

A HEALTHY MARRIAGE COULD BE THE KEY TO WEALTH PROTECTION

What can you do to protect yourself and your business future if you are faced with the prospect of a divorce?

It's an increasingly pertinent question for business owners and high net-worth individuals and it's not hard to understand why.

According to the latest statistics, failed marriages in the UK cost £4.3b each year with the average divorce now costing £28,000 per couple (versus £13,000 per couple in 2003)¹. And those figures only represent average costs.

"Headlines about £5m divorce settlements leave business owners feeling jittery," says Penny Raby who runs Marriage Makeover, a service aimed at keeping couples together and saving them the financial and emotional pain of a divorce.

"They'll have significant assets such as shares, equity, pensions, savings, etc. From a financial point of view, they've much more to lose than the average person if they're faced with a divorce.

"Take the Miller and McFarlane cases. Law lords unanimously upheld a £5m award to Melissa Miller whose marriage to Alan Miller, a star fund manager, ended after less than three years. They dismissed Mr Miller's appeal.

"Similarly, law lords allowed an appeal by Julia McFarlane, who had given up a promising career as a City solicitor during a long marriage to Ken McFarlane, a Deloitte tax partner, and reinstated an award to her of £250,000 per year with no time limit. The couple had already agreed to split their £3m assets equally.

"It's a sign that the UK is now probably the most generous jurisdiction for spouses seeking financial provision on divorce through the courts."

Last week the High Court ruled that a wife who was receiving £13m in cash and assets would not get a share in future earnings as well, but Penny Raby warns that this case may be subject to an appeal and it is clear from the judges decision that the only reason he did not award a share of future earnings was because there was enough cash and assets to give the wife an extremely substantial settlement.

"Few business owners can find £13m so it still remains the case that their future earnings may be at risk," she commented.

She also says business owners should be aware that the cost of a divorce can be more than just the final settlement.

"The majority of owner-managed businesses rely on the good health, energy and drive of the head of that business. Divorce is a time-consuming process and that time could be spent on the business.

"Business owners should also take into account how emotionally frustrating and distressing a divorce can be. It can eat away at your usual commitment to the business because your focus is understandably elsewhere.

"We often find there's also a natural reluctance to put time and money into one's business if there's a chance that a divorcing spouse could be a benefactor. At the same, a divorce can put a strain on a

¹ Norwich Union, December 2006

business's cash flow because of the personal financial pressure on the partner being divorced," she adds.

Penny is a firm believer that prevention is better than cure, not just from a wealth protection point of view, but also for the sake of a happy, honest relationship.

"Treat your marriage like you would your business. It might sound callous but it often works. If you could see a cash flow problem in your business a few months down the line, you'd do something about it. It should be the same in a marriage.

"Anticipate and analyse any problems on the horizon and take action to fix them before it's too serious. We often find that once people have considered divorce as an option it's too late because they're in that mind-set. But taking measures before it gets to that stage can pay dividends."

She has also found that over the years, a business can be a major reason for relationship problems and she recommends an honest and open approach to ensure it doesn't become the reason for a split.

"Long working hours - par for the course for many business owners – are a growing source of marital discord. We get lots of spouses who suspect their partners are having affairs but they're actually at the office working hard to keep the business afloat.

"We also get spouses who are tempted to divorce because they've seen their partner's business's bottom line and they think they could be in for a windfall. They don't realise that the liquidity or cash flow might not be healthy and that the business is worth much less than they first thought.

"The best way to avoid these scenarios is to make sure both parties are well-informed about family and business finances. Being honest and open and sharing information means there's always a very real picture of what's in place, rather than leaving things open to conjecture.

"Another option is to consider pre-nuptial agreements. They're not legally binding in the UK but they do set out a position and they have increasing weight in the courts. They also prompt couples to consider their financial positions before it becomes a real issue.

"It's bad enough losing your business or a spouse, but imagine losing both. The over-riding rule for protecting your current or potential wealth is to make sure your marriage is as healthy as your business. That's when you have a win-win situation," she added.

It might be worth remembering the words of wisdom from the millionaire founder of Kwik-Fit, Sir Tom Farmer, who was recently asked to give his best piece of advice for becoming a business success. His answer was simple: find a good wife. "I know it sounds romanticised but it's true," he said. "The most important person in my life has been my wife."

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