

**Where to from here?**  
**Building collaborative practice**  
**at the micro level**

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## An introduction the “micro level” section of this talk

- **The perspective from which I am speaking**
  
- **The areas I intend to cover :**
  - A. Collaborative law in London – where have we been and where are we now?
  - B. The infrastructure which exists in London as at today
  - c. What are the challenges we have faced along the way & how have we tackled them?
  - D. Top 10 tips for establishing collaborative law at the micro level
  
- **A disclaimer**

## Joanne Edwards

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- Joined the family department of London firm Manches in March 1999 and became a partner in January 2005.
- Manches' family department ranked by Chambers as a leader in its field for the past 15 years and has 35 lawyers (3 Australians among them).
- Has specialised in family law work for over 10 years, the mainstay of her work being high net worth divorces with an international dimension. Also has extensive experience of private law children disputes, principally applications for residence, contact or leave to remove ("relocation applications" in Australia).

- As a younger partner Jo has trailblazed the promotion of alternatives to Court. She was one of the first lawyers in England to train in collaborative law after its arrival on our shores in 2003 and today Manches' family department has 12 trained collaborative lawyers. She is also the department's only trained mediator.
- Jo is involved in various ADR initiatives : sits on Resolution's ADR committee; chairs one of London's first practice groups, The London Collaborative Group; and sits on (and for a time chaired) the London Collaborative Umbrella Group, which promotes and synchronises the development of collaborative law in London. She is currently involved in efforts to establish a cross-European network of collaborative lawyers.
- Jo has featured widely on TV, radio and in the newspapers talking about collaborative law. In the last 18 months she has travelled to jurisdictions as far afield as Toronto, Adelaide, Cork, Hong Kong, Singapore, New Orleans and now Sydney, and has very much enjoyed getting to know other collaborative communities and exchanging ideas and experiences.

## **A. Collaborative law in London – where have we been and where are we now?**

- Collaborative law **arrived on British shores in 2003**, when the first 12 lawyers were trained
- Interest in collaborative law in major conurbations, such as London, grew from the outset and **demand for the training quickly began to exceed supply**
- As the number of trained collaborative lawyers in London began to grow, **numbers in the original practice group in London began to swell and become unwieldy**
- **People began to break away and form their own practice groups**, in some instances aggressively marketing those practice groups to the arguable detriment of the collaborative brand
- In **2005**, those who remained in the original practice group recognised that the situation needed to be taken control of and **set up an umbrella group** comprising a group of around 8 collaborative lawyers (me among them)
- The umbrella group decided that in an effort to unite collaborative lawyers in London, whilst conveying a consistent message to the public about collaborative law, it should arrange **a formal launch of collaborative law in London; this took place in November 2006** and had the support of the President of the Family Division
- The umbrella group concluded in **early 2007** that to ensure that it continued to represent the interests of collaborative lawyers across London, **the liaison officer for every London-based practice group should be invited to join the umbrella group.**
- **Today there are over 200 trained collaborative lawyers in London**, and around 1,250 nationwide. There are around 20 practice groups in London, all of which are represented at the monthly umbrella group meetings. Although many continue to promote their own practice group's

website, there is now a website ([www.londoncollaborativelaw.com](http://www.londoncollaborativelaw.com)) covering all of the practice groups in London.

## **B. The infrastructure which exists in London today**

### **Resolution**

(association of c.5,000 family lawyers in England, membership of which is voluntary; responsible for collaborative training, overseen by Sarah Lloyd; has trained approx. one-quarter of its membership in collaborative practice; commissioned the collaborative research published on 26<sup>th</sup> February; collates details of membership of practice groups, and number of cases undertaken, when membership renewals are submitted)

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### **ADR committee**

(a Resolution sub-committee comprising c.20 lawyers/family consultants, which meets once monthly and exists to develop ADR initiatives, draft precedents for collaborative and mediation cases, oversee training and provide guidance to Resolution members who have queries about collaborative/mediation issues; news disseminated through annual ADR conference; E News; Resolution website; The Review (annual ADR special))

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### **National Pod Liaison Officers' forum**

(meetings called twice a year and invitations sent to Pod Liaison Officers nationwide; an opportunity for the wider collaborative community to meet and ask questions of members of the ADR committee; and for the ADR committee to report on initiatives it is pursuing)

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### **London Collaborative Umbrella Group**

(a group comprising a representative of each practice group in London; meetings once per month, to (a) discuss training and marketing initiatives for the whole of London; (b) liaise about what each practice group is doing and ensure there is consistent messaging)

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**Individual practice groups**

(c.20 in London at present; no set criteria as to lines along which should be established or maximum numbers; meetings every 6-8 weeks)

## C. Challenges and solutions

### 1. *Establishment of practice groups across London*

- **Challenge** : To what extent should a central body at the micro or macro level be responsible for placing newly-trained collaborative lawyers into practice groups?
- **Solution** : We have formed the view that individuals should take responsibility for joining practice groups, or setting up new ones, themselves.

### 2. *Managing practice groups effectively and preventing competitive marketing*

- **Challenge** : To what extent should a central body at the micro level be responsible for overseeing the marketing initiatives of practice groups and ensuring consistency in the messages being given to the public?
- **Solution** : We set up the London umbrella group so that a representative from each practice group is present at a monthly meeting at which we discuss initiatives to market the collaborative brand on a cross-practice group basis; whilst also using the opportunity to discuss what marketing efforts individual practice groups are pursuing.

### 3. *Determining the proper role of the practice group*

- **Challenge** : To agree whether the role of a practice group should be inward-looking or outward-facing?

- **Solution** : Under discussion! "Purists" feel that practice groups are for training and education only; others believe that there is nothing wrong with practice groups marketing themselves, as well as the collaborative brand generally.

#### **4. Collaborative Lite**

- **Challenge** : How does one tackle the enduring issue of those lawyers who persist in entering the collaborative process only half-heartedly, refusing to sign up to a Participation Agreement in case the process breaks down?
- **Solution** : We have not come up with a universally agreed solution to this issue. In London there are many "purists" who will not countenance anything other than the PA being signed at the first four-way. Others are content to wait until financial disclosure has been provided through a quasi-collaborative process and then commit definitively to the collaborative process or court proceedings.

#### **5. "Unwelcome" guests**

- **Challenge** : How does one deal with the "bandwagon jumpers", who undertake the collaborative training but stay true to their litigious roots?
- **Solution** : We have dealt with this issue within practice groups. We have been open-minded about welcoming people to join practice groups; but people have become reticent about collaborating with people with whom others have had a bad collaborative experience. We also try to discuss any concerns openly with the "perpetrators".

#### **6. Getting the word out**

- **Challenge** : We know that collaborative practice is something that all clients should aspire to. How do we get that message out to the general public in a clear, concise and consistent way?
- **Solution** : Make friends with journalists in your local neighbourhood; have a one stop shop website; give presentations to contacts at investment banks, accountancy firms, GPs surgeries etc using one set of materials.

**7. *Joining up the dots with other collaborative communities***

- **Challenge** : How does one ensure that the lessons learned within one's local community are communicated to others, and vice versa?
- **Solution** : It's good to talk!

**8. *The need for some ground rules and sanctions***

- **Challenge** : To what extent would the orderly growth of collaborative practice at the micro level be assisted by the establishment of a collaborative protocol?
- **Solution** : A draft protocol is presently under discussion.

**D. Top 10 tips for establishing collaborative law at the micro level  
(or – have we learned *anything* over the past 6 years?)**

1. Try to maintain a central register of the practice groups in your community and who is the liaison officer for each; it makes communication far easier
2. Establish a mechanism for a representative from each practice group to meet regularly
3. Don't think about things at the micro level alone – build upon the momentum established by this conference and have regular meetings with collaborative lawyers from across Australia, to share ideas; also participate in global discussions, to learn from those who have more experience and impart advice to those with less
4. Do not let any one individual (or a group of individuals) try to hijack the collaborative law movement for their own gain; this is about lawyers working *together* for the benefit of clients
5. Try to create a “hook” for a collaborative law story in your local Press : commission some research; have a launch; persuade one of your local judges to make supportive comments about the process; or see whether one of your clients who has been through the process would be prepared to talk favourably about their experience

6. Talk to your local judges to ensure that they know about the existence of collaborative practice and understand its operation; see whether they would be prepared to implement a system to fast-track the processing of consent orders arrived at through the collaborative process
7. Think about infrastructure and the extent to which you feel it may benefit your local community to have a link between the local practice groups and the IACP (in the same way that we have Resolution)
8. Don't shy away from welcoming into the fold those with a reputation for litigation; but equally, don't shy away from confronting them if they do not act in accordance with collaborative principles
9. Consider whether it would be helpful to have a collaborative protocol in your community and sanctions for breaching its terms
10. Generally, seek to ensure that you are conveying a clear and consistent message to prospective clients

## **A disclaimer**

By highlighting these issues, I do not mean to imply that we have worked miracles in London and made no mistakes along the way. Nor am I suggesting that we have arrived at our ultimate destination. We have some way to go, and many of the questions that arise will have more than one possible answer. Establishing collaborative practice is a challenge in any neighbourhood; what is essential is that we learn from others' mistakes and become a truly collaborative network worldwide.