- Changing conceptualisation of legal advocacy/practice from narrow adversarial to holistic problem

**Slide 11**

Methodology

- Collaborative Law / Practice training in all major 'varieties' and levels
- Observation of Collaborative Practice
- Interviewing Collaborative Practitioners
- Interviewing CP trainers
- Participation in practice groups
- Reviewing training manuals, literature, law and practice rules