



Kestrel Radio news interview: Wednesday 7th Jan 2009

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Subject: D day for divorcing couples

Simon: according to a recent survey (conducted for TakeLegalAdvice) today has been pinpointed as D-Day, the day when more divorces are issued than any other during the year. Why do you think that is?

Howard: Christmas often highlights the flaws in a relationship. Extra time together can force problems that already exist in the relationship to come to a head. Families get thrown together, often for long periods of time with members of their extended family and as a result the marriage suffers.

Of course the credit crunch is taking its toll - many think about divorce but the added pressures brought about by the downturn may be the straw that breaks the camel's back.

Simon: what are the main reasons why people divorce?

Howard: extramarital affairs are still the number one reason; another common reason is falling out of love. Infidelity ranks high and men in particular cite lack of sex as a key cause of problems. In fact one in 10 married couples admits they have no sex at all. Other common problems include financial disagreements, alcohol or drug abuse, debt, and careers or hobbies taking priority.

Simon: who usually starts divorce proceedings?

Howard: three quarters of New Year divorces are instigated by women who nowadays are less willing to settle for an unsatisfactory relationship than they were years ago.

Simon: how many marriages end in divorce?

Howard: according to the Family Mediation helpline, about 1.8m married couples consider splitting up over the festive period, which doesn't take into account the number of cohabiting couples who split up. Almost one in every two marriages end in divorce and interestingly the number of people divorcing for the second time has doubled in the last 25 years. One in five men and women in marriage break-ups last year had already gone through a previous divorce. It seems that once you have broken the taboo, it's easier to do it again. But overall the divorce rate has fallen over the last three years.

Simon: why should that be?

Howard: fewer people are getting married, in fact marriage rates have dropped by 10% in the last year. Also you can't ignore the fact that financial settlements within divorce are unpredictable and costly and the legislation that governs the way that financial settlements are made is out of date. Maybe that puts a lot of men off. And of course the cost of a divorce can run into thousands if you go through the Courts. But we are finding that people are beginning to take up the different options available to them such as counselling and mediation.

Simon: Why is that better and how does mediation work?

Howard: mediation is a very good, cost effective and sensible way of helping couples come to a mutual agreement with much less acrimony and bad feeling. What happens is that a trained lawyer and mediator sits down with both parties over a number of sessions and works out things like financial settlements, putting any children at the centre of discussions. After all, both parties are parents of the children and need to consider their needs and feelings because they will have a continuing relationship and responsibility even after the relationship as a couple has broken down. Mediation can avoid the painful win-lose situation and is much cheaper than fighting through the Courts.

Simon: is there anything that couples can do to make the breakdown less painful?

Howard: divorce can be messy and can ruin lives so at Phillips we aim to help couples separate or divorce in the most painless and cost-effective way. Financial arrangements need to be settled and the best way to achieve this is by agreement. Couples need to tell children what is happening, that it's not their fault, so that they can carry on being good parents and not fight over the children. Counselling can help too and may help improve the relationship. But if the relationship really has irretrievably broken down we help to guide couples through the legal processes so that they can rebuild their lives and have a new future before it's too late.

Simon: thank you Howard. Finally, if couples are considering marriage now, what can they do to protect their interests should the relationship ultimately fail?

Howard: many couples are choosing to formalise what's called a 'Pre-nuptial agreement' before they get married. Although they are not yet legally binding the Court will consider the contract along with all the other circumstances of the case, should a relationship break down at a later date. In fact a recent ruling in the Appeal Court in favour of a multi-millionaire suggests that pre-nuptial agreements may soon be formally recognised. At least having a pre-nup is more secure than not having one.