

Queensland Association of Collaborative Practitioners (QACP)

History and Function

The QACP is the leading member association for collaboratively-trained professionals in Queensland. It works to promote collaborative practice as a viable alternative to mediation and other alternate dispute resolution in seeking to resolve family law based disputes without recourse to litigation. QACP was formerly known as Queensland Collaborative Law. The new title represents the recognition of the interdisciplinary nature of collaborative practice in Queensland.

The QCL was first formed 13 years ago in 2005 as an incorporated association.

There are 110 members, 80 lawyers, 8 social scientists and 23 financial professionals.

QACP is currently transitioning from an incorporated association to a limited company. That process will be completed by 30 June 2018.

Practice in this state reflects the early adoption of this method of resolution. Queensland has been consistent in adopting alternate dispute resolution processes.

Active trainers

Training sessions are run by the QACP for family law professionals who are interested in gaining skills as a collaborative practitioner.

Collaborative training is based on the interest based negotiation model. This encourages and permits families to search for and achieve outcomes that endure because they are encouraged to look beyond legal positions and give consideration to common interests. For example, the difficulties of separation and divorce exist for both parties and there is a greater capacity to encourage parents to accept responsibility for child support and for both parents to support a non- working parent (if there has been one), to return to the work force.

The focus is on problem solving, negotiation and settlement advocacy to resolve conflict with agreements that can endure as they have been developed for that family, with an overarching focus on respectfully resolving disputes without recourse to litigation. Families are encouraged to work together and this predicts a better outcome for children than accepted research on the harm to children that results from exposure to parental conflict.

Historical Training

We have had reputable international lawyers provide training to our members since 2006. Marion Korn, a Divorce Specialist from Toronto provided the first training, Pauline Tesler, a seminal collaborative family law attorney from San Francisco has provided a number of trainings and Victoria Smith, a collaborative family lawyer from Toronto has also provided more than one training session.

In 2015, the IACP, the international body, held an institute on the Queensland Gold Coast.

Queensland and Regional Issues

Queensland has to recognise and manage regional needs. Training sessions are provided throughout Queensland and there are practice groups in Brisbane, Cairns, Gold Coast, Townsville and Toowoomba. There is also a collaborative community of lawyers in Rockhampton.

Queensland is recognised as maintaining a cohesive community with the Board, including regional members, whenever these are available.

When a person engages a Family Lawyer they trust that lawyer with one of the most significant financial transactions of their life but it is also a transaction that encompasses deeply painful explanations and personal histories. This work is within a legal focus but often includes much more than that with the lawyer balancing the needs for disclosure of relevant information with the need to ensure the client's privacy. For this reason the legislation recognises the need for privacy and includes punitive capacity for publication. As a result, it is difficult to collate data for a function such as that we attempt to meet now.

The focus in Queensland has been to remain collegiate, recognise the need for regional support and recognising that we are now a community with established trainers and an increasing number of cases being undertaken on a daily basis within the various practice groups.

Legislation

The QACP has regard to the recommendations set out in the December 2006 report to the Attorney-General.

QACP joins with AACP, our national body, in seeking that the remaining recommendations not yet implemented from that Family Law Council report to the Attorney-General should be adopted.

They are recommendations 3, 4, 5, 6, 7 and 8, which are set out below. QACP supports the submission of the AACP in all aspects.

Those recommendations are:

Recommendation 3

The regulations referred to in section 60I(8)(aa) of the *Family Law Act 1975* should include a provision that when deciding whether to grant a certificate for the purposes of the section a family dispute resolution practitioner may have regard to a person's participation in a collaborative process.

Recommendation 4

The Law Council of Australia should consider developing and disseminating information about collaborative practice and lists of collaborative practitioners to Family Relationship Centres and community-based service providers of family dispute resolution.

Recommendation 5

The *Family Law Act 1975* should be amended to provide confidentiality of communications in the collaborative process similar to the protections provided to communications made in family dispute resolution by sections 10H and 10J of the Act.

Recommendation 6

The *Family Law Act 1975* should be amended to provide for courts exercising family law jurisdiction to have jurisdiction in relation to enforcement of collaborative contracts concerning family law disputes.

Recommendation 7

Courts exercising jurisdiction under the *Family Law Act 1975* should manage those cases where proceedings have been commenced and the parties wish to undertake a collaborative process, so that priority in the allocation of a hearing date is not lost if a complete resolution of the dispute is not achieved.

Recommendation 8

National Legal Aid should monitor developments in collaborative practice.

Recognition

With respect to these recommendations and the progression of collaborative law over the years, Australia now recognises the collaborative approach as an Alternative Dispute Resolution model.