

Family courts to fast track “sensible and civilised” collaborative agreements

FAMILY LAWYERS WHO negotiate collaborative agreements with couples will be able to get them fast tracked through the courts, a senior High Court judge has said.

Mr Justice Coleridge, who famously compared the impact of family breakdown to global warming, said solicitors would no longer need to lodge consent orders with the court, and wait for approval.

Instead, he said applications for approval in collaborative cases could be dealt with through the urgent, “without notice” applications list.

Speaking at a reception to celebrate five years of the Central London Collaborative Law Forum, Mr Justice Coleridge read an extract from his judgment in *S v P*, yet to be published but seen by *Solicitors Journal*.

The case involved an unmarried couple, with young children aged three and five. They negotiated a collaborative agreement, allowing the mother to take the children to the US once the legal process was over.

Mr Justice Coleridge said he wanted to give as much encouragement as he could to the collaborative process. “Accordingly, I have permitted the application for approval to be dealt with in the urgent without notice applications list, as this considerably shortcuts the normal rather lengthier process of lodging consent orders through the Principal Registry and waiting for them to be approved and sent back.

“Whilst I cannot bind the court always to allow this shortcut process to be available,



Karen MacKay: ‘Coleridge J’s message “incredibly helpful”’

I have discussed this suggestion with the President [of the Family Division] and he has given his approval to this shortcut process being used by those who achieve collaborative law agreements in this way.

“He has approved this in order to provide as much encouragement as possible to people to resolve their difficulties in this civilised and sensible way.”

Mr Justice Coleridge warned that if the fast-track procedure led to a flood of applications it might have to be reviewed.

However he said that the prospects of obtaining final documentation quickly would be an incentive on parties to “knuckle down and negotiate to an agreed conclusion.”

He added that the new procedure was subject to the consent of the urgent application judge, and could only be used where every aspect of the documentation was agreed, the hearing was not expected to last for more than ten minutes and documents were with the judge the night before the hearing.

James Stewart, partner at Manches and member of the London Collaborative Umbrella committee, said he was “absolutely delighted” by the move.

He called on the Principal Registry to go further, by designating one or two district judges with knowledge of the process to deal with collaborative cases and fast-track consent orders.

“Five years ago only four London lawyers were qualified in collaborative practice,” he said. “Now there are 1,250. The growth has been phenomenal.”

Stewart said collaborative law agreements had originated in the US, but had been adapted for England and Wales, and had become the primary form of ADR in family cases.

Karen Mackay, chief executive of family law group Resolution, praised Mr Justice Coleridge for giving an “incredibly helpful message.”

Mackay said collaborative law gave couples control over the timetable of their separation, rather than leaving it to the courts.

“If the process breaks down, the parties have to instruct other solicitors – providing another incentive to make things work,” she added.