

reception in the Taoiseach's honour in Aras an Chontae. Over 250 guests are invited, and the list is growing by the day.

A number of Brian's relations are travelling from America for the occasion, including Offaly football great Peter Nolan.

### about media-sny

If you are a real tea drinker and not one for the bags, you're in good company this bank holiday weekend. Anxious Cabinet members and prospective ones will be

Cecilia Keaveney, took up her place on the ivories, joined by Deputy Dan Boyle of the Greens, who went down a storm with his jazz numbers.

## COLLABORATIVE LAW CONFERENCE

# AG says family disputes need alternative resolution process

**CAROL COULTER,**  
Legal Affairs Editor

FAMILY DISPUTES need alternative forms of dispute resolution other than the courts, the Attorney General told a conference on collaborative law in Cork yesterday.

Paul Gallagher SC was speaking at the second European conference of the Association of Collaborative Practitioners, which President Mary McAleese also addressed. Mr Gallagher stressed the importance of maintaining human dignity in legal proceedings, particularly family law.

Humanity should not be twisted into law and our humanity should tell us that in family law we need alternative dispute resolution.

"In family law, you can have difficulties that do not exist in any other area of law," he said. "It is not just the dignity of the person that is involved, but the welfare and dignity of the children. Anything we can do to maintain the dignity of the people involved should be embraced." Family law was particularly suited to this form of dispute resolution, he said,

although the courts were needed for cases that could not be resolved in any other way. However, before going to court, people should have the opportunity to resolve the dispute, especially relating to the welfare of children.

Lawyers owed a fundamental obligation to the administration of justice that went beyond any duty to their client, he added. They must ensure the maintenance of the relationship between law and society and law and human experience. They had a duty to the community both legally and ethically.

They had contributed greatly to society in identifying wrongs and righting them, often without remuneration, he said. This latest development was another example of that contribution.

Collaborative law offered a mechanism for imposing order on human experience at a most vulnerable time, that of the break-up of a family. These were social issues that touched on the essence of humanity and human dignity.

Helen Collins, a member of the organising committee for the conference, said the association and the Law Society were preparing a

submission for the Attorney General and the Minister for Justice on the legislative change needed to integrate collaborative law into the family law system so that it would encompass a method of separation and divorce that was non-adversarial, based on legal rights, family-focused and binding.



**President Mary McAleese:**  
Legal system should promote consensus rather than conflict

Mrs McAleese told the conference it was necessary that the legal process designed to vindicate and support spouses and children through a family breakdown should not itself leave a legacy of unnecessary collateral damage.

"The old adversarial model of a day in court with a winner and a loser was never designed effectively to address the profound human needs and vulnerabilities at the heart of family relationships," she said.

Collaborative law recognises

that divorce and relationship breakdown rarely leads to a clean-break scenario where the parties depart, never to be involved in each other's lives again, especially where children or financial dependency are involved, she said.

"The greater the degree of co-operation and mutual buy-in to the process, the more likely it is that in both the short and long-term the outcomes will be healthier and happier all round.

"No lawyer or legal system can be expected to make people happy, but it can at least aspire to minimise the misery," she said. "It can aspire to encourage rather than discourage goodwill, to promote consensus rather than conflict, to help parties move into a better future rather than remain mired in an unhappy past."

It may be that this kind of law could not be the preferred method for every one, she said, and sometimes the goodwill necessary to kick-start it would be a step too far. But where there is a desire on both sides to move to a constructive future, then it is essential that the professionals are there to build on it coherently and effectively.

## Non-adversarial system 'will replace the courts' to resolve family law disputes

**CAROL COULTER**

COURT-BASED solutions to family law problems will not be regarded as mainstream in the future, but will be replaced by non-adversarial forms of dispute resolution, according to the president of the Association of Collaborative Practitioners in Ireland.

Patricia Mallon was opening the second European conference of collaborative lawyers, which brought together delegates and speakers from the US, Canada and the UK and a number of European countries, as well as from Ireland.

Among the speakers were the founders of the collaborative law movement, Stu Webb and Ronald

Ousky. The conference continues today, when it will be addressed by Minister for Justice, Brian Lenihan.

Ms Mallon said that there was still scepticism among certain practitioners about collaborative law, an innovative way of resolving disputes, which differed so much from traditional legal methods.

"It challenges the conventional wisdom that the courts offer the best dispute resolution option," she said. "It questions why the resolution of often deeply personal issues must rely on weapons wielded by lawyers to sometimes terrible and destructive effect. It asks why conflict and confrontation must be part of a dispute reso-

lution in family law." The traditional adversarial system, "in which distributive bargaining is king and where victory is the sole mission", had been the only system available to date, and it was the one which many practitioners were comfortable with, she said.

However, benchmarked against it in terms of out-turns and value for clients, as well as speed of delivery and cost effectiveness, collaborative law scored highly, she said. "But it offers more. The considerations of 'law' can be joined, without any loss of right or entitlement, by other considerations - equity, fairness, justice, compromise, respect." It offered client-centred and family-oriented solu-

tions. Collaborative practitioners, because of their training, could bring forward solutions that are grounded in law, but which are also predicated on values that do not often find expression in the daily routine of court because of the nature of the adversarial system.

She said that this form of dispute resolution was now being applied internationally to other areas of dispute, such as those in the commercial and civil arenas.

Other professionals, such as mental health professionals, financial experts and mediators, who were also pivotal to the collaborative process, were now showing an interest in this area, she said.

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