



# **Collaborative Professionals (NSW) Inc**

**Submission to Australian Law Reform Commission on Review of the Family  
Law System in Response to the Issues Paper Dated March 2018**

**Prepared by Collaborative Professionals (NSW) Inc  
ALRC Sub-committee**

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## **Introduction**

***This submission introduces 'collaborative practice' as a dispute resolution process; explains the role collaborative practice plays in the field of 'dispute resolution'; outlines the benefit to families of using this process and makes recommendations to be considered by the Commission.***

Collaborative Professionals (NSW) Inc is a non-profit ("CP (NSW)") state organisation for the promotion of collaborative practice and support of New South Wales Collaborative Practice Groups.

CPNSW brings together professionals from different disciplines namely lawyers, child experts, financial advisors, accountants and coaches (usually a social scientist or psychologist). Each professional is trained in collaborative practice and brings their individual skills to this unique interdisciplinary approach to dispute resolution. The focus is to assist families resolve disputes with dignity and respect.

The Collaborative Practitioners of Australia have recently established the Australian Association of Collaborative Professionals and New South Wales, Western Australia, Victoria, Queensland and ACT all have state bodies. Submissions have been made to the ALRC by :

- AACP and
- ACT.

CP(NSW) has read and endorses each of those submissions.

## **What is Collaborative Practice or The Interdisciplinary Collaborative Process?**

In the Family Law context, the Interdisciplinary Collaborative Process (collaborative practice) provides a dignified approach to resolving the issues that arise out of relationship breakdown. In a collaborative process, the participants and other professionals agree to work together to find a solution to whatever financial or child-related issues need to be addressed without involving the court. Essential to the collaborative process is a commitment to work through all issues without threatening to go to court or commencing court proceedings. All participants sign up to this commitment by signing a participation agreement.

A collaborative approach allows for a great degree of co-operation between a range of professionals involved in helping families. Clients involved in a collaborative process will have access to the skills of child specialists, counsellors, accountants and financial advisers who can bring their expertise to the process when necessary, as well as family lawyers. The collaborative process is a unique dispute resolution process in that the multi-professional team can ensure informed decisions are made taking into account the entire family's needs and interests. The financial neutral is able to provide important information with longer term perspectives to address complex structures, tax issues, superannuation and future financial viability of both parties.

The collaborative team is committed to empowering clients to resolve their disputes jointly.

Couples choosing to resolve their differences by adopting the collaborative process benefit in many immediate and long-term ways. Working through the collaborative process, each partner:

- minimises immediate and ongoing conflict;
- has better control of the separation process;
- maintains a level of dignity, respect and privacy;
- avoids Court proceedings;
- knows their children's needs are given priority;
- knows their solution is tailored, it is not one size fits all;
- is more likely to have a better long-term relationship with their ex-partner;
- is more likely to obtain a settlement, incorporating where possible, each partner's needs, interests and objectives; and
- has an alternative to litigation without the associated costs, delays and emotional hardship.

In the Collaborative Process, collaborative lawyers and their clients are responsible for gathering information, generating options and finding solutions that are future-focused and acceptable to the disputing participants. "Generating options" refers to identifying or developing various options to resolve the conflict in a manner that addresses each participant's needs and interests.

The Collaborative Process allows for a greater degree of co-operation between a range of professionals involved in helping families. The lawyers are able to concentrate on helping their clients in the negotiations and focusing upon shaping a settlement that addresses the interests, needs and concerns of the family, with assistance from other professionals in the team. The professional team works with and for the family. The lawyers do not advocate for their clients, but contribute their legal knowledge. Each client is encouraged to express their own needs and interests and is assisted in communication by the coach. A child specialist assists the parties to focus on their children's needs and how they can be addressed, and the financial advisor or accountant assists with financial options (in the case of advisers ) and valuations (in the case of accountants).

### **The Process**

- Each client is represented by a collaboratively trained lawyer throughout the process.
- Both lawyers help their client and the other party to work as a team to:
  - Find and focus on their common interests;
  - Understand each other's concerns;
  - Make a full and frank exchange of information;

- Explore a wide range of possible choices; and
- Reach solutions acceptable to both participants.

All negotiations are conducted between the clients and the lawyers of both participants in a series of "without prejudice" meetings potentially including other experts, facilitated by a coach. The coach/facilitator is neutral and guides the process. The participants can choose to instruct financial professionals or child specialists to provide advice as may be required. The other professionals may or may not attend the group meetings. The Collaborative Process includes the following steps:

- Identify what is important to each participant (interests);
- Identify what questions the participants need to answer;
- Gather information;
- Create the maximum number of choices;
- Evaluate options and modify and refine them;
- Negotiate to an acceptable agreement; and
- Closure.

The Collaborative Process is voluntary and confidential. By its nature, it avoids the need for lengthy and expensive pleadings, affidavits and the like, to be prepared. Time frames are determined by the participants, not by Court lists and timetables.

### **Statistics**

Central Sydney Collaborative Forum, a collaborative practice group, has collected statistics from members for the last 15 months. Those statistics show that collaborative matters settle relatively quickly at a substantially lower cost than if the matters are litigated. Of twenty-seven completed matters:

- 6 matters settled within 6 months or less;
- 12 matters settled between 6 months and less than twelve months; and
- 9 matters settled between twelve months and 2 years.

Of those twenty-seven completed matters the legal costs of the collaborative process were:

- 8 matters settled with legal costs of less than \$15,000;
- 13 matters settled with legal costs between \$15,000 and \$30,000; and
- 6 matters settled with legal costs between \$30,000 and \$50,000.

CP(NSW) has sought to collect statistics from participants in the collaborative process. Of the 17 responses to date, all matters settled. Eleven of the Respondents indicated that

there had been no conflict subsequent to settlement and one Respondent indicated there was subsequent conflict, but the participants used mediation to resolve the dispute.

The total costs of the process for the CP NSW participants were as follows:

- 2 - Less than \$15,000
- 6 - \$15,000 to \$30,000
- 3 - \$31,000 to \$50,000
- 3- Between \$50,000 and \$75,000
- 2 - Greater than \$75,000

The total length of the process for each of the Respondents to the survey was as follows:

- 1 - Under 3 months
- 4 - between 3 and 6 months
- 6 - between 6 and 12 months
- 5- between 1 and 2 years

Only 3 Respondents indicated that there had been allegations of family violence or abuse prior to the process and two Respondents indicated that those allegations / power imbalance were managed in the process, while the third did not feel the power imbalance was adequately managed.

On a scale of 1 to 10, the respondents were asked to indicate how likely they were to refer others to the Collaborative process, with "1" being "Not at All" and 10 being "Extremely likely". The responses indicated the respondents generally will recommend the process.

Survey results:

| Choices:   |   |   |   |   |   |   |   |   |    |
|------------|---|---|---|---|---|---|---|---|----|
| 1          | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Responses: |   |   |   |   |   |   |   |   |    |
| 0          | 0 | 0 | 0 | 1 | 0 | 2 | 5 | 1 | 6  |

We respond to a number of specific questions raised in the Issues Paper below.

### **Responses to Specific Questions**

**Question 10: What changes could be made to the family law system, including to the provision of legal services and private reports, to reduce the cost to clients of resolving family disputes?**

Critical to reducing the cost to clients of resolving family disputes are the delays within the Court system, and the availability of legal aid.

We support education of the public about collaborative process as an alternative to entering the Court system. It is our submission that the Government should promote collaborative practice as an alternative dispute resolution method. Such promotion may be by way of referring to collaborative practice as an alternate dispute resolution method on the Family Relationships website and the Family and Federal Circuit Court websites and in the Brochure – Marriage Families & Separation.

The Collaborative Practitioners of Australia have recently established the Australian Association of Collaborative Professionals and New South Wales, Western Australia, Victoria, Queensland and ACT all have state bodies. Links could be provided to each of the Australian Association and the state bodies to enable potential litigants to obtain information about the collaborative process. Apart from listing the individual practitioners who are members and collaboratively trained, none of these websites promote or advertise individual practices – their objective is to promote collaborative practice and to provide information as to how to contact collaboratively trained professionals.

**Question 22: How can current dispute resolution processes be modified to provide effective low-cost options for resolving small property matters?**

In order to maximise the use of the current dispute resolution processes for small property matters, alternate dispute resolution ('ADR') such as mediation or collaborative practice must be made compulsory prior to seeking relief from the Court in the same way as a section 60I certificate is required prior to filing an Application for parenting orders in the Family Courts, with limited exceptions. We support the recommendation of the Productivity Commission to extend the requirement to attempt Family Dispute Resolution processes prior to lodging applications for financial matters.

It is submitted the *Federal Circuit Court Rules* 2001 require amendment to:

- (a) require anyone seeking to file an Application for property adjustment in the Federal Circuit Court to have first provided full and frank financial disclosure to the other party such as is required by Schedule 1 of the *Family Law Rules* 2004; and
- (b) require that any certificate regarding the attempt at Family Dispute Resolution processes prior to lodging an Application for financial matters, must confirm that full and frank financial disclosure to the other party such as is required by Schedule 1 of the *Family Law Rules* 2004 has taken place.

Collaborative practice is particularly useful in small property claims where the process can be utilised to assist participants to resolve matters in a relatively short timeframe at minimal cost.

It is possible in the collaborative process for the party with greater financial resources to agree at the outset to pay the other party's costs of the process. Such agreement is not unusual where both participants are committed to reaching resolution. This enables both

participants to be legally supported and to have access to financial neutrals or child-inclusive consultants if necessary.

In the collaborative process, the participants have time between meetings in which to process information, which tends to put less pressure on them than in mediations or conciliation conferences at Court.

We repeat our submission that greater promotion of ADR such as mediation and collaborative practice via Court publications and government sponsored publications and Court and Government websites as genuine alternatives to resolve small property matters is essential, if the goal is to reduce the number of cases currently within the family law courts.

We also submit that collaborative professionals be enabled to provide FDR certificates where a collaborative process has been attempted and the matter has not settled, in both Parenting and Property matters.

**Question 24: Should legally assisted family dispute resolution processes play a greater role in the resolution of disputes involving family violence or abuse?**

The proposal to imbed specialist family violence workers in the Courts is supported. However this should not have to be an alternative to properly funded and supported alternative dispute resolution involving lawyers, in disputes involving family violence.

The available evidence clearly indicates that the current court process can exacerbate and worsen the trauma already being suffered by victims of family violence. Given the current availability of screening programs and methodologies to facilitate Family dispute resolution ("FDR") in cases of family violence, an expansion of those services is strongly supported.

There is anecdotal evidence that the primary response of lawyers to cases involving family violence is that they are unsuitable for FDR and involvement of the Court is required. It is submitted that an education program is required to change that view, and provided the appropriate safeguards are put in place, and the victim of the family violence is willing to engage in FDR, this is strongly supported as the first avenue of resolution for cases involving family violence.

The interdisciplinary collaborative process involves a coach, lawyers for each party and a child-inclusive consultant for parenting matters, and a financial neutral when necessary for property matters. Collaborative practitioners are trained to deal with power imbalances and the process is designed to empower each party to negotiate and discuss issues in a supported environment. Not all cases involving family violence and/or abuse will be suited to the collaborative process, and participants are screened by the coach and legal practitioners before commencing the collaborative process.

The collaborative process is a forward-looking process, addressing participants' future needs and interests, and steers participants away from historical actions and recriminations.

In the collaborative process, it is essential that both participants will:

- treat each other with respect;
- listen to each other's perspectives, interests and concerns, explore all possible choices; and
- let go of the past, in order to focus on the future.

Where there is a power imbalance or a tendency to engage in aggressive behaviour, it is the role principally of the coach to manage such behaviour and for all professionals to call timeout, when necessary. A coach/facilitator is recommended to assist and manage participants' communications and understanding of each other's perspectives.

Coaches/Facilitators are very helpful where participants become emotional or feel unable to speak up. Where children are involved, coaches/facilitators will assist the participants to establish a framework for ongoing co-parenting communications after the collaborative process is finished.

Participants in a Collaborative Process negotiation agree not to go to Court and cannot use the threat of going to Court as a means of coercing the other party to agree to or to accept a position. This assists to facilitate the conduct of negotiations in good faith and to honestly consider the interests of the participants. Accordingly, going to Court is not an option for a Collaborative Lawyer. Going to Court is only possible if there are urgent reasons that require it (e.g.: to preserve an asset) and only after the collaborative process is terminated and new legal representatives appointed.

The reason that Collaborative Law has been successful is that the lawyers are disqualified from acting for the client should collaboration fail. A disqualification agreement underlines the fact that all the participants are attempting to achieve settlement without threatening or being subject to the threat of Court proceedings when things become difficult.

By agreeing at the outset not to go to Court, each participant and the lawyers can be encouraged to reach creative settlements, (of course having regard to the legal position), by having the particular interests of all the participants involved at the forefront of any settlement proposals.

Underpinning the Collaborative Process is an understanding that each party and their respective lawyers, will act in good faith, be open and honest in their dealings with one another and respect the fact that different views will need to be expressed to achieve a fair settlement.

The majority of the negotiations will take place at '4-way' or '5-way' face-to-face meetings between the participants, the lawyers and the coach/facilitator. Correspondence between lawyers is kept to a minimum. As the participants are present throughout the negotiations, they retain control of the outcome. The scope for misunderstandings is reduced and the participants are assisted in communicating with each other in a non-confrontational way, which is particularly important in parenting cases.

Instead of creating an atmosphere of intimidation and fear where the lawyers control the discussions under the threat of a Court imposed outcome, the collaborative environment is

one in which the participants and their Collaborative Lawyers are focused on the resolution of the dispute through the use of principled negotiation.

The settlement of the dispute between the participants therefore is not the by-product of the litigation process where the participants involved are willing to accept the fall-back position of a Court-imposed outcome but is, instead, the stated aim and purpose of the entire Collaborative Process.

The Collaborative Process is future focused. The participants are encouraged and guided through a process in which their needs and interests are identified, options to meet or satisfy those needs and interests are explored and developed and the participants effectively design their own outcome to their dispute with the benefit of the advice and skills of their Collaborative Lawyers, and other members of the Professional team.

Unlike litigation which destroys the lines of communication between the disputing participants by the use of a lawyer-directed process, the participants are helped by the Collaborative Lawyers and Coach/Facilitator to re-establish those lines of communication and to conduct the negotiations themselves.

**Question 26: In what ways could non-adjudicative dispute resolution processes such as family dispute resolution conciliation be developed or expanded to better support families to resolve disputes in a timely and cost-effective way?**

Collaborative practice is a more holistic approach to family law settlement, where the participants can afford legal representation as it considers the needs of the family as a whole with all of the professionals working together to achieve settlement rather than positional style bargaining often adopted in mediation.

Greater promotion of collaborative practice as an option among the range of non-adjudicative dispute resolution processes is essential to better support families. Collaborative practice provides greater flexibility than mediation and allows other collaboratively trained professionals such as child consultants to assist the participants with information about the needs of the children and even the wishes of the children should that be necessary.

To participate in the collaborative practice model, all of the professionals involved must have undergone the requisite training. There is a current restriction in the number of collaborative matters due to many solicitors not having participated in such training. As the awareness of collaborative law grows within the profession, it is hoped that more solicitors will seek to engage in the collaborative model.

We recommend the government Family Relationships website and Family & Federal Circuit Court websites refer to the collaborative process as an alternative dispute resolution option. In the statistics gathered by the Central Sydney Collaborative Forum, of thirty-three matters, 6 did not resolve which converts to an 82% success rate for achieving resolution. This is in an environment where there is no government funding or support.

As the collaborative process is a voluntary process requiring both participants to commit to resolving their issues in a respectful manner, we support government assistance in publicising this process as an alternative dispute resolution method. The collaborative process is not suited to all lawyers and we do not support it becoming compulsory.

We support the recommendation of the Productivity Commission to extend the requirement to attempt Family Dispute Resolution prior to lodging Applications for financial matters, with cost implications being imposed where no appropriate certificate is obtained. We recommend that collaborative professionals be able to provide FDR certificates. As the Participation Agreement required in the collaborative process disqualifies collaborative lawyers from continuing to act on behalf of clients if the collaborative process is terminated, there is no incentive for collaborative professionals to half-heartedly attempt a collaboration process with a view to giving their client an FDR certificate.

**Question 30. Should family inclusive decision-making processes be incorporated into the family law system? How could this be done?**

Decisions made within families are more likely to succeed than those imposed by outsiders (Huntsman 2006).

Incorporating family inclusive decision-making processes into the family law system should be considered.

Family inclusive decision making processes, whereby the 'family group', along with the potential assistance of other professionals, make plans and decisions for children has potential to offer a safe and family inclusive approach to determining appropriate care arrangements for children.

The model which is currently used in other areas is based on the following assumptions:

- The child has a right to have their wider family participate in decisions that affect them; and
- Families are competent to make decisions if properly engaged, prepared and provided with necessary information.

It is often considered that a family unit, when educated and given the right skills and resources, are able to provide a safe and supportive environment for children. We support engaging and educating families in their pivotal role in the care and protection of their child/ren.

The Collaborative process can be adapted to include the wider family group where necessary, with the coach acting as facilitator and the parents having legal support in the discussions.

**Question 37: How can children be supported to participate in family dispute resolution processes?**

We support the comments made in para 263 of the Issues Paper.

There is a growing awareness of the importance of offering children an opportunity to participate in family dispute resolution processes, including mediation and interdisciplinary collaborative practice. We must consider new ways of protecting children through participation, rather than exclusion.

(Birnbaum, R. & Saini, R. (2012). A scoping review of qualitative studies on the voice of the child in child custody disputes. *Childhood*, 20(2), 260-282) conclude that ‘*children want to have a voice and input into decision making regarding parenting plans post separation and/or divorce*’.

It is widely understood and accepted (at least in academic circles) that children desire some involvement in post-separation planning. The issue is the nature of involvement and how it ought be facilitated or supported. A child’s ‘voice’ should be distinguished from a child’s ‘choice’.

Research from Australia suggests that involvement of children in mediation has long-term positive effects on the relationship between children and non-primary care-giving parents (McIntosh, J., Wells, Y., Smyth, B., & Long, C. (2008). “Child-focused And Child-inclusive Divorce Mediation: Comparative Outcomes from a Prospective Study of Post-Separation Adjustment” *Family Court Review*, 46(1), 105-124).

There is also international research to support the broader proposition that when children feel that they have been involved in making plans for their care, they have better long-term outcomes (Birnbaum, R. & Saini, R. (2012). A scoping review of qualitative studies on the voice of the child in child custody disputes. *Childhood*, 20(2), 260-282.).

Currently, the means by which children’s voices are “heard” in disputes concerning their family, prior to litigation, is a matter determined within the family. Inclusion of a child in family dispute resolution needs to be delicately managed and should be considered on a case by case basis with factors such as the age, maturity of the child and the individual circumstances of the family law dispute considered (including allegations of family violence and parental relationships/alienation).

The reality is that most parents going through mediation are not aware of their children’s true feelings and views. Understandably, many children tend to tell each parent what they think the parent would like to hear. When parents learn about their children’s true views, a more respectful approach to settlement may occur and parents often report being able to negotiate more objectively during family dispute resolution, as they have information which centres the process on their child’s needs.

Supporting child’s participation in the family dispute resolution process is paramount. The following could be considered in supporting the child’s participation in the family dispute resolution processes:

- Assessment of parental capacity to take their children's views on board as the deciding factor in determining the suitability of child-inclusive practice in any matter;
- Any interaction with the child/family regarding this process should be undertaken by appropriately skilled mediators/child practitioners in a supportive, developmentally appropriate manner;
- Age-appropriate information about mediation and other dispute resolution processes, such as collaborative practice, which explains what the process offers, its purpose and how it is delivered and who by, and which makes it clear that children can, if they wish, express their views to the professionals involved in their case;
- Safety of the child must take priority;
- Whether a child's involvement must be voluntary and no meeting or other form of involvement should be imposed on those who do not want to be included;
- The child should not carry the burden of decision making;
- The child's experiences should be respected, validated and understood within a process that is developmentally sensitive;
- The child should be provided with the opportunity to obtain the support of a counsellor/health professional to assist them to express how they feel freely and to have the opportunity for therapeutic assistance beyond the family dispute resolution process;
- Careful consideration should be given to time, place, setting, support people present at any meeting;
- Measures should be taken to ensure the child is not being over interviewed;
- Parents should be supported to listen to, understand, value and reflect on their child's needs/views and to take them into account when making decisions for their child's future;
- The mediation/dispute resolution process should ensure that the decisions reached take account of the conversations with the child and the messages shared with parents;
- Conversations with children and young people should be regarded as confidential and the nature and process of any disclosure to parents must be agreed with the child;
- The child should be kept informed about the dispute resolution process and the outcomes reached should be explained to them by a qualified professional;
- The processes should be transparent, informative, voluntary, respectful, relevant, child friendly, inclusive, safe and sensitive to risk, and accountable.

The collaborative process allows the participants to engage child inclusive consultants to assist in making parenting arrangements where a child inclusive consultant is brought into the collaborative team.

The goals of child-focused dispute resolution are to:

- create an environment that supports disputing parents in actively considering the unique needs of each of their children;
- facilitate a parenting agreement that preserves significant relationships and supports children's psychological adjustment to the separation, including recovery from parental acrimony and protection from further conflict;
- support parents to leave the dispute resolution forum on higher rather than diminished ground with respect to their post-separation parenting; and
- ensure that the ongoing process and the agreements or decisions reached reflect the basic psycho-developmental needs of each child, to the extent that they can be known without the involvement of the children.

Child-inclusive dispute resolution shares these goals, and also includes:

- consulting with children in a supportive, developmentally appropriate manner about their experiences of the family separation and dispute;
- ensuring that the style of consultation avoids and removes any burden of decision-making from the children;
- understanding and formulating children's core experience within a developmental framework;
- validating children's experiences and providing basic information that may assist their present and future coping;
- forming a strategic therapeutic loop back to the children's parents by considering with them the essence of their children's experience in a manner that supports them to hear and reflect upon their children's needs; and
- ensuring that the ongoing process and the agreements or decisions reached reflect at their core the psycho-developmental needs of each child.

We submit the collaborative process facilitates both child focused and child inclusive dispute resolution.

**Question 38: Are there risks to children from involving them in decision-making or dispute resolution processes? How should these risks be managed?**

We support the comments made in para 267 and make no additional comments.

We support the comments made in paras 268 – 271 and add:

- We submit the collaborative process is focused on managing risks to children of participants in that the team is guided by the Child consultant.
- The professional team can hold discussions amongst team members between meetings with participants, to ensure the team has a unified approach to dealing with the children's needs and interests.

**Question 39: what changes are needed to ensure that all children who wish to do so are able to participate in family law system processes in a way that is culturally safe and responsive to their particular needs?**

We support the comments in para 273 – 274 and add:

In the collaborative context, the child consultant brings their expertise to the team to design the supports necessary to facilitate the resolution of parenting issues, having regard to the needs and best interests of the children.

**Question 40: how can efforts to improve children’s experiences in the family law system best learn from children and young people who have experience of its processes?**

We support the comments made in paras 276-278 and add:

The collaborative process can be adapted to each family's needs, and the team de-briefing at the end of each process is a learning process for each of the team's members. We submit that collaborative practitioners are constantly learning, given their interaction with coaches, child consultants, financial neutrals and participants. The learning is shared amongst the team and amongst professionals in their practice groups, so that there is a constant "up-skilling" amongst collaborative professionals.

**Question 44: What approaches are needed to promote the well-being of the family law system professionals and judicial officers?**

In the collaborative process, the collaborative team work together to assist participants. The professional collaborative team may meet or hold teleconferences separately from the participants to discuss any concerns about participants and how to manage those concerns. It is an important part of the collaborative process for the professional team to debrief, after the completion of the process to discuss issues that may have arisen during the process and how they may have been differently addressed. Collaboration is an ongoing learning process for collaborative professionals and involves each member of the team participating to help and support their fellow professionals. As such it is a far more supportive process for the professionals than litigation.

The very nature of the collaborative process means that participants are "heard" and their active participation in the process weighs against complaints being made against individual practitioners.

## **SUMMARY**

1. We support education of the public about collaborative process as an alternative to entering the Court system. It is our submission that the Government should promote collaborative practice as an alternative dispute resolution ("ADR") method. **(Question 10)**
2. Greater promotion of ADR such as mediation and collaborative practice via Court and government publications and Court and Government websites as genuine alternatives to resolve small property matters is essential if the goal is to reduce the number of cases currently within the family law courts. Collaborative professionals should be enabled to provide FDR certificates where a collaborative process has been attempted and the matter has not settled, in both Parenting and Property matters, to encourage participants to use the collaborative process. **(Question 22)**
3. The Collaborative process can be suitable to resolution of disputes involving family violence or abuse, subject to screening of the participants. **(Question 24)**
4. We support the recommendation of the Productivity Commission to extend the requirement to attempt Family Dispute Resolution prior to lodging Applications for financial matters, with cost implications being imposed where no appropriate certificate is obtained. We recommend that collaborative professionals be able to provide FDR certificates. **(Question 26)**
5. The Collaborative process can be adapted to include the wider family group where necessary, with the coach acting as facilitator and the parents having legal support in the discussions. **(Question 30)**
6. The collaborative process facilitates both child focused and child inclusive dispute resolution. **(Question 37)**
7. The collaborative process is focused on managing risks to children of the participants. **(Question 38)**
8. In the collaborative context, the child consultant brings their expertise to the team to design the supports necessary to facilitate the resolution of parenting issues, having regard to the needs and best interests of the children. **(Question 39)**
9. There is a constant "up-skilling" amongst collaborative professionals, as new experiences are de-briefed among team members and shared with team members' respective practice groups. **(Question 40)**
10. The very nature of the collaborative process means that participants are "heard" and their active participation in the process weighs against complaints being made against individual practitioners. Collaboration involves each member of the professional team participating to help and support their fellow professionals. As such it is a far more supportive process for the professionals than litigation. **(Question 44)**