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## Welcome

Welcome to the latest edition of the Family Focus.

In this edition we focus on divorce and provide some top tips for making your divorce less painful.

Over the page we look at pre-nuptial agreements and examine how they can be utilised to protect your business and avoid difficult conversations with your fellow shareholders on divorce.

If you or your clients require family law advice please contact one of our experienced family lawyers using the contact details below. We are happy to provide a **FREE** 30 minute consultation on all new matters.

If you would like to unsubscribe to this newsletter please telephone 0161 236 8992 or email [marketing@georgedavies.co.uk](mailto:marketing@georgedavies.co.uk) with "unsubscribe to family focus" in the subject box.

Kind regards

*Robin Charrot*

Partner



## 10 tips to make your divorce less painful

**Divorce can be a dirty business and can leave you considerably lighter in the pocket. It can be emotionally draining and can dominate your life. So how can you walk away with your shirt and keep your sanity and dignity in tact?**

1. If you've yet to tie the knot, think seriously about a pre-nuptial agreement to protect your wealth and your business. The Supreme Court recently gave the green light to pre-nups, so as long as a couple freely enter into the agreement fully understanding its consequences and it makes adequate provision for their children, the Court will hold the couple to the terms of the agreement unless the outcome would be obviously unfair.
2. Too late for a pre-nup? A post-nuptial agreement made after the marriage could be the answer. They can ring fence assets or set financial provision at a lower level, in exactly the same way as a pre-nup can.
3. If you are splitting up make sure you get early legal advice before you do anything, particularly if there is more than one legal jurisdiction that could be involved. If there is more than one country that could be involved (Ireland,

Scotland, the Channel Islands and the Isle of Man count as separate countries here) the first person to issue proceedings normally dictates where the divorce proceedings are dealt with, and this could have a major impact on the financial outcome.

4. If a divorce is inevitable, don't try to hide your assets. With sophisticated tools to trace assets it is simply not worth it. Worse still, if the Court decides that you have deliberately tried to manipulate your finances to put them out of reach, you could find that your assets are frozen, that your family or friends are brought into all sorts of legal proceedings, or that you have to pay the legal costs of the entire case.
5. Unless life is unbearable, stay put in the family home. There will be far more incentive to come to a quick resolution on the divorce and finances whilst you are both together

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- under the same roof, and getting the house sold will be a whole lot easier.
6. Keep your mobile phone, your email account and your financial information under lock and key. The Courts will not condone a spouse who goes snooping but if you leave confidential documents lying around or openly accessible on the family computer, they could be fair game.
  7. Bear in mind that the widescreen TV is easily replaced so don't get caught up arguing over the contents of the house. All too often couples run up more legal costs arguing about contents than the value of the contents themselves. It's just not worth it. Try and agree the split of the contents between yourselves and aim to give an agreed list to your solicitors.
  8. Don't try to do it on the cheap. There are lots of DIY divorce packages out there, but will they really tie up all of the loose ends? There are also lots of lawyers who dabble in family law, but if they don't specialise in it, they are unlikely to know the law well enough. If your spouse's claims are not properly dealt with at the time, you run the risk that they may be able to come back years later and get another payout.
  9. Consider the alternatives to litigation. You could resolve your dispute through a collaborative approach or through mediation. This could take the heat out of the dispute and allow you more control of your destiny.
  10. Finally, try to maintain a sensible perspective and focus on the future, not on the past. Life goes on after divorce and you will recover from it.

*For more information contact a member of the George Davies family team using the details overleaf.*

#### Disclaimer

The contents of this newsletter do not constitute legal advice. You should always consult a suitably qualified lawyer for professional advice about any specific legal matter of concern to you. George Davies Solicitors LLP, its partners and staff do not assume any responsibility for information contained within this document and disclaim all liability relating to such information.

## 'Pre-nups' to protect businesses

Almost everyone has now heard of 'pre-nups' in the UK, as a result of October's Supreme Court case relating to wealthy heiress Katrin Radmacher. However, not everyone may have realised the potential benefits of effective 'pre-nups', nor the broad spread of circumstances where they could be vital in protecting the continued health of UK businesses.

Imagine the following scenarios:

- Tom, Dick and Harry each own a third of the shares in a private limited company. Harry goes through a divorce, which forces him to sell his shareholding, or he has to transfer some of his shares to his wife, Sally. This results in Tom and Dick having to find the money to buy Harry's shares, or being forced into business with someone else (possibly even Sally), and losing a significant element of control of the business, through no fault of their own.
- Say Harry persuades the court not to force him to sell his shareholding, or transfer some of it to Sally, but instead Harry has to draw extra dividends from the business to pay Sally off, or the company has to borrow to pay her. What will that do to the cash flow of the business, and how hard would it be to get a loan?
- Or say Tom, Dick and Harry want to transfer some shares in the company to their star sales director Andy. Should Tom, Dick and Harry avoid giving Andy shares in case his marriage ends in divorce? If so, do they risk Andy leaving for better prospects elsewhere if he can't get an equity share in the company?
- Or say Dick wants to transfer some of his shares to his son and daughter. But what if their marriages end in divorce?
- Tom, Dick and Harry also run another business as a partnership. Tom goes through a divorce which forces him to dispose of his



interest in the partnership. This could trigger the winding up of the entire partnership.

These are just some of the scenarios where a divorce can potentially wreck the financial stability of a business, even if most or indeed all of the current business owners are happily married. A 'pre-nup' can potentially help in this situation, by ring-fencing any interest in the company against financial claims on divorce.

Don't worry if you are already married. This kind of protection is not just limited to someone who is about to marry, because a 'post-nup' can be drawn up at any point after a couple are married, and can offer the same (and perhaps more) protection than a 'pre-nup'.

Business owners should therefore seriously consider protecting their business by asking their fellow owners to enter into a 'pre-nup' or 'post-nup', and to make any grant of an interest in the business to senior staff or children conditional on them entering into a 'pre-nup' or 'post-nup'.

*For business protection advice please contact Robin Charrot using the details overleaf.*