

---

[Wealth](#)

[Personal Finance](#)

[Divorce](#)

# This increasingly popular divorce strategy can save money and tears

*A collaborative divorce typically costs between \$20,000 and \$60,000 and takes from two to six months. That compares to a fully litigated action costing between \$50,000 and \$150,000 and 18 months to about 2½ years to get to court.*

**Duncan Hughes** [[/by/duncan-hughes-j7gc6](#)] Reporter

---

Apr 10, 2024 – 5.01am



Listen to this article

7 min

---

**T**he divorce of Jane Needham and Joe Darling was fast, low cost and protected their three children as the painful financial and emotional differences involved in crafting a settlement were resolved.

Needham – a lawyer who specialises in succession planning – says she wanted to keep the matter out of court, where adversarial and confrontational processes can inflame long-simmering tensions.



Collaborative divorce a better option than the court, say Jane Needham and Joe Darling. **Louie Douvis**

“It can be very hard to let go of the grief after litigation,” she says.

For Darling, who runs The Pottery Shed in Sydney’s Surry Hills, the emotional and legal rollercoaster of rebuilding his life after the decision to separate took its toll. “I was shell-shocked,” he says.

The couple wanted a “collaborative” divorce, which, according to specialists, is a “bespoke process” that can help gently resolve disputes involving child support, parenting arrangements and property financial settlements.

It is usually completed in two to six months, depending on the complexity of the case. That compares to the average waiting time for a trial in the Family Court in Sydney that exceeds 18 months, with some cases delayed for years.

Divorce numbers are increasing and disputes are becoming more complex because of older separating couples [<https://www.afr.com/wealth/personal-finance/it-s-divorce-season-this-is-what-to-do-about-money-20240227-p5f88g>] with more assets and blended families comprised of natural and adopted children.

## Amicable couples

According to the latest government statistics, the total number of divorces in 2021 was more than 56,000, the highest since 1976 when “no-fault” divorce actions were introduced. No-fault is the dissolution of a marriage not requiring evidence of wrongdoing by either party.

The time and cost of a court divorce, where experienced barristers and their solicitors charge more than \$50,000 a day, plus preparatory expenses, are encouraging those planning a divorce to consider other options.

These can range from do-it-yourself direct negotiations between former partners through to mediation, traditional lawyer-assisted negotiations, arbitration, a court hearing or collaboration. Collaborative and mediated divorces are the fastest-growing options, experts say.

Jacqueline Wharton, a lawyer and founder of Separation and Divorce Advisors, which provides a separation collaboration process designed for amicable couples, says only about 5 per cent of cases end up in the Family Court. This means most can come to an agreement.

Shelby Timmins, principal of Divorce Done Differently, says a collaborative divorce typically costs between \$20,000 and \$60,000.

“Collaborative practitioners are trained in a defined dispute resolution process that involves an agreement not to go to – or threaten – court action,” she says. “It encourages the couple to imagine what kind of family life they want to lead post-divorce.”

Timmins, who is also president of Collaborative Professionals (NSW), says a fully litigated action [<https://www.afr.com/wealth/personal-finance/10-ways-to-stop-silver-divorce-destroying-your-wealth-20231027-p5efj4>] can cost between \$50,000 and \$150,000 and take 18 months to about 2½ years to get to court. More complex cases can cost up to \$500,000.

“It depends on the complexity of the issues and time taken to resolve disagreements,” she says. “A married couple can negotiate and resolve their property and parenting matters without a divorce.”

Timmins, who has been a family lawyer for 20 years, says the legal system pits divorcing couples against each other over issues ranging from children and their custody through to what happens to the family home.

“But it is not just legal issues that need to be considered. Families also need to maintain relationships for shared responsibilities, such as children’s schooling and holiday arrangements,” she says.

Timmins says a collaborative approach attempts to maximise co-operation and minimise conflict by using a “team approach” to negotiating a settlement.

## No win-lose mentality

“It’s a leap away from the win-lose adversarial mentality, to a process where parties and practitioners are committed to a future-focused outcome for those involved,” she says.

Both parties choose a lawyer trained in the collaborative process and other parties, such as financial advisers, forensic accountants and counsellors, who sign an agreement that they won’t go to court.

They also undertake to give “full and frank disclosure” during a series of roundtable meetings involving the partners and their lawyers, sometimes with the addition of a “coach” whose role is to ensure collaboration.

The settlement is filed at court as an official record.

Bernie Bolger, a professionally qualified mediator who was the “coach” in Needham and Darling’s case, says divorce negotiations can be tense and irrational.

“Collaboration encourages emotional empathy and forward-looking discussions,” Bolger says. “In this case the emotional and physical security of the couple’s children were front and centre.”

At the time of the divorce in 2018, the couple’s twin sons were aged 11 and their daughter was 15-years-old.

“While the children were not involved in the process, they were kept informed that their parents were finding a way forward and not fighting,” Bolger says.

Darling says the children remained in the family home where their parents spent alternative weeks living to minimise any domestic disruption and ease the transition to divorce.

“It was a good transition,” he says. “I also didn’t feel like I had been ejected from the premises.”

The separation was finalised after four meetings involving Needham and Darling and their lawyers, plus separate meetings with Bolger.

Courtney Mullen, a partner with law firm Foster Johnson, attributes collaborative divorce’s growing popularity to the desire for privacy rather than exposure in a public courtroom. Couples can also proceed at their preferred pace and settlements are based on agreement, rather than legislation or case law.



Lawyer Courtney Mullen says clients prefer the privacy of a collaborative divorce. **Rohan Thomson**

But collaboration is, of course, not right for everybody.

“Good lawyers will encourage their clients to collaborate if the circumstances are appropriate,” Wharton says.

“This could be via do-it-yourself negotiations, mediation or the collaborative law process. If you choose the collaborative process, and it breaks down because the ex commences court proceedings, they will need to hire a new lawyer. While this may not necessarily sound like a huge penalty, it can cost thousands of dollars to get their new lawyer up to speed.”

Wharton says there are also generally more meetings held in a collaborative process between the lawyers and coach and other third-party professionals than initially anticipated, which can add to the cost.

Collaboration might also not be suitable where there has been domestic violence or where one party feels that it is unlikely that there would be any

resolution without at least starting court proceedings, she says.

“But it also allows people to discuss what matters to them and why.”

Mullen says a breakdown caused by infidelity can also increase tensions and make it more difficult to negotiate.

“If two parties do not feel comfortable in the same room then it disturbs the balance of bargaining power,” she says.

Arabella Feltham, a consultant with The Separation Guide, an online divorce platform, says the number of couples using mediation grew by 35 per cent between 2022 and 2023.

Feltham says parties work with one legally qualified mediator to negotiate an agreement, which is reviewed by family lawyers who draft legally binding documents.

“Most clients using this program reach successful outcomes for less than \$10,000 per person,” says Feltham. “Many clients want to do what is right and fair but need help communicating different ways to address their issues involving finances and children.”

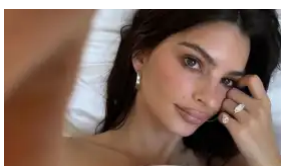
But without a willingness from both parties to co-operate, the process can break down, wasting time, effort and money.



#### RELATED

##### **10 ways to stop ‘silver divorce’ destroying your wealth**

<https://www.afr.com/wealth/personal-finance/10-ways-to-stop-silver-divorce-destroying-your-wealth-20231027-p5efj4>



#### RELATED

##### **Why ‘divorce rings’ are going viral**

<https://www.afr.com/life-and-luxury/fashion-and-style/forget-wedding-rings-divorce-rings-are-going-viral-20240403-p5fgxk>

---





## **Duncan Hughes**

*Reporter*

Duncan Hughes is a Walkley award-winning personal finance reporter, based in our Melbourne newsroom. *Connect with Duncan on [Twitter](#). Email Duncan at [duhughes@afrc.com.au](mailto:duhughes@afrc.com.au)*