

A Systemic Approach?

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Introduction

Having been at the family Bar for 25 years, it would perhaps be an understatement to say that I, as many others, have seen what I would call the hard end of divorce. Specialising in private law children cases, I have never lost the ability to be staggered by the lengths and depths that people will go to in order to secure their position in relation to their children. Those that are prepared to go to those lengths, almost sacrificing the well being of their children on the alter of 'I am the only good enough parent,' do not hear the wise counsel of their legal team telling them the effects of their behaviour and attitudes on the long term well being of their children.

Polarisation

We all know the allegations often recruited to justify polarised positions. Allegations such as the children just don't want to see him, the children feel he has left them and aren't prepared to trust him and so on. In extreme cases there are allegations which are often totally transparent and defy logic and ultimately forensic enquiry. In one three week trial I represented a father taken from his family home in the middle of the night by police. His wife alleged he had viciously raped her and assaulted her. She said that he had in fact been raping and injuring her for 16 years. She even had injuries to show for it. Two forensic experts and a year later, he was totally exonerated – she had been self harming and the children moved to reside with him on the finding that the mother had emotionally abused them by showing them her injuries and saying their father had done them.

This is of course, an extreme. So is the case I did which lasted for over 6 years, again representing a father who left the mother taking two extremely young children with him and saying that they were terrified of their mother. This was to justify his application for residence with no contact. There was not a shred of evidence to support his allegations but by the time the slow court process had run its course from direction hearing to direction hearing, the children actually began to believe that they were terrified of her. Of course, once they started to believe it and act on it (their father being their carer and they had to perform as expected) the damage was done and the mother had very limited contact and ultimately none. Again this is an extreme.

An altered emotional state

However, there are a multitude of cases where clients instruct their lawyers where although the emotional/psychological 'state' of the client is nothing like the above examples, they are indeed in what I would call an altered emotional state. Such a state is indeed understandable. We all know that divorce and separation can be a bereavement; a bereavement that can take a long time to get over and that bereavement can often get in the way of being able to take clear instructions or indeed of the client hearing good sound advice from their lawyer.

Grief, bitterness and anger all fuel decisions that work against what may be in the best interests of the client. We all know that principles are costly, and perhaps one of the most tiring aspects of the job is trying to persuade a client of what we see as ultimate good sense and strategy and the client not able to really process the information.

There is no other area of law that I can think of where the legal process and dialogue between client and lawyer is so tempered by the psychological and emotional state of the client.

Post divorce

As the statistics for divorce and separation have proliferated so has the market place in relation to what is on offer for those going through it. Law firms are increasingly being approached by a wide variety of people who have set up their stalls in the divorce market. There are life coaches, financial planners and consultants and even people who will take our clients shopping to make them feel better.

Most of us are aware that the end of the court process is very rarely the end of the conflict or raw feelings towards the ex partner. Once collaborative law, mediation or full blown litigation has run its course, the clients have to go through the door and carry on living their lives in the shadow of their divorce. Maybe finances and a framework for contact have been sorted out, but rarely have the feelings even begun to be addressed.

I have spent 25 years growing increasingly befuddled and bemused by the psychological imperative which seems to turn someone who the week before was a good enough parent, into one that is not worthy of seeing very much of the children. The same psychological imperative that says I have supported you financially, but I want to make life as financially difficult as possible for you now.

Avoiding isolation

I trained as a family therapist, whilst still working at the Bar to see if I could shed any light on this anomaly that divorce throws up to see what, if anything could be done to ease this process. I am not sure that I have found any answers but what has become very clear to me is that people need to talk to others in the same situation. They may have close friends and family but clients still feel very alone and isolated. Clients simply can't hear what their lawyers or their friends tell them, but they can hear things from others in a small group who are involved in the same process.

I have founded a service providing support groups for this client group. Small closed groups for 10 weeks where all the emotional issues surrounding divorce are aired and people learn an

enormous amount from each other. What you can't do for yourself, you can do for others.

One client said last week, *'I always encourage my children to go for contact now, because I will never get out of my head that X said if she could have her time again she wouldn't have involved the children in the conflict and denigrated their father because she really ruined their childhoods.'*

I truly believe that if there is no other justification for a support group that justification is enough.

Personal experiences

Another client in a group did nothing but talk about her ex. Not herself, but her ex until three others told her to stop and that they wanted to know about her and they weren't interested in him. Every time she forgot and relayed another story about him, the others wouldn't let it go. She left the group at the end of the sessions with a totally changed sense of self worth.

A man who was in the group because his ex was not allowing him to see the children, learnt from others that in leaving his wife for another woman, she felt she had no voice and no control and manipulating the children was the only she could have some control. It was not something that had occurred to him. He reported back over the weeks to the group that the dialogue with his ex had changed because he allowed her to tell him how angry she was and allowed her to have some control as to what was happening in her life in relation to his contact. As the group sessions finished, he was beginning to see his children again.

There are many examples of the benefits of the groups to people. Perhaps importantly, they are very useful when people are going through the process as they enable lawyers to engage in the real job they are instructed to do, because the emotional issues are being taken care of elsewhere.

Beyond the legal perspective

I believe that we have a duty as family lawyers to see the whole picture, to see beyond the legal perspective informed by the client's story and to offer support through referral in order to truly help clients. Ignoring angry outbursts or huge distress, ignoring skewed perceptions fuelled by loss does not provide a service. Of course, a conference room or an office is not the appropriate venue to explore any of those issues. Nor is it appropriate in our capacity as lawyers instructed to do a job to explore any of those issues. A sympathetic ear and a box of tissues is all that we can aspire to within the context of a lawyer/client relationship. A recognised referral takes support into a whole new dimension; a multi-agency approach recognises that problems do not exist in a vacuum.

As a practising barrister, I have tried to approach cases 'holistically', to refer to family therapists, couple counsellors, child and adolescent psychiatrists when I have felt it necessary.

Now, running divorce support groups, I refer clients to lawyers who I feel have what I call a 'resolution' approach to law. Everything comes full circle.

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Financial Provision for Spouses in Middle Age

GIRAELE KRASNIK

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Also see Independent Financial Advisers

Introduction

Separation and divorce can derail even the best plans. We live in changing times and no one knows if the recent economic changes have set the tone for the future. Married couples separating in middle age need to take particular care to achieve a fair settlement not just in the immediate term but also to cover future retirement planning. Inflation and the issues around personal borrowing are perhaps at the centre of current worries and have changed the personal economic outlook for many. Coupled with the longer standing inadequacy of most UK pensions, today's pressures mean proper financial planning requires a different perspective and approach. Those in middle age face particular issues due to reduced timescales in the current difficult times.

In this article we look at the financial background facing the majority of spouses in middle age, and then at the situation for those whose marriages or civil partnerships (we will refer to all as spouses) break down.

What particular pressures do middle-aged spouses face?

A high proportion of financial advice sought by those from age 45 to 60 relates to retirement planning and debt repayment before retirement. A Fidelity survey (May 2008) found that, on average, workers suffer over a 50% fall in income at retirement. With levels of borrowing at their highest and UK household savings at their lowest since 1959, the ability to save towards retirement is compromised and the nearer one is to retirement, the more expensive saving for retirement becomes.