

## **Collaborative Family Law and the Family Farm – February 2009**

It is always devastating when a marriage breaks down, and very hard decisions have to be made about what will happen to the family home, and sometimes the family business.

These decisions are even harder in cases where the family home and property *are* the family business, and farming land may have been handed down for many generations. There are very real concerns to protect what may be the livelihood for members of the extended family, and to preserve family land to be handed down to the next generation.

Many people are aware that the courts can be quite inflexible when it comes to dividing up family land, as the concept of 'proper provision' and the housing needs of both parties in Irish family law takes precedence over the concerns of a family farm. So what is so different about collaborative family law and how can it help farmers in the face of marriage breakdown? It is a buzz word in the media at the minute but what exactly does it entail?

Collaborative law is a fundamentally different way of dealing with relationship breakdown to achieve a financial settlement for judicial separation or divorce. It is a new concept in Irish Family Law which places the husband and wife at the centre of the decision making process. It encourages creative solutions to problems that arise. From the start, it focuses on problem solving, and not on blame.

It is based on 3 main commitments by the parties

1. A commitment to sit down round a table with their legal representatives and their estranged spouse and work out what is the best option for both of them and for the children.
2. A commitment to communication and openness in the disclosure of financial information.
3. A commitment not to go to court, involving a signed agreement that they will instruct alternative solicitors if the process breaks down

Instead of going to court and having a judge decide what happens to issues such as the house, access to the children and maintenance, these decisions are made at a series of 'four way' round table negotiation meetings, attended by the client, their spouse and both trained solicitors.

### **The advantages for the family farm are as follows:**

1. The couple themselves decide the outcome. This means that many other options, other than selling the farm can be explored. The couple are encouraged to come up with creative solutions which will allow both of them to walk away feeling that they have not been hard done by, whilst attempting to protect the livelihoods of everyone involved with the farm.
2. The husband and wife keep control of the process and of the outcomes achieved, a judge is not dictating the outcome.

3. It maintains maximum privacy. Clients can maintain control about how much is placed in public records. This can be especially important in sensitive issues regarding land.
4. Their future family life and the parenting of their children remain at the heart of the case and they can agree a parenting plan.

Collaborative law will suit clients who are focussed on working together with their spouse to achieve the right results for their family for their future apart. Because all parties sign a commitment at the start of the process that they will not go to court, this means that they and their lawyers are focussed strongly on getting the results through negotiation. It would not suit clients if the communication between them and their spouse has completely broken down.

It is not the same as mediation. In that process there is one neutral professional who helps the parties try to settle the issues, however in Collaborative law each side has a trained legal advisor with them throughout the negotiation process.

Collaborative law helps you reach solutions together for your future apart.

More information can be found at [www.acp.ie](http://www.acp.ie) and for the Dublin area at <http://www.dublincollaborativepractitioners.blogspot.com>

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