

Collaborative Divorce Trends 2017

A Research study by Consensus Collaboration Scotland



October 2017

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Executive summary

Although the Office for National Statistics provides extensive divorce data for the UK, there is little research related to Scotland and nothing exploring new types of divorce, such as collaborative approaches. It is our intention to fill this gap by providing useful quantitative data into collaborative divorce trends in Scotland. We hope the information we provide in this report will help inform and provide useful insights for legal firms and professionals providing family law services, as well as the wider public.

We asked 53 of our member firms a series of questions to establish the popularity of collaborative divorce, the practical and emotive reasons behind people's divorce choices, the cost and timescale comparisons between collaborative and traditional court divorces and the demographics and age profiles of people seeking new ways to split.

Our research clearly shows that collaborative divorce is on the rise across Scotland. Our findings, combined with the fact that court divorces are on the wane, suggests modern Scots are looking for new ways to cut marital ties. More people than ever are choosing the collaborative approach to avoid confrontation and reduce the impact on family members. Although collaborative methods are significantly cheaper than traditional divorce, we discovered this was not the primary reason for avoiding the courts. People tended to favour the emotive benefits that collaborative divorce can deliver, particularly reducing stress, confrontation and the impact on children.

The rise in collaborative divorce is likely to have far reaching consequences. It is not only likely to reduce pressure on civil courts, it could over time radically change our perception of divorce. We will no longer consider cutting marital ties as a destructive and costly process, but rather something more positive and forward thinking. If more people can achieve a 'happy divorce,' then many of the negative consequences associated with court divorces can be limited or avoided. The main beneficiary of this of course, will be our children.

It has been argued that making divorce 'easier' will encourage more people to split. We see no correlation between the rate of divorce and access to collaborative methods. People who consider divorce of any type have commonly reached the point of no return in their relationship. Furthermore, the latest Office for National Statistics figures show divorce rates are at their lowest level in 40 years, despite a rise in popularity of 'quickie divorce' methods and new technology that streamlines the process.

Background

The Office for National Statistics (ONS) latest Civil Justice figures suggest fewer couples are using the courts to divorce, hinting that Scots are looking for cheaper, quicker and more amicable ways to separate. In fact, the figures show that 76,769 civil law cases were initiated across the Court of Session and Sheriff Courts in Scotland between 2014-2015, the lowest rate since records began. Delving a little deeper, only 9,030 divorces were initiated within the courts during this time, 42% lower than 2006-2007, when 13,767 divorces took place.

The reasons behind this are as complex as they are numerous and will include; declining divorce rates, rising legal costs, rise of the 'quickie divorce' and greater access to cheaper online divorce services, the decline in marriage rates and more people cohabiting. However, based on regular feedback from members of Consensus Collaboration Scotland, collaborative divorce as a cost effective, non-confrontational method of separating, is also a contributing factor to declining court divorces.

Because of the current lack of qualitative or quantitative data, we decided to conduct our own survey to establish whether collaborative divorce rates are on the rise, by how much and the key driving factors behind these changes. We asked the Consensus Collaboration Scotland membership to take part in the research and the results gave us a fascinating insight into the very latest collaborative divorce trends in Scotland.

In total 53 member companies took part in the survey (a copy of which can be found in the appendices).

Research Results

Survey results

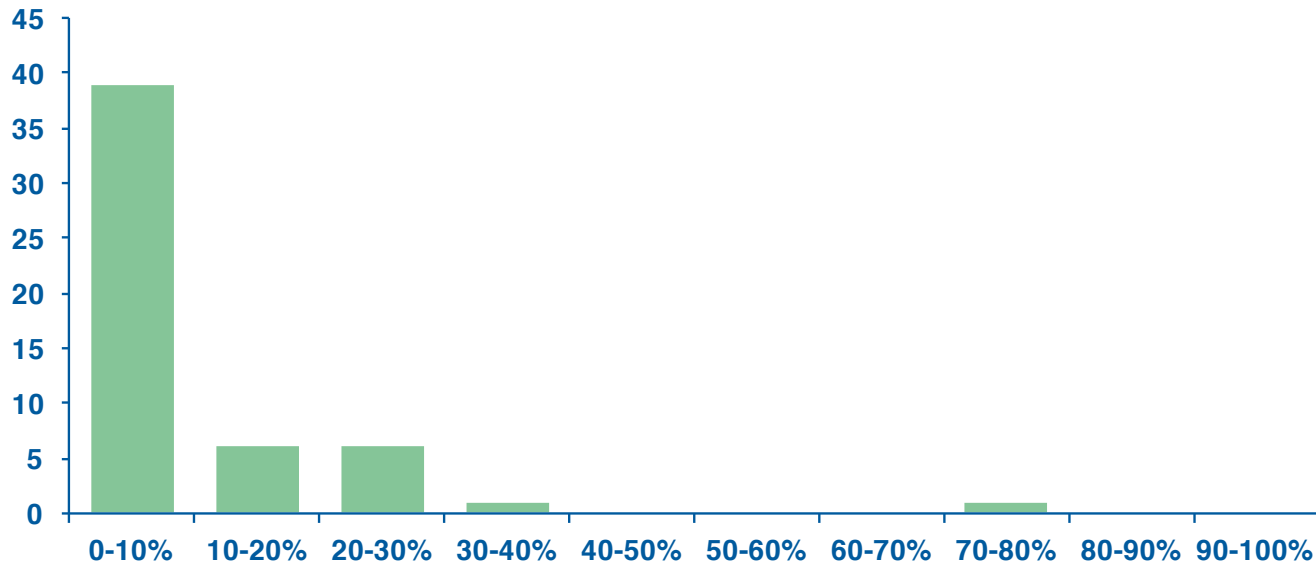
Respondents were asked 15 questions in total. The results from which are summarised as follows:

Q1. Approximately how many collaborative divorces do you handle each year?

The respondents handled an average of 3 collaborative divorces per year.

Q2. Out of the total divorce cases that you handle, what percentage are collaborative?

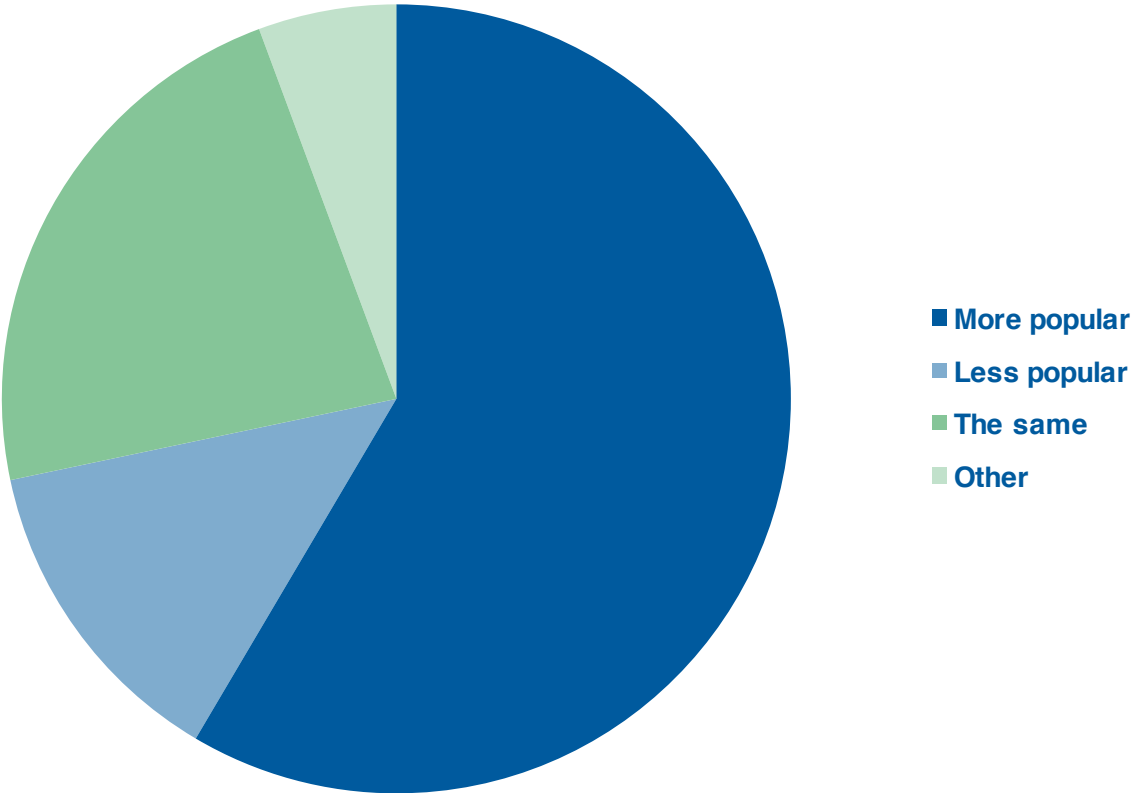
Around three quarters of all respondents said that collaborative cases accounted for less than 10% of their total case load.



Survey results

Q3. In the last ten years, would you say collaborative divorce has become more or less popular?

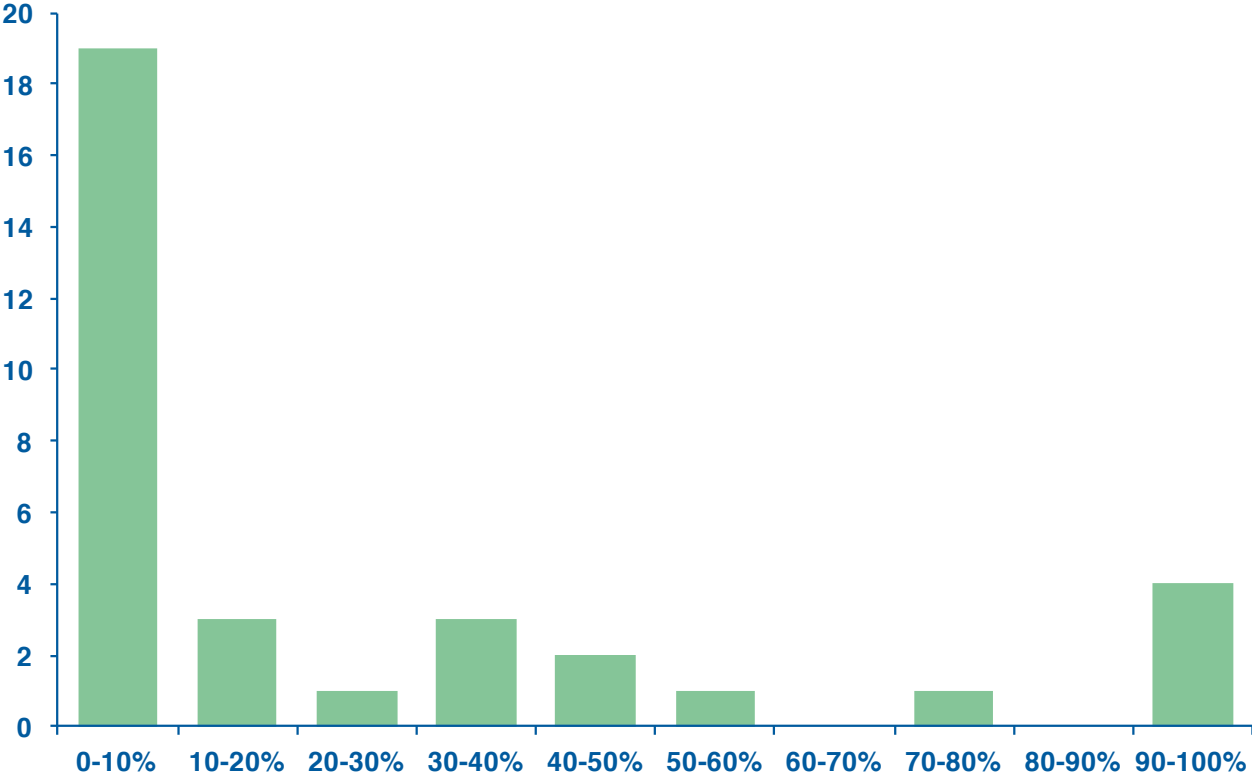
58% of respondents felt that collaborative practice was becoming more popular.



Survey results

Q4. If you answered more popular – how many more cases do you deal with now, compared to ten years ago?

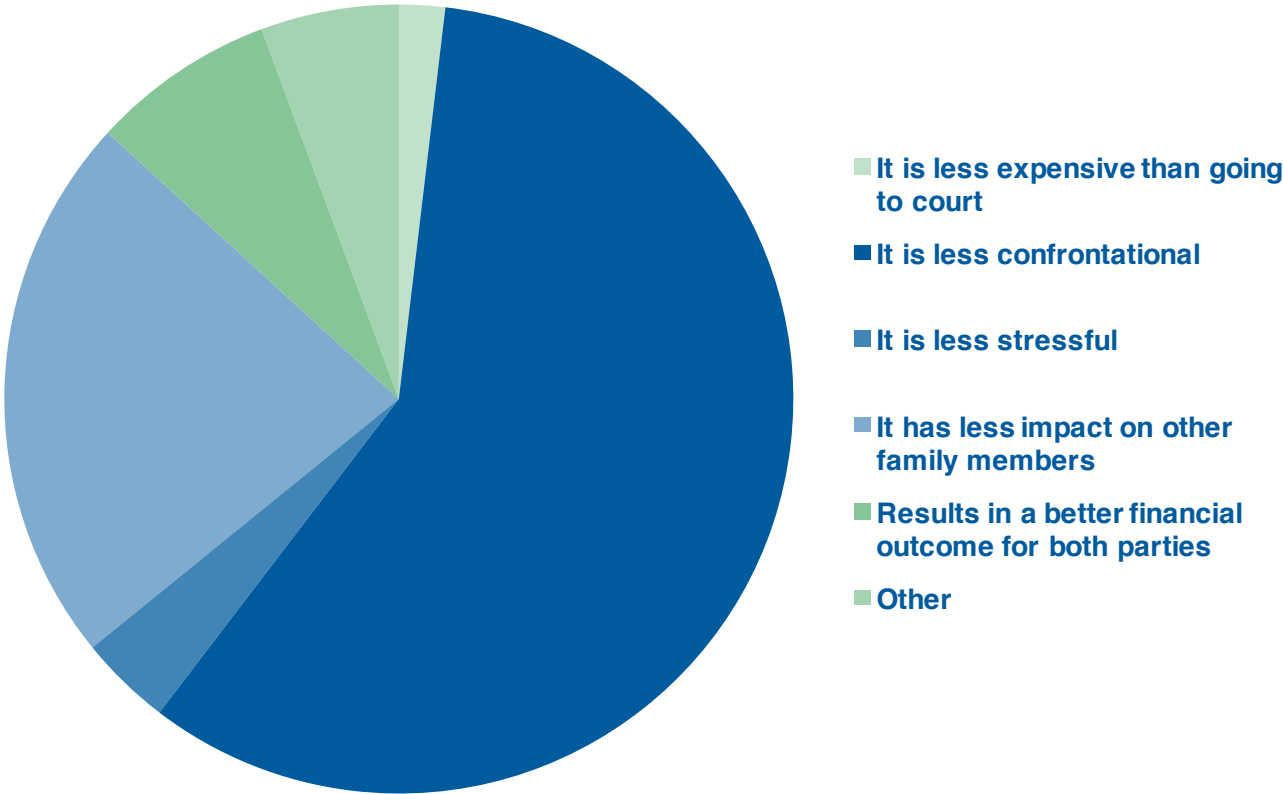
56% of respondents that felt collaborative practice was becoming more popular were seeing an increase of up to 10% in cases.



Survey results

Q5. What is the number one reason people choose the collaborative approach to divorce?

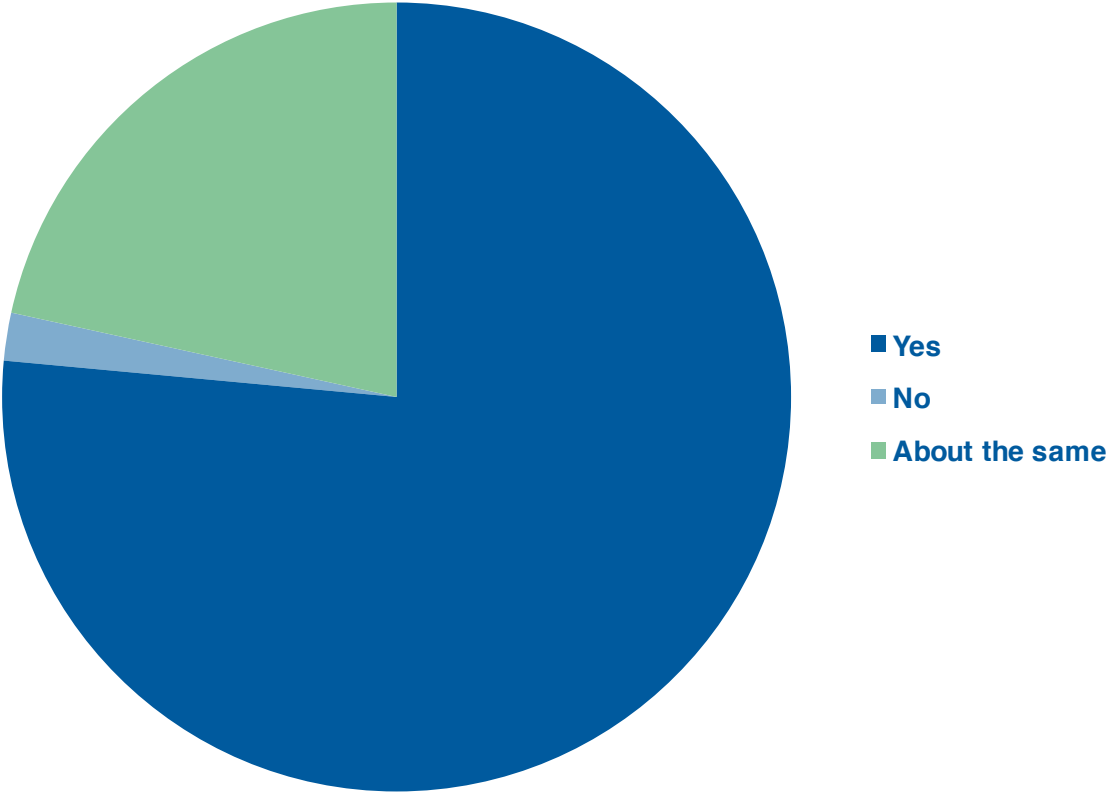
Circa 60% of respondents felt it was less confrontational whilst around 20% saw it as having less impact on other family members.



Survey results

Q6. Would you say your clients are happier during collaborative divorce proceedings compared to traditional court divorces?

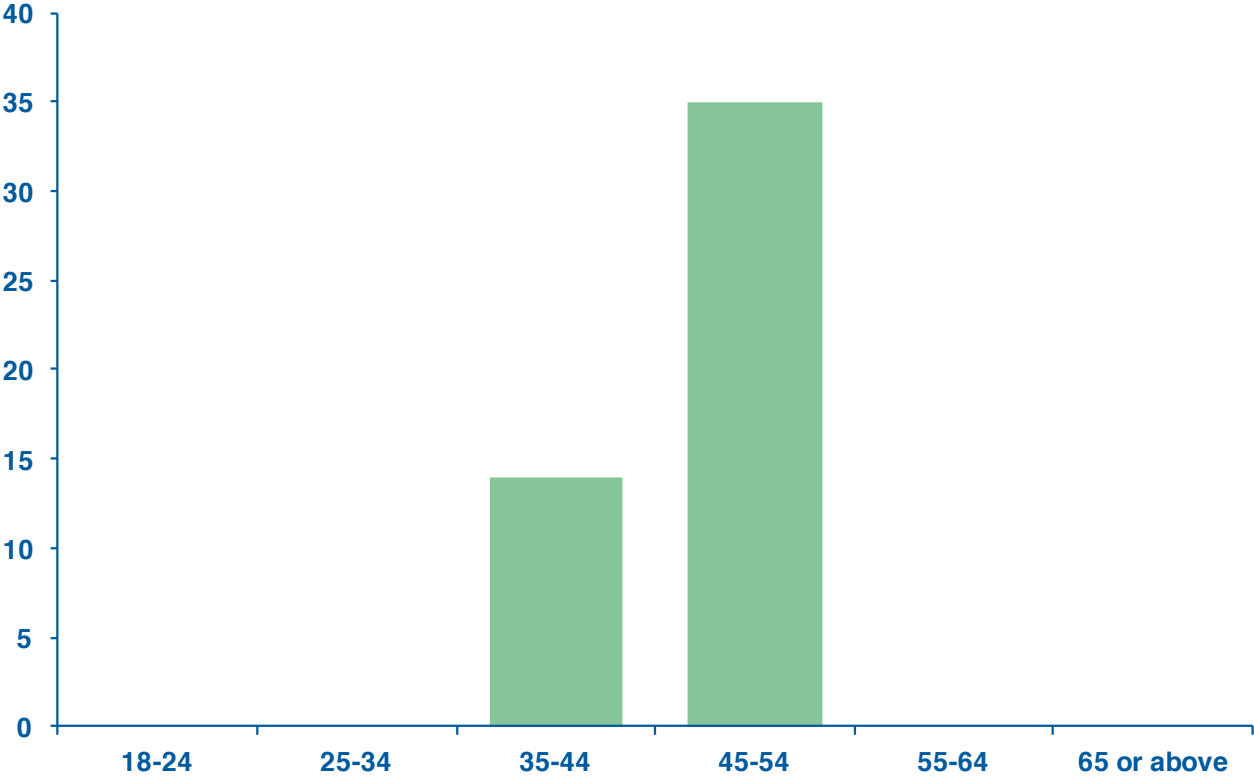
Over three quarters of respondents felt that their clients were happier during the collaborative divorce process.



Survey results

Q7. Which age group uses collaborative divorce the most?

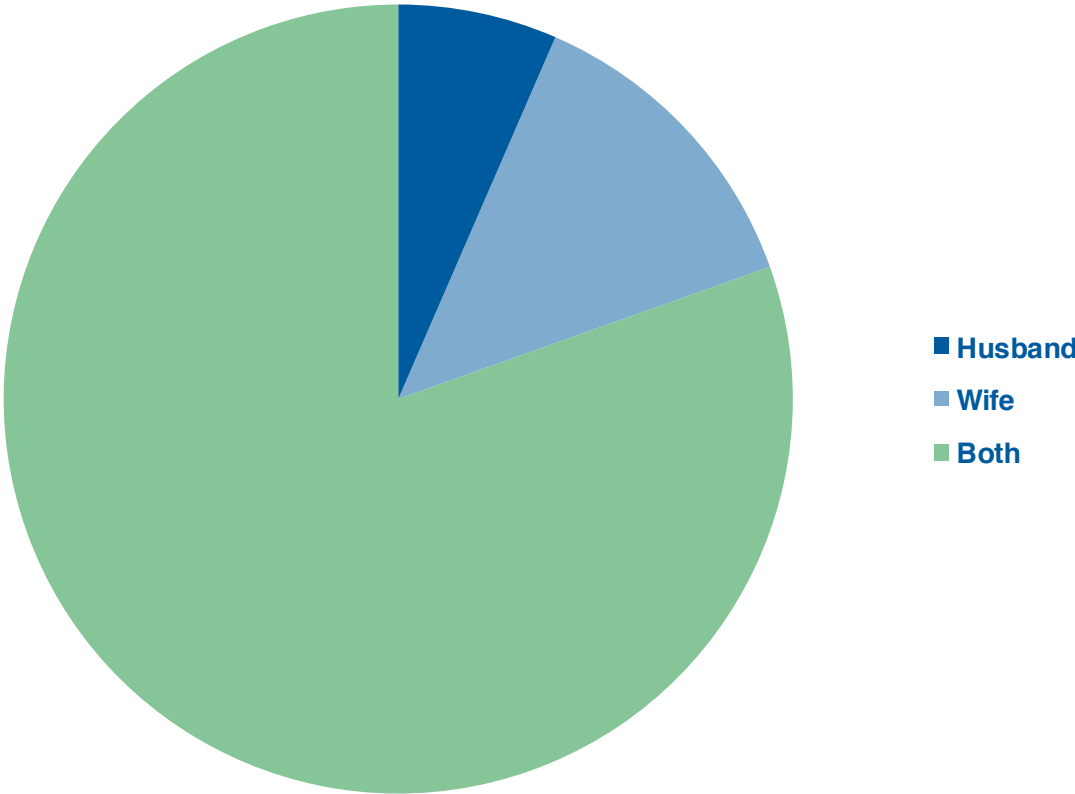
Respondents said that over 70% of their clients were between the ages of 45 and 55.



Survey results

Q8. Who tends to instigate collaborative divorces?

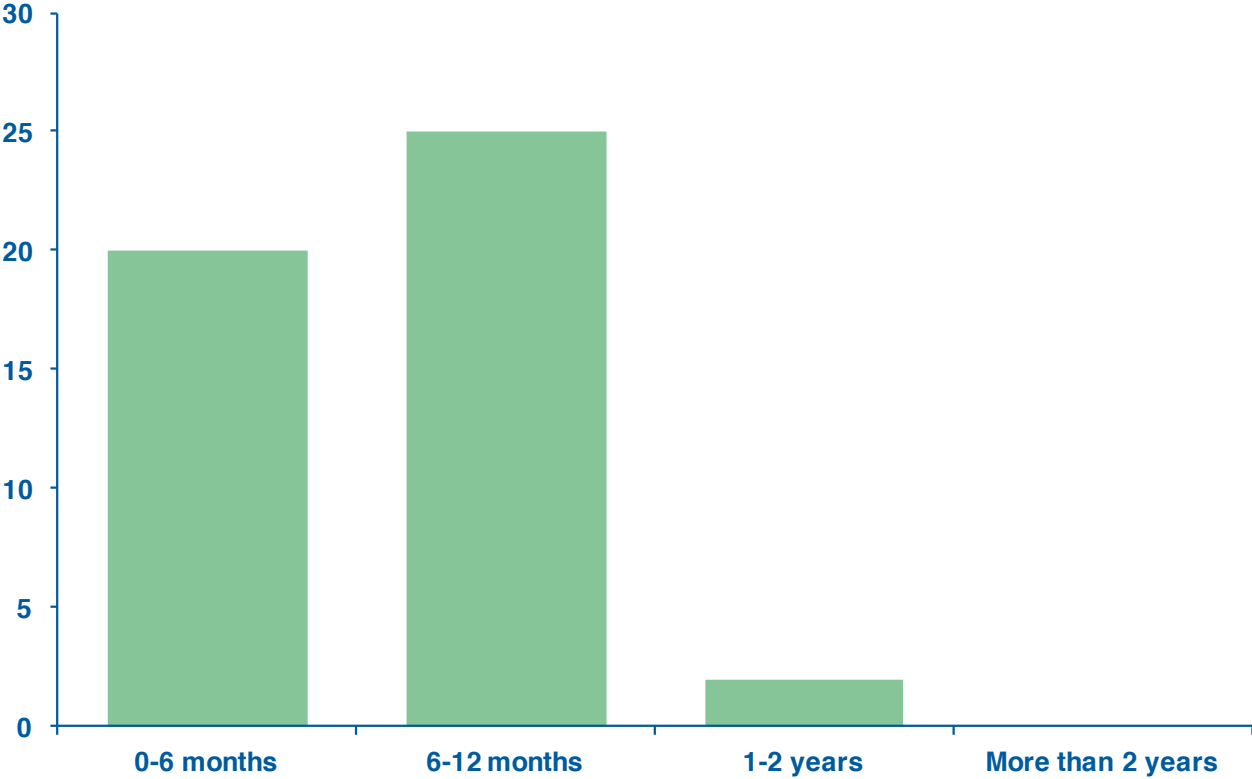
Over 80% of cases are instigated by both husband and wife.



Survey results

Q9. On average, how long does a collaborative divorce take?

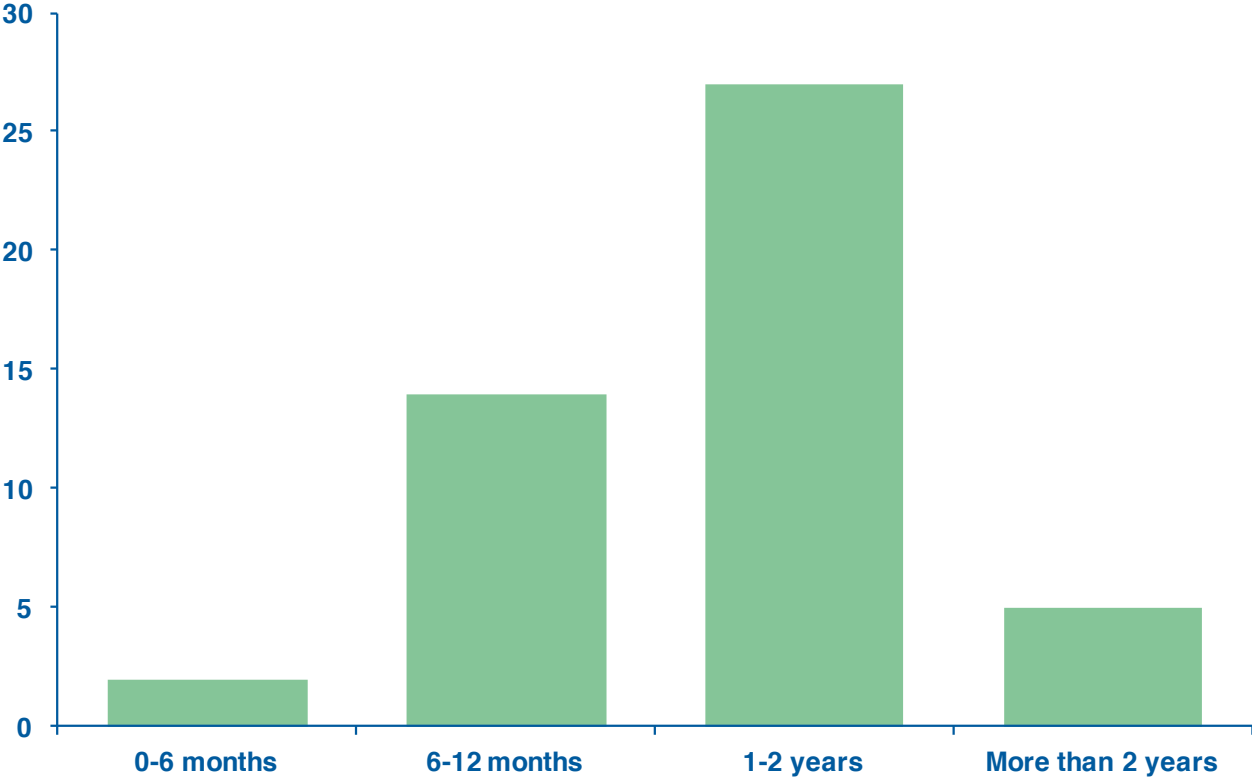
Most respondents said that over 90% of cases were concluded in under a year.



Survey results

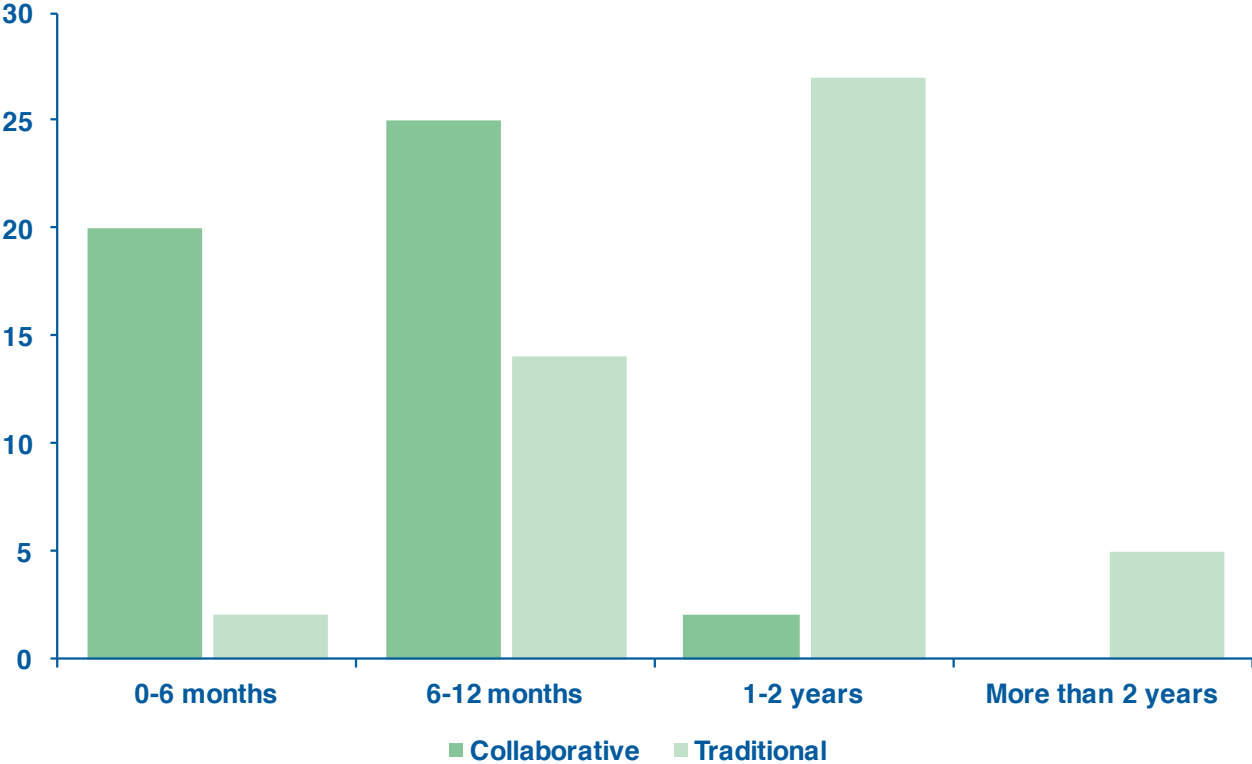
Q10. On average, how long does a traditional court divorce take?

Most respondents said that over 85% of cases take up to two years to resolve.



Survey results

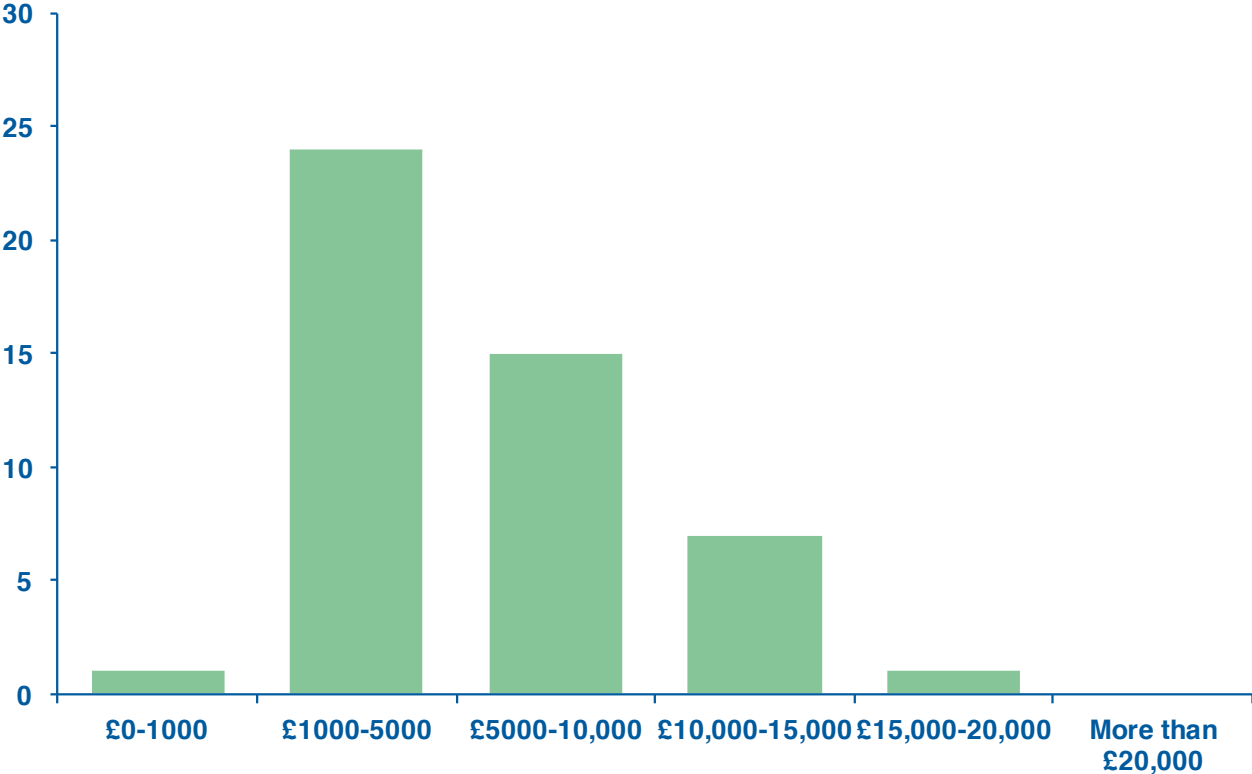
Collaborative versus traditional timescales: Collaborative cases are seen to take less time than their traditional counterparts.



Survey results

Q11. On average, how much does a collaborative divorce cost a client?

Over 80% of respondents said that collaborative cases costed less than £10,000.



Survey results

Q12. How much does a traditional court divorce cost a client?

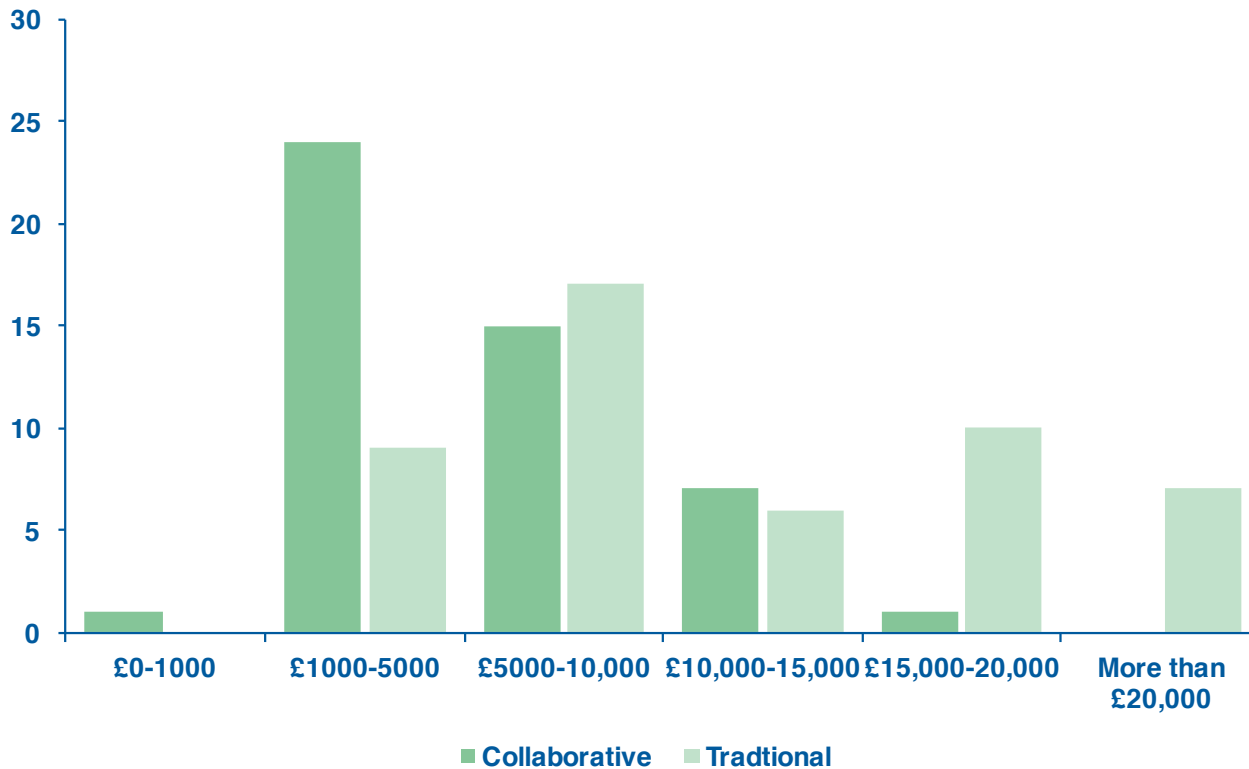
Circa 50% of respondents said that traditional cases costed less than £10,000.



Survey results

Q13. On average, how many meetings does it take to complete the collaborative process?

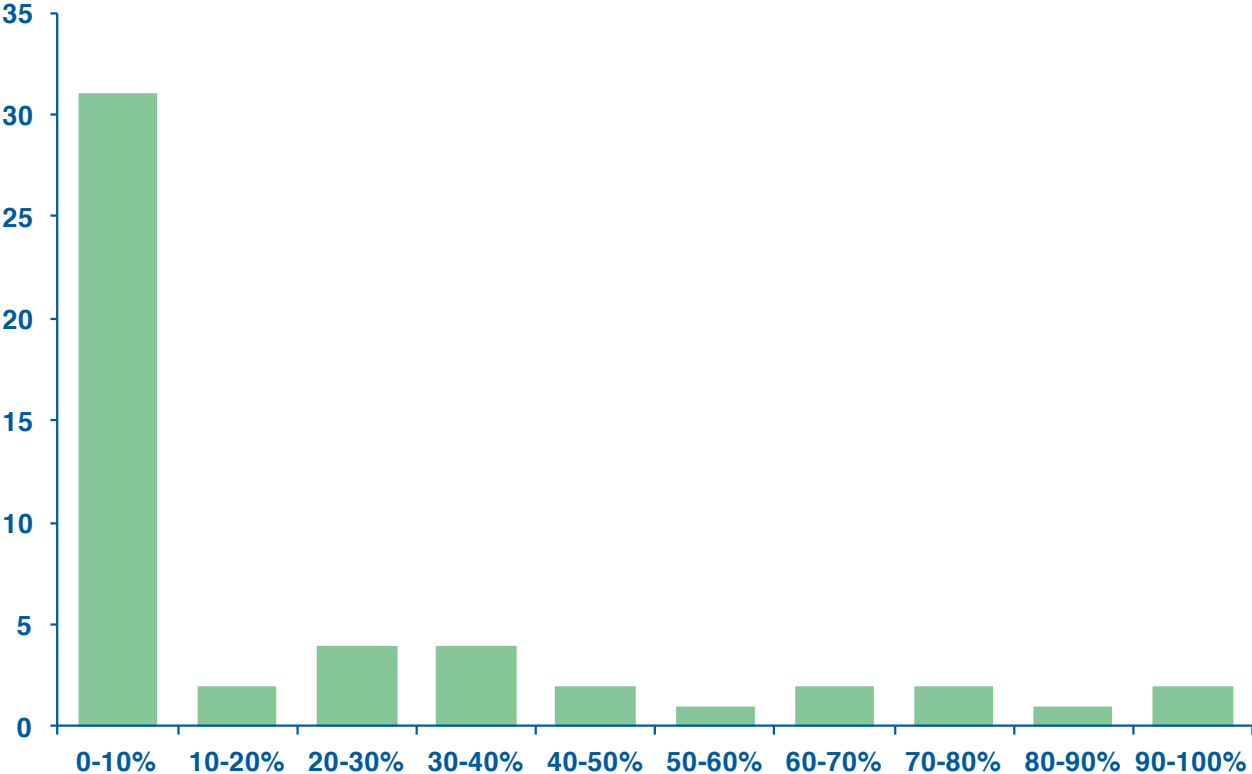
On average respondents confirm that they typically need four meetings to conclude the process which would further explain why collaborative cases are seen to cost less than their traditional counterparts.



Survey results

Q14. In what percentage of cases have you used the services of a Financial Consultant?

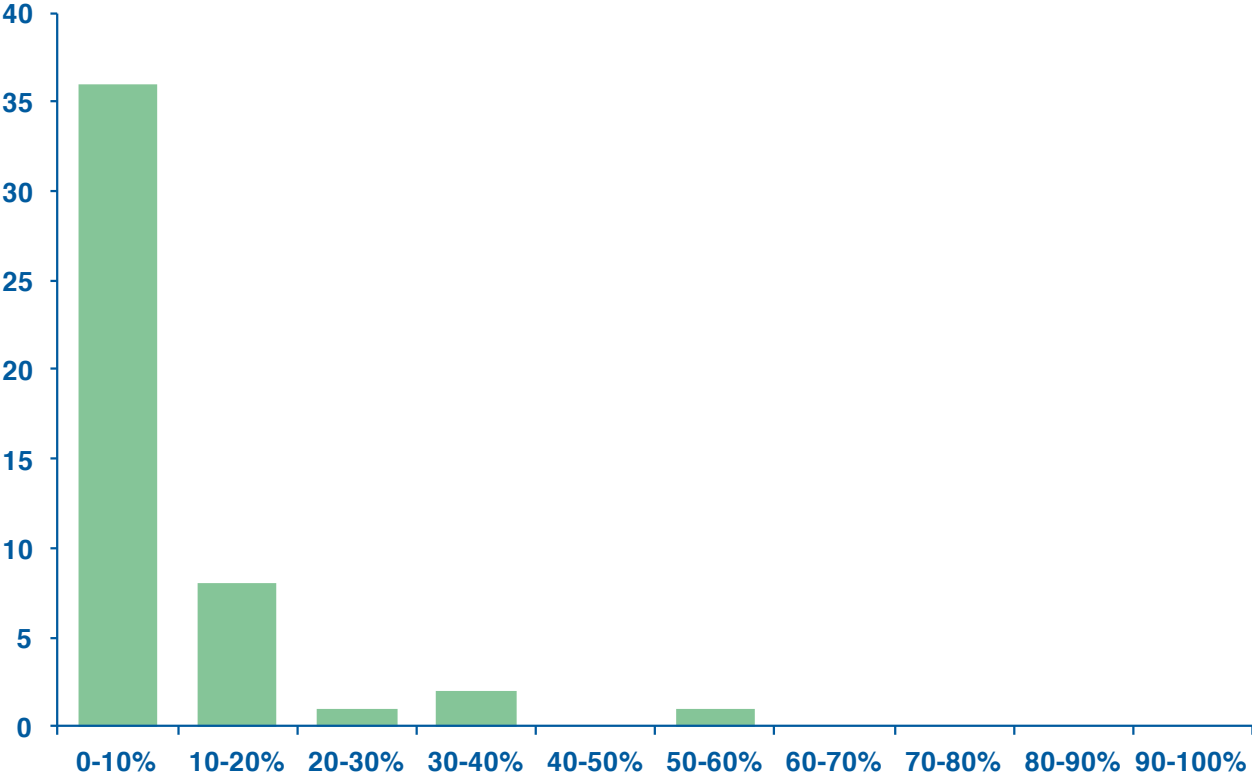
Over 60% of respondents said that up to 10% of their cases involved a financial consultant.



Survey results

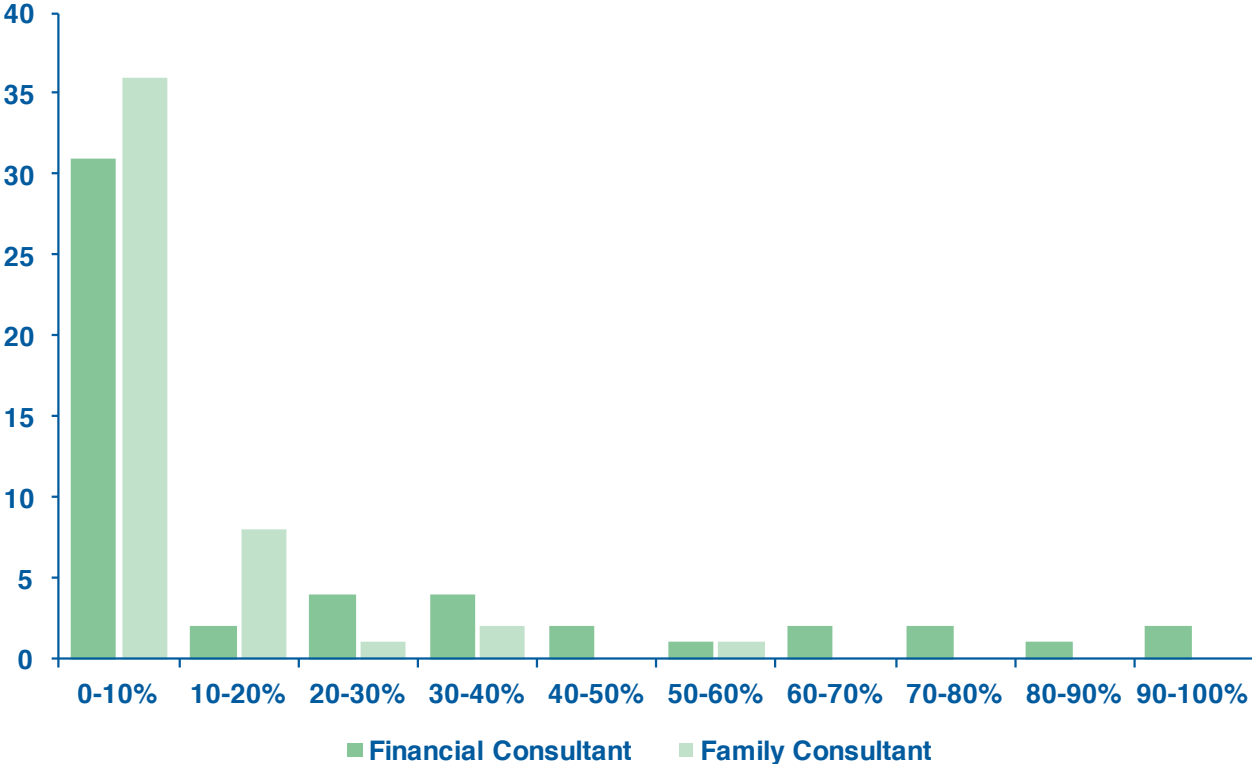
Q15. In what percentage of cases do you use a Family Consultant

Over 75% of respondents said that up to 10% of their cases involved a family consultant.



Survey results

Collaborative versus traditional: Two thirds of respondents said that up to 10% of their collaborative cases utilised the services of a financial or family consultant.



Key Findings and Conclusions

Key findings – Rise of collaborative divorce

What is clear from the research, is that collaborative divorce rates have increased over the last decade. In fact, 58% of respondents said that collaborative divorce has become more popular over the last 10 years, with 23% saying it was about the same and only 13% saying it was less popular.

Digging a little deeper. More than half of the respondents (56%) said they had seen up to a 10% increase in collaborative divorces in the last decade, 21% were handling between 10-40% more cases, whilst 24% said they were handling between 40-100% cases over this period.

Looking at the numbers in more detail. A total of 161 collaborative divorce cases are handled a year by the 53 law firms taking our survey – based on our total membership alone, we would say that at least 300-400 collaborative divorce cases take place in Scotland annually. The average number of cases our members are handling is three per year, though some are handling 15 cases upwards.

Out of all divorce cases, 74% of respondents said that up to 10% of the divorces they handle are collaborative. 22% said that between 10-30% of cases were collaborative and one firm said that between 70-80% of cases were collaborative, although this represents a very small minority.

Key findings – Cost is NOT king

Our research also pointed to why collaborative divorce has become more popular in recent years. 58% of respondents said that collaborative divorce was less confrontational than conventional divorce, while almost a quarter (23%) said it had less impact on family members. Other reasons included; having a better financial outcome for both parties (8%), less stressful (4%), less expensive (2%). 7% of respondents shared additional reasons which ranged from reducing the risk of having an adverse judgement against a client, putting the client in more control and helping couples maintain amicable relations for the children.

The relative low priority of cost was a surprise to us and suggests that people chose the collaborative method for emotive reasons. When asking law firms about cost, we discovered that collaborative divorce was on average between 5-10k less expensive than court divorces. Looking at this in more detail – when asked how expensive collaborative divorce is, half of respondents said that it can cost as little as between 1-5K, 31% between 5-10k, 15% between 10-15K and just 2% between 15-20K. A small minority were even suggesting collaborative divorce can cost as little as 1K or less for some couples.

Conversely, when asked about the cost of traditional divorce, the figures speak for themselves. Over half of the respondents (67%) said that court divorces can cost anywhere between 5-20k for couples, considerably more than the collaborative approach. 14% said it can cost more than 20k and only 18% said it is likely to be between 1-5K.

We also discovered that collaborative divorces tended to be completed far quicker than traditional divorce, up to a year in some instances. When comparing court divorces with collaborative alternatives, just over 50% of respondents found that the former usually takes between 1-2 years to complete, while out of court settlements tended to be completed in 12 months or less.

With reduced stress, less confrontation and more money in their pocket, it is little wonder that clients tended to feel happier when they avoided the courts. In fact, according to our research, 76% of law firms felt their clients were happier during a collaborative divorce and only 2% said they were less happy. 23% said that couples were neither more nor less happy.

Key findings – Cost is NOT king

When asked who instigates divorce proceedings, the vast majority of firms (80%) said that both parties are involved. However, it was interesting to see that 13% of respondents said the wife was more likely to approach them first, compared to 7% who said it was the husband. Perhaps we cannot read too much into this, but this may suggest that some women are seeking more cost effective ways to split because historically they have had less financial security than their husbands. Equally, collaborative divorce tends to have less emotional impact on children and other family members, which may be a greater concern for women.

According to the majority of firms, people aged between 45-54 were most likely to ask for a collaborative divorce. This is up to ten years older than the Office for National Statistics' latest figures, which show divorce rates are highest in the 40-44 age group. Our figures may be a reflection of 'second time round' divorces, where couples have been through a court divorce with their previous partner and are looking for more amenable alternatives. It may also be a reflection of the greater 'maturity' that is required for a successful collaborative divorce, where couples are asked to put aside their differences and act cordially to complete the process.

Conclusions

To two major conclusions we can draw from our research, is that collaborative divorce methods are becoming more popular in Scotland and most couples are choosing this method because it is less confrontational. Based on the findings of our research, the reason behind this is clearly to reduce the impact of divorce on other family members, particularly children.

In addition, it was interesting to see that collaborative divorce tends to be more popular among an older age group, perhaps reflecting the greater 'maturity' required to complete the process successfully.

Despite the fact that collaborative divorce is significantly cheaper than the alternative, cost was a relatively low priority for couples, as was the financial impact divorce can have on both parties. It was also interesting to discover some of the less obvious factors, including reducing the risk of having an adverse judgement against a client and giving more control to couples.

The rate of increase was perhaps not as significant as expected, with just over half of firms seeing only 10% more collaborative divorces over a ten year period. However, the remaining firms were seeing significantly more than this - up to 100% in some cases - which equates to a significant drive towards alternative methods of divorcing, particularly when taking other contributory factors into account. We have seen a clear drop in court divorces in Scotland, which suggests couples have an appetite for seeking alternative options. The rise of technology and newer, faster ways to divorce are likely to accelerate this trend. With this in mind, we anticipate that alternative ways of divorcing will gather momentum in the coming years.

Having said this, the main caveat for a successful collaborative divorce, is an amenable relationship between both parties, something which is not always possible. It is also best suited to couples who do not have complex financial ties, such as large shared estates, bank accounts or trusts. Settling matters in court is the only feasible route for some people, so we are unlikely to replace court divorces entirely.

Our advice for any couple or individual thinking about divorce, is to seek council from a lawyer in the first instance. A lawyer will be able to discuss the options that best suit a couple's particular circumstances and advise on the most appropriate route to take, whether that be within or outside the courts.

Appendices

Survey questions

Question 1: Approximately how many collaborative divorces do you handle in a year?

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Question 2: Out of the total divorce cases that you handle, what percentage are collaborative?

0-10%

10-20%

20-30%

30-40%

50-60%

70-80%

80-100%

Question 3: In the last ten years, would you say collaborative divorce has become more or less popular?

More popular

Less popular

The same

Survey questions

Question 4: If you answered more popular – how many more cases have you dealt with over this period (as a percentile)

- 0-10%
- 10-20%
- 20-30%
- 30-40%
- 50-60%
- 70-80%
- 80-100%

Question 5: What is the number one reason people chose the collaborative approach to divorce?

- It is less expensive than going to court;
- It is less confrontational and stressful;
- Has less impact on other family members;
- Results in a better financial outcome for both parties.

Question 6: Would you say your clients are happier during collaborative divorce proceedings compared to traditional court divorces?

- Yes
- No
- About the same

Survey questions

Question 7: Which age group uses collaborative divorce the most?

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65 or above

Question 8: Who tends to instigate collaborative divorces?

- Husband
- Wife
- Both

Question 9: On average, how long does a collaborative divorce take?

- 0-6 months
- 6-12 months
- 1-2 years
- More than 2 years

Survey questions

Question 10: In comparison, how long does a traditional court divorce take?

- 0-6 months
- 6-12 months
- 1-2 years
- More than 2 years

Question 11: On average, how much does a collaborative divorce cost a client?

.....

Question 12: In comparison, how much does a traditional court divorce cost a client?

.....

Question 13: How many meetings were needed to complete the Collaborative Process?

.....

Survey questions

Question 14: In what percentage of your cases have you used the services of a Financial Consultant?

- 0-10%
- 10-20%
- 20-30%
- 30-40%
- 50-60%
- 70-80%
- 80-100%

Question 15: In what percentage of your cases have you used the services of a Family Consultant?

- 0-10%
- 10-20%
- 20-30%
- 30-40%
- 50-60%
- 70-80%
- 80-100%



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