Australian Collaborative Practice Guidelines for Lawyers

including the Collaborative Practice Standards for Training and Collaborative Practice Standards for Trainers
Table of Contents

Practice Guidelines......................................................................................................... 4
Description of a Collaborative Process ......................................................................... 4
Application ...................................................................................................................... 5
Starting a Collaborative Process ................................................................................... 5
Power Issues ................................................................................................................... 7
Impartial and Ethical Practice ........................................................................................ 7
Confidentiality ................................................................................................................. 8
Competence .................................................................................................................... 9
Inter-professional Relations .......................................................................................... 10
Procedural Fairness ...................................................................................................... 10
Information Provided by the Collaborative practitioner ..............................................11
Termination of the Collaborative Process, Withdrawal and Disqualification ............12
Charges for Services .....................................................................................................13
Making Public Statements and Promotion of Services ...............................................  13
# Table of Contents

Practice Guidelines ............................................................................................................................................. 4  
Description of a Collaborative Process ........................................................................................................ 4  
Application .................................................................................................................................................. 5  
Starting a Collaborative Process .................................................................................................................. 5  
Power Issues ................................................................................................................................................... 7  
Impartial and Ethical Practice ......................................................................................................................... 7  
Confidentiality ................................................................................................................................................ 8  
Competence .................................................................................................................................................... 9  
Inter-professional Relations ............................................................................................................................. 10  
Procedural Fairness ......................................................................................................................................... 10  
Information Provided by the Collaborative practitioner .............................................................................. 11  
Termination of the Collaborative Process, Withdrawal and Disqualification ........................................... 12  
Charges for Services ....................................................................................................................................... 13  
Making Public Statements and Promotion of Services ............................................................................... 13  
APPENDIX 1. Collaborative Practice Standards for Trainers  
APPENDIX 2. Collaborative Practice Standards for Training
Practice Guidelines

Description of a Collaborative Process

1. A collaborative process is a process in which the clients, with the support of collaborative practitioners, identify interests and issues, develop options, consider alternatives and make decisions about future actions and outcomes. The collaborative practitioner acts to assist clients to reach their decision and provides advice where required in a manner that supports the collaborative process.

2. In a collaborative process, the clients and their lawyers contract in writing to attempt to resolve a dispute without recourse to litigation and agree in writing that the lawyers will not act for the clients if they cannot resolve their matter by collaboration and decide to litigate the dispute.

3. The collaborative process supports interest based negotiation. Competitive negotiation strategies and tactics are antithetical to the collaborative process.

4. The goal of a collaborative process is agreed upon by the clients with the assistance of the collaborative practitioners. Examples of goals may include assisting the participants to make a wise decision, to clarify the terms of a workable agreement and/or future patterns of communication that meet the participants' needs and interests, as well as the needs and interests of others who are affected by the dispute.

5. The collaborative process:
   (a) assists the participants to define and clarify the issues under consideration;
   (b) is conducted through a series of face to face discussions with the participants and, where appropriate, other professionals;
   (c) assists participants to communicate and exchange relevant information;
   (d) invites the clarification of issues in dispute to increase the range of options to assist resolution;
   (e) provides opportunities for understanding of the perspectives brought to the table;
   (f) facilitates an awareness of mutual and individual interests;
   (g) helps the participants generate and evaluate various options; and
   (h) promotes a focus on the interests and needs of those who may be subject to, or affected by, the situation and proposed options.

6. Collaborative practitioners can provide legal advice to the participants. They also assist in managing the process of dispute and conflict resolution whereby the participants through an interest based negotiation process agree upon the outcomes, when appropriate. Collaborative practitioners continue to provide legal advice to their clients whilst working cooperatively with the other legal practitioner and professional in a cooperative and non-tactical way to manage the collaborative process and assist the parties to reach a mutually beneficial outcome.
Description of a Collaborative Process

1. A collaborative process is a process in which the clients, with the support of collaborative practitioners, identify interests and issues, develop options, consider alternatives and make decisions about future actions and outcomes. The collaborative practitioner acts to assist clients to reach their decision and provides advice where required in a manner that supports the collaborative process.

2. In a collaborative process, the clients and their lawyers contract in writing to attempt to resolve a dispute without recourse to litigation and agree in writing that the lawyers will not act for the clients if they cannot resolve their matter by collaboration and decide to litigate the dispute.

3. The collaborative process supports interest based negotiation. Competitive negotiation strategies and tactics are antithetical to the collaborative process.

4. The goal of a collaborative process is agreed upon by the clients with the assistance of the collaborative practitioners. Examples of goals may include assisting the participants to make a wise decision, to clarify the terms of a workable agreement and/or future patterns of communication that meet the participants’ needs and interests, as well as the needs and interests of others who are affected by the dispute.

5. The collaborative process:
   (a) assists the participants to define and clarify the issues under consideration;
   (b) is conducted through a series of face to face discussions with the participants and, where appropriate, other professionals;
   (c) assists participants to communicate and exchange relevant information;
   (d) invites the clarification of issues in dispute to increase the range of options to assist resolution;
   (e) provides opportunities for understanding of the perspectives brought to the table;
   (f) facilitates an awareness of mutual and individual interests;
   (g) helps the participants generate and evaluate various options; and
   (h) promotes a focus on the interests and needs of those who may be subject to, or affected by, the situation and proposed options.

6. Collaborative practitioners can provide legal advice to the participants. They also assist in managing the process of dispute and conflict resolution whereby the participants through an interest based negotiation process agree upon the outcomes, when appropriate. Collaborative practitioners continue to provide legal advice to their clients whilst working cooperatively with the other legal practitioner and professional in a cooperative and non-tactical way to manage the collaborative process and assist the parties to reach a mutually beneficial outcome.
7. Collaborative practitioners will be alert to and assess the need for the involvement of other professionals in the collaborative process (such as child specialists, financial planners and coaches). Where appropriate, collaborative practitioners will work together with other collaborative professionals in the collaborative process in such ways as best suit the needs of the participants.

Application

8. The Practice Guidelines apply to any collaborative legal practitioner acting with another collaborative practitioner, to support two or more individuals or entities to manage, settle or resolve disputes, or to form a future plan of action through a process of collaboration. Practitioners who act in these roles are referred to in these Practice Guidelines as collaborative practitioners.

9. A collaborative practitioner assists participants to identify, clarify and explore issues, to generate and consider options and to make decisions about future actions and outcomes. The Practice Guidelines are intended to govern the relationship of collaborative practitioners with all participants in the collaborative process, their professional colleagues, courts and the general public so that all will benefit from high standards of practice in the collaborative process.

10. The Practice Guidelines:

   (a) specify practice and competency requirements for collaborative practitioners; and

   (b) inform participants and others about what they can expect of the collaborative process.

11. There are a range of different collaborative process models in use across Australia. Collaborative processes support interest based negotiation and can take place in all areas where decisions are made. For example, collaborative processes can be used in relation to family, commercial, community, workplace, environmental, construction, building, health and educational decision making. Collaborative practitioners are drawn from diverse backgrounds and disciplines. These Practice Guidelines set out minimum practice requirements for lawyers who are working as collaborative practitioners and recognise that some collaborative practitioners who practice in particular areas of law with particular models, may choose to develop or comply with additional Guidelines or requirements.

12. Where collaborative practitioners practice under existing legislative frameworks and there is a conflict between the requirements of these Practice Guidelines and any legislation, the respective legislative requirements will override those of the Practice Guidelines to the extent of any inconsistency.

Starting a Collaborative Process

13. Before commencing, a collaborative practitioner should ensure that an outline of the collaborative process has been given to the participants.

14. Prior to the collaborative process taking place, the collaborative practitioners will ensure that the participants have been provided with an explanation of the process and have had an opportunity to reach agreement about the way in which the
process is to be conducted. This will take place in an intake assessment that is held separately from a collaborative process session.

15. The objectives of an intake process include:

(a) determining whether collaborative process is appropriate and whether variations are required (for example, using an interpreter or a different collaborative process model in culturally and linguistically diverse communities, or varying arrangements where violence is an issue);

(b) discussing the range of potential dispute resolution options that may be available so that a client can make an informed decision;

(c) assisting the participants to prepare for the process. Participants who are prepared are in the best position to make an informed decision when attending a collaborative process;

(d) ensuring that every participant receives information about the roles of each party in the collaborative process; this discussion may involve questions relating to the role of collaborative practitioners, support people and others;

(e) clarifying the terms of any agreement to enter into the process; and

(f) settling venue and timing issues.

16. The collaborative practitioner should:

(a) describe and explain the collaborative process that is to be used;

(b) discuss the appropriateness of the process for the participants in light of their particular circumstances, the benefits and risks of the process, and the other alternatives and process options open to the participants;

(c) discuss the confidentiality of the collaborative process and any limitations on such confidentiality;

(d) advise the participants about how they or the collaborative practitioner can suspend or terminate the collaborative process and any costs implications that may be associated with the suspension of the termination;

(e) reach agreement with the participants about fees and costs and how such costs are to be paid;

(f) advise the participants of the collaborative practitioner’s role in relation to the provision of advice or other services, for example, he or she shall inform the participants about how legal advice can be given – in joint or separate meetings or both.

(g) discuss with or inform the participants about the procedures and practices in the collaborative process, such as:

(i) how participants may seek information and advice from a variety of sources during the process;

(ii) how participants may withdraw from the process;

(iii) that participants are not required to reach an agreement;
21. A collaborative practitioner must conduct the process in an impartial and supportive manner and adhere to ethical guidelines of practice.

22. A collaborative practitioner will disclose actual and potential grounds of bias and conflicts of interest. The participants shall be free to retain the collaborative practitioner by an informed waiver of the conflict of interest.

23. A collaborative practitioner should avoid conflicts of interest, or potential grounds for bias or the perception of a conflict of interest, in recommending the services of other professionals.

24. A collaborative practitioner will not use information about participants obtained in collaborative process for personal gain or advantage.

25. A collaborative practitioner should not become involved in relationships with parties that might impair the practitioner’s professional judgment. Collaborative practitioners should adhere to, and be familiar with, the code of conduct or ethical standards and
Confidentiality

26. A collaborative practitioner should respect the confidentiality of the participants.

27. A collaborative practitioner shall not voluntarily disclose to anyone who is not a party to the collaborative process any information obtained except:

(a) non-identifying information for necessary administrative, research, supervisory or educational purposes; or

(b) with the consent of the participants to the collaborative process; or

(c) when required to do so by law; or

(d) where permitted by existing ethical guidelines or requirements and the information discloses an actual or potential threat to human life or safety.

28. The collaborative practitioner will clarify the participants’ expectations of confidentiality before undertaking the collaborative process. Any written agreement to enter into the process should include provisions concerning confidentiality.

29. Before undertaking the collaborative process, the collaborative practitioner will inform the participants of the limitations of confidentiality, such as statutory, judicially or ethically mandated reporting, and any reporting required pursuant to professional ethical requirements.

30. If subpoenaed, or otherwise notified to testify or to produce documents, the collaborative practitioner should attempt to inform the participants as soon as reasonably practicable. The collaborative practitioner should not give evidence without an order of the Court or Tribunal if the collaborative practitioner reasonably believes doing so would violate an obligation of confidentiality to the participants. The collaborative practitioner may include indemnification provisions in relation to costs incurred in their fee agreement.

31. With the participants’ consent, the collaborative practitioners may discuss the collaborative process with any expert advisors where such advisors have not attended all or part of the actual collaborative process session.

32. Where the participants reach an agreement in a collaborative process, the substance of the proposed agreement may, with the permission of participants, be disclosed to their expert advisors or others and may be used in a de-identified form for debriefing, research processes and discussion purposes.

33. The collaborative practitioner should maintain confidentiality in the storage and disposal of client records and must ensure that office and administrative staff maintain such confidentiality. Some collaborative practitioners may also choose to retain notes relating to the content of the dispute particularly where duty-of-care or duty-to-warn issues are identified.
Competence

34. Collaborative practitioners must be competent and have relevant skills and knowledge.

35. Collaborative practitioners must be competent in any area where they seek to give advice. They must hold relevant qualifications and comply with Practice Group requirements. They must be registered in the State or Territory that they practise in and must hold a professional membership of a recognized professional organisation in the area that they seek to give advice.

36. Practitioners should seek regular professional debriefing. The purpose of debriefing is to address matters relating to skills development, conceptual and professional issues, ethical dilemmas, and to ensure the ongoing emotional health of collaborative practitioners. Debriefing can take place following a collaborative process, in groups or through independent sessions with another experienced collaborative practitioner.

37. Collaborative practitioners should also participate in continuing professional development training. Where possible, collaborative practitioners should also participate in programs of peer consultation and should help train and mentor the work of less experienced collaborative practitioners.

38. Collaborative practitioners should be competent and have the capacity to apply knowledge, skills and an ethical understanding and commitment in the areas listed below. Collaborative practitioners demonstrate competence by showing that they have the requisite knowledge and skills and can apply them. Collaborative practitioners are required to ensure that ongoing professional development is focused on achieving and maintaining competencies including:

(a) KNOWLEDGE, in areas including, but not limited to:

(i) the nature of conflict, including the dynamics of power and violence;
(ii) the appropriateness or inappropriateness of collaborative process;
(iii) pre-collaborative process preparation, screening and intake;
(iv) communication patterns in conflict and negotiation situations;
(v) negotiation dynamics in collaborative process;
(vi) the principles, stages and functions of a collaborative process; and
(vii) the roles and functions of collaborative practitioners.

(b) SKILLS, including, but not limited to:

(i) dispute diagnosis in collaborative processes;
(ii) intake and screening of both the parties and the dispute to assess suitability for collaborative process;
(iii) conduct and management of the collaborative process;
34. Collaborative practitioners must be competent and have relevant skills and knowledge.
35. Collaborative practitioners must be competent in any area where they seek to give advice. They must hold relevant qualifications and comply with Practice Group requirements. They must be registered in the State or Territory that they practise in and must hold a professional membership of a recognized professional organisation in the area that they seek to give advice.
36. Practitioners should seek regular professional debriefing. The purpose of debriefing is to address matters relating to skills development, conceptual and professional issues, ethical dilemmas, and to ensure the ongoing emotional health of collaborative practitioners. Debriefing can take place following a collaborative process, in groups or through independent sessions with another experienced collaborative practitioner.
37. Collaborative practitioners should also participate in continuing professional development training. Where possible, collaborative practitioners should also participate in programs of peer consultation and should help train and mentor the work of less experienced collaborative practitioners.

3. Collaborative practitioners should be competent and have the capacity to apply knowledge, skills and an ethical understanding and commitment in the areas listed below. Collaborative practitioners demonstrate competence by showing that they have the requisite knowledge and skills and can apply them. Collaborative practitioners are required to ensure that ongoing professional development is focused on achieving and maintaining competencies including:

(c) ETHICAL UNDERSTANDINGS in relation to:
(i) the avoidance of conflicts of interest;
(ii) marketing and advertising of collaborative process;
(iii) confidentiality, privacy and reporting obligations;
(iv) neutrality and impartiality;
(v) fiduciary obligations;
(vi) supporting fairness and equity in collaborative process; and
(vii) withdrawal from and termination of the collaborative process.

Inter-professional Relations
39. Collaborative practitioners should respect the relationships with professional advisors, other collaborative practitioners and experts which complement their practice of collaborative process.
40. Collaborative practitioners should promote cooperation with other professionals and encourage clients to use other professional resources when appropriate.
41. When disputes involve more than one facilitative or other decision-making process, collaborative practitioners will keep themselves informed and keep other professional colleagues informed about the processes taking place. Collaborative practitioners will consider and respond to any consultative responsibilities that extend beyond more narrowly defined obligations to facilitate a process directly between the disputants.

Procedural Fairness
42. A collaborative practitioner will conduct the collaborative process in a procedurally fair manner and support interest based negotiation following a discussion of interests.
43. A collaborative practitioner will support the participants to reach any agreement freely, voluntarily, without undue influence, and on the basis of informed consent. Collaborative practitioners will provide each participant with an opportunity to speak and to be heard in the collaborative process, and to articulate his or her own needs, interests and concerns.
44. If a collaborative practitioner, after consultation with another practitioner or a participant, believes that a participant is unable or unwilling to participate in the process, the collaborative practitioner may suspend or terminate the collaborative process.

45. The collaborative practitioner should encourage and support balanced negotiations and should understand how manipulative or intimidating negotiating tactics can be employed by participants.

46. To enable negotiations to proceed in a fair and orderly manner or for an agreement to be reached, if a participant needs either additional information or assistance, the collaborative practitioner must ensure that participants have sufficient time and opportunity to access sources of advice or information.

47. It is a fundamental principle of the collaborative process that competent and informed participants can reach an agreement which may differ from litigated outcomes. The collaborative practitioners, however, have a duty to support the participants in assessing the feasibility and practicality of any proposed agreement in both the long and short term, in accordance with the participant’s own subjective criteria of fairness, taking cultural differences and where appropriate, the interests of any vulnerable stakeholders into account.

48. The primary responsibility for the resolution of a dispute rests with the participants. The collaborative practitioner will not pressure participants into an agreement or make a substantive decision on behalf of any participant.

49. No participant in a collaborative case, whether a collaborative practitioner or a client, may knowingly withhold or misrepresent information material to the collaborative process or otherwise act or fail to act in a way that knowingly undermines or takes unfair advantage of the collaborative process. In addition, participants should not undermine the process by threatening litigation or taking positional stances.

50. If a client knowingly withholds or misrepresents information material to the collaborative process, or otherwise acts or fails to act in a way that undermines or takes unfair advantage of the collaborative process, and the client continues in such conduct after being duly advised of his or her obligations in the Collaborative process, such continuing conduct will mandate withdrawal of the Collaborative Practitioner and the termination of the collaborative Process. Such consequences will be clearly stated in the Participation and/or Fee Agreement.

51. In the event of a withdrawal from or termination of the Collaborative process, the collaborative practitioner shall notify the other professionals in the case.

**Information Provided by the Collaborative Practitioner**

52. The collaborative practitioner can provide advice about content matters that are within their area of expertise. The collaborative practitioners can also advise upon the collaborative process that is used.

53. Consistent with the Guidelines relating to impartiality and preserving participant self-determination, collaborative practitioners may provide the participants with information and advice that the collaborative practitioner is qualified by training or experience to provide. Such information will often be couched in general terms.
54. A collaborative practitioner should only provide information within the limits of his or her qualifications and competence while conducting a collaborative process.

55. Where appropriate, for example, in some family, environmental and workplace disputes, the collaborative practitioners have a responsibility to facilitate a discussion about the participants’ awareness of the interests of others affected by the dispute, and by the proposed agreement, and to assist the participants to consider the separate and individual needs of other such persons.

56. Collaborative practitioners will provide information about their specialist and relevant training, education and expertise to participants upon request.

**Termination of the Collaborative Process, Withdrawal and Disqualification**

57. The collaborative practitioner may suspend or terminate a collaborative process if continuation of the process might harm or prejudice one or more of the participants or if they consider that the collaborative process is no longer effective.

58. Collaborative practitioners have discretion about whether they terminate a process. Some circumstances may be set out in a collaborative agreement. Collaborative practitioners should be alert to situations where a party seeks to misuse the collaborative process to achieve other ends such as:

(a) delaying proceedings in the hope of reinforcing the continuation of an existing arrangement or obtain other advantage; or

(b) ‘buying’ time in order to dissipate or conceal assets; or

(c) in some other way acting in bad faith.

59. A collaborative practitioner may suspend or terminate the collaborative process if, in the opinion of the collaborative practitioner, it is being used for a purpose other than a mutual attempt to arrive at resolution, or its usefulness has in some other way been exhausted. Collaborative practitioners should, where possible, provide reasonable notice to the participants.

60. The collaborative practitioner may withdraw from the collaborative process when an agreement is being reached by the participants that the collaborative practitioner believes is unconscionable. If terminating or withdrawing from a collaborative process, the collaborative practitioner should assist the parties in assessing further process options for dealing with their dispute.

61. A collaborative practitioner cannot act for a participant in any litigation that follows the termination of a collaborative process. A collaborative practitioner may enable an orderly transition to any practitioner who may take on the role of a new representative or adviser subject to any agreement as to confidentiality.

62. Undertaking any contested court procedure automatically terminates the collaborative process. A collaborative practitioner shall not threaten to undertake any contested court procedure related to the collaborative case nor shall a collaborative practitioner continue to represent a client who makes such a threat in a manner that undermines the collaborative process.
63. Upon termination of the collaborative process, the representing collaborative practitioners and all other professionals working within the collaborative process are prohibited from participating in any aspect of the contested proceedings between the parties.

**Charges for Services**

64. The collaborative practitioners should make explicit to parties all charges related to the practitioner’s services and how they are calculated.

65. The collaborative practitioner will explain any fees to be charged for the collaborative process and any related costs. The collaborative practitioner must also obtain agreement from the participants as to how any fees will be shared and the method of payment.

66. Participants shall discuss fee arrangements before commencing the process and/or at the first collaborative session to ensure that participants are supported and there is an open, transparent and frank discussion about fee arrangements.

67. A collaborative practitioner will not base fees on the outcome of the collaborative process, but it is not unethical for a collaborative practitioner to act pro bono or to leave to the discretion of the parties the payment of any fees.

68. If any retainer has been collected before collaborative process services have been rendered, any unearned fees should be returned promptly upon termination of the collaborative process.

**Making Public Statements and Promotion of Services**

69. The collaborative practitioner should ensure that public statements made by the collaborative practitioner promoting business are accurate.

70. The purpose of public statements concerning collaborative processes should be to:

   (a) educate the public about the process in order to help the public make informed judgments and choices; and

   (b) present the collaborative process objectively, as one which seeks to empower participants directly and constitutes only one of several methods for arriving at an outcome.

   (c) public communications should not mislead the public, misrepresent facts or contain any statements likely to mislead or deceive by making only a partial disclosure of relevant facts; or

   (d) statements intended or likely to create false or unjustified expectations of favourable results.

71. Legal Practitioners must not hold themselves out to the general public and their profession as collaborative practitioners, if they do not engage with and follow the collaborative process described in these guidelines.
72. When advertising professional services, collaborative practitioners should restrict themselves to matters which educate and inform the public. These could include the following information to describe the collaborative practitioner and the services offered, such as; name, address, telephone and facsimile numbers, email address, office hours, relevant academic degree(s), specialist subject expertise, relevant training and experience in the collaborative process, collaborative process qualifications such as certifications and accreditations, appropriate professional affiliations and membership status, advantages of a collaborative process, and any additional relevant or important consumer information. In particular:

(a) collaborative practitioners should refrain from promises and guarantees of results, however a collaborative practitioner may report on de-identified information about any evaluation of their services that might assist parties to better understand the collaborative process; and

(b) collaborative practitioners must accurately represent their qualifications and their relevance and significance.

73. Collaborative practitioners should, where possible, encourage and/or participate in research.
Appendix 1. Collaborative Practice Standards for Trainers

1. Experience

1.1 A trainer should have participated in at least eight different collaborative cases, accumulating at least fifty hours of practice in the collaborative process or co-train with others so that the training team meets this requirement.

1.2 A trainer should, during the five years immediately prior to the training, have had at least twenty hours of actual hands on experience as a teacher, trainer or presenter of programs each of which was at least three hours in duration or co-train with others so that the training team meets this requirement.

1.3 A trainer should have completed at least twenty four hours of training in the collaborative process. Not less than twelve of such hours shall include 1) a basic training of six hours in the theories, practices and skills of collaborative practice and 2) a training of at least six hours directed at that trainer’s professional discipline. The additional twelve hours may be earned by participating as a student or assistant in Collaborative Practice trainings conducted by trainers who satisfy these Trainer Standards.

2. Practitioner Standards

2.1 A trainer should have completed at least thirty eight hours of mediation training in accordance with the Australian National Mediator Approval Standards.

3. Licensing/Certification

3.1 A trainer shall be registered and be in good standing, as required for the trainer’s field of practice. A trainer shall have no public record of discipline or unsatisfactory professional conduct or professional misconduct.

4. Australian Training Standards

4.1 A trainer should have the skills to conduct a training that meets the Law Council of Australia Training Standards.

5. Skills Training

5.1 A trainer should be qualified by education, training and experience to inform and educate about skills relative to communication, problem-solving, facilitative dispute resolution, mediation, interpersonal relationships, couples’ conflict management and resolution, interest based negotiation, team and process. A trainer should be able to teach adults through meaningful dialogue and didactic presentations, and be able to set up demonstrations, structure role plays, and employ other experiential learning methods.
6. Knowledge about area of dispute

6.1 A trainer should have an appropriate understanding of the general area to which the dispute training relates including, a recognition that financial decisions may have far-reaching and long-term financial and tax implications and, when training in the family law area, knowledge of the separation process, child development, and the dynamics of the separating family.

7. Particular professions

7.1 In addition to the above, those offering training in particular disciplines as part of the collaborative process shall satisfy the following:

7.2 Lawyers:
- A minimum of five years in active practice including five years of experience in the particular discipline which is the subject of the training.

7.3 Child specialist:
- A minimum of five years clinical experience with specialty focus on children.

7.4 Financial:
- A minimum of five years in financial consulting with significant experience in any particular discipline that is the subject of the training.

7.5 Coaches:
- A minimum of five years experience in the particular discipline which is the subject of the training for example, experience in family dispute resolution and in-depth knowledge of: 1) short-term therapy and coaching models, 2) separation and the psychological impact of separation on families, and 3) basic elements and guidelines for creating parenting plans.
Appendix 2. Collaborative Practice Standards for Training

Training in the collaborative process satisfies the minimum Law Council of Australia Standards for a “Basic Training” when it meets the following criteria:

1. A “Basic Training” in the collaborative process is a training or workshop consisting of at least fifteen hours of education.

2. At the completion of “Basic Training” a participant should have knowledge of the theories, practices and skills needed to begin Collaborative Practice.

3. In particular, participants should be exposed to and educated about:

   3.1 The collaborative model, both as a dispute resolution mechanism and as a process for modeling the skills and tools necessary for the positive reconstruction of interpersonal relationships.

   3.2 Negotiation theory, including the characteristics of positional and interest-based negotiation.

   3.3 Dynamics of interpersonal conflict.

   3.4 Effective communication skills.

   3.5 Team building skills (whether lawyer centric or broader team) with respect to the clients and collaborative colleagues.

   3.6 The legal, financial, psychological and emotional elements of the clients’ circumstances.

   3.7 The interdisciplinary team approach and the contribution and roles of each profession.

   3.8 Depending on the participants’ experience, different ways of beginning and developing collaborative practices in the participants’ unique community.

   3.9 How to assess one’s own level of understanding of ‘knowledge’ (comprehension) and the limits of one’s own competence with a willingness to seek assistance from more experienced practitioners.

   3.10 One’s ability and limitations to effectively assess the capacity of the client for effective participation in the collaborative process.

   3.11 Organisational considerations in running a collaborative case (e.g. how to establish Collaborative Practice issues to be covered at or before
the first group meeting, contacting the other party, identifying materials and client agendas etc).

3.12 Ethical considerations including integrity, professionalism, diligence, competence and confidentiality, including knowledge of the specific ethical considerations of each profession.

3.13 Meaningful material to support all of the objectives.

3.14 Dynamics that are relevant to the particular training for example in family focused training an understanding of separating and blended families.

4. A Basic Training should include multiple learning modalities – interactive, experiential and lecture elements: e.g. demonstrations, role play, small group exercises, dialogue between, and among, trainer(s) and participants, communication, team building and negotiation games.

5. A Basic Training should include written materials that are useful for reference and practice by the collaborative practitioner after the training.

6. A Basic Training should include evaluations of the training and trainer(s) by the participants.