

# D(ivorce)-Day: it doesn't have to be war...

The return to work after the Christmas break has become known in legal circles as **D-Day - the day when more people start the divorce process than any other day in the year. For some families, Christmas has been full of arguments and tension rather than comfort and joy. Collaborative Law can help make the divorce process less painful.**

Divorce is on the increase again; figures from the Office of National Statistics issued last month show that there were more divorces in 2010 than in the previous year. This increase is the first since 2003 - many blame the recession, with money worries adding to family stress. The report shows that the number of divorces is highest amongst those aged between 35 and 50, with half of those divorcing having at least one child under 16 living in the family.

For those families about to embark on a separation or divorce, one of the biggest worries is that the process itself will further erode family relationships - even where couples still have a viable dialogue. What starts off as an intention to find a fair solution to the separation of finances and the best possible arrangements for any children disintegrates into pitched battle via confrontational solicitors' letters and adversarial court appearances.

The legal profession does, however, offer an alternative way for couples to move through the separation process. Collaborative Law is a relatively new concept, offering couples the chance to work out their divorce or separation, face-to-face around a meeting table, without ever having to attend court. It is suitable for both married and unmarried couples who are looking to unravel financial and family commitments.

The idea is a simple one: every part of the negotiation is done in the open, in full view of both parties. Therefore, in order to have a Collaborative Law divorce or separation, both parties must agree to the process at the outset. Each separating partner appoints his or her own

Collaboratively trained lawyer who will be committed to finding a solution in a non-adversarial way. Financial details are disclosed frankly and discussed openly. It's about finding a fair solution, rather than seeing who will give in first.

Collaborative Lawyers are members of Resolution, the national organisation that promotes a constructive and non-confrontational approach to Family Law. The lawyers are specially trained by Resolution to handle Collaborative Law cases in a positive and inclusive manner.

A Collaborative divorce progresses through a series of four-way meetings involving the separating couple and their lawyers. The emphasis is on the partners finding their own solution, each supported by advice from their lawyer. The couple themselves set the agenda and the timetable for the meetings, retaining control of what's happening throughout the process.

The Collaborative route has many benefits. Retaining control of the process is a key benefit, but maintaining respect for each other throughout the process so that relationships can be amicable afterwards is an equally important factor, particularly where children are involved. As one separating partner put it: *"It meant that we could go to our daughter's school play together this Christmas"*. In addition, the Collaborative option is often less costly than the traditional route involving contested court proceedings.

Divorce with dignity is another definition of the collaborative route. With the growing number of "third age divorces" (couples divorcing in later life), many separating partners are concerned that their years of marriage should not be devalued by a messy, painful divorce. Most couples want a fair resolution that allows each to live good separate lives. Collaborative law divorces are the perfect tool to achieve this aim.





**Norfolk Collaborative Family Law Group**  
[www.collaborativelawnorfolk.co.uk](http://www.collaborativelawnorfolk.co.uk)

Norfolk has over thirty Resolution-trained Collaborative Family Lawyers, based in Law Firms throughout Norfolk, from King's Lynn to Great Yarmouth. Details of these lawyers can be found on the Norfolk Collaborative Family Law Group's website which can be found at [www.collaborativelawnorfolk.co.uk](http://www.collaborativelawnorfolk.co.uk).

The lawyers in the group meet regularly to discuss the types of problems that occur during

divorce negotiations and to continuously develop their knowledge and skills.

If you are facing the prospect of a divorce or separation and would like to find out more about how the Collaborative route would benefit you, please contact one of the lawyers listed on the website.

## Sharing the D-Day Pot



**Resolution Accredited Independent Financial Advisers are specially trained to help work out a fair solution for separating couples.**

For many couples thinking about separation or divorce, working out a fair financial settlement is one of their highest priorities - and can be one of the most contentious. To help with the process of evaluating assets and finding a settlement that is acceptable to both parties, the lawyer may involve a Resolution Accredited Independent Financial Adviser.

Resolution Accredited IFAs - of which there are just 75 in the UK - have undergone a rigorous training and evaluation process ensuring that their relevant knowledge and skills are up to scratch. What's more, they are required to maintain their expertise through continuous learning and development. Resolution Accredited IFAs must also demonstrate that they

support the ethos of the Collaborative route and that they have the positive "can do" approach to finding the right settlement for everyone involved.

The Norfolk Collaborative Law Group includes Resolution Accredited IFAs from Almary Green and Smith & Pinching - see the Group's website at [www.collaborativelawnorfolk.co.uk](http://www.collaborativelawnorfolk.co.uk) for further details. These IFAs work closely with Collaborative Lawyers to help couples reach a fair solution.

Splitting a couple's accumulated pension assets can often be a sticking point in divorce negotiations. Pension schemes can be the couple's biggest assets after shared property and this is an area where specialist advice can really help, especially if a more complex final salary scheme is involved. Other pension entitlements such as the basic state pension and the state second pension (formerly known as SERPS) also need to be taken into account.

Most UK pension benefits can be shared (apart from the basic state pension) - even if they are already in payment. Pension funds can be considered in one in one of three ways: Offsetting, Attachment (Earmarking) or Sharing. Most couples nowadays will opt for pension sharing, which sees the affected pension scheme split into two separate schemes, with a percentage of the original scheme transferred into the ex-spouse's name. This route gives both partners a clean break.

Offsetting allows the pension fund value to be "offset" against another asset such as the family home or other investments.

Pension attachment (or earmarking, as it is sometimes called) involves reserving a portion

of the pension for the ex-partner when it starts to be paid. This is a less popular route for many separating couples, as it retains interdependency and remarriage or death can affect the entitlement.

In the Collaborative divorce or separation negotiations, the Resolution Accredited IFA will normally have one of two roles - a Neutral or an Implementer.

The Neutral IFA gathers and assesses the financial information for both parties and provides facts, technical information and options to help the couple arrive at their own solution. Under Collaborative Law rules, the adviser that provides this unbiased service is not normally allowed to implement any of the

agreed financial measures unless all parties specifically request help at the end of the process. This guarantees that the information provided is in the best interests of the couple.

The Implementer will put in place all the measures that have been agreed by the couple and their lawyers, if appropriate.

There are many other ways in which the Resolution Accredited IFA can help couples deal with divorce, and not just in the Collaborative process. These include budgeting, cashflow planning, maintenance protection, Inheritance Tax planning, ongoing pension advice, and possible lump sum investment for capital growth or income generation.

**Resolution Accredited Advisers working with the Norfolk Collaborative Family Law Group:**

Carl Lamb, Almary Green  
Roy Durrant, Almary Green  
John Simpson, Smith & Pinching



> Independent Financial Advisers



SMITH & PINCHING

Greenfields House,  
10 Meridian Way,  
Meridian Business Park,  
Norwich  
NR7 0TA

**01603 706740**  
[www.almarygreen.com](http://www.almarygreen.com)

295 Aylsham Road,  
Norwich,  
NR3 2RY

**01603 786887**  
[www.smith-pinching.co.uk](http://www.smith-pinching.co.uk)