

## Family Law newsletter - Q2 - 2022

### Fathers Should Pay Towards Their Children's Upbringing – But How Much?



It is obviously right that fathers should pick up a fair share of the tab for raising their offspring, but exactly how deep into their pockets should they be made to dig? The High Court tackled that issue in considering whether a wealthy father should be required to cover the

cost of employing a nanny for his toddler.

The father, a very high earner, was able to pay any sum he might be ordered to towards his child's maintenance. He agreed to provide the child's mother with a £1.35 million housing fund and to pay her £8,000 a month. He would also provide her with a car and pay their child's school fees.

The mother, however, was not satisfied by that provision. She argued that the father should, amongst other things, additionally pay £48,900 a year in childcare costs, including the £3,000 monthly expense of employing a nanny. Following a hearing, her arguments in that respect were rejected by a judge.

The judge observed that it might be thought that the financial package agreed to by the father would satisfy all claims that could be made on behalf of such a young child. He took a

very dim view of the mother's evidence, describing the level of her expenditure on a nanny, holidays and shopping as reminiscent of someone who had won the football pools.

Challenging his ruling, however, the mother argued that her health difficulties meant that she was in need of respite from childcare duties. Engaging a nanny would allow her to rebuild her career so that she could work towards financial independence by the time the father's monetary support for their child came to an end.

Upholding her appeal, the Court noted that she would not have any assistance with childcare from the father. She had not lived independently of her own family before and her health difficulties, although not very severe, had to be taken into account. Given the extent of the father's wealth, it was not unreasonable for her to require some form of extraneous childcare.

The Court ordered the father to pay an additional £1,386 a month in respect of childcare costs until the child reaches the age of five. Thereafter, the monthly sum will reduce to £1,040 a month until the child is 11. From then onwards, there was no basis for requiring him to make further childcare provision. The mother's challenge to other aspects of the judge's ruling failed.

**It is vital to source expert legal assistance in circumstances such as this. For expert advice, contact one of our experienced family law team below.**



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## Big Money Divorces – Judge Calls for Action to Limit Legal Costs

A senior family judge has called for action to limit profligate sums spent on legal costs in big money divorce cases. He did so after describing an ex-couple's proposed expenditure of up to £8 million on near-constant litigation as a beyond nihilistic exercise in extraordinary self-harm.

The case concerned an extremely wealthy woman whose ex-husband had almost no assets to his name. In financial relief proceedings, he asserted that her corporate assets alone were conservatively worth more than £300 million. The extent of her wealth was, however, disputed. Since their divorce, they had engaged in near-constant litigation in relation to every conceivable issue.

Ruling on certain preliminary issues in the case, the judge noted that he struggled to find words to describe the

exorbitance of the ex-couple's litigious conduct. During a period of 18 months, they had expended over £5.4 million on legal costs. Further costs were in the pipeline and the total price of bringing the proceedings to a final conclusion had been estimated at between £7.2 million and £8 million.

In a single year they had spent more than 40 days in court and the judge described the level of their expenditure on the litigation as apocalyptic. Even in the context of conflicts between the uber-rich, such figures were hard to accept.

The judge expressed the opinion that the Lord Chancellor should consider whether statutory measures could be introduced which limit the scale and rate of costs run up in such cases. Alternatively, the matter could be considered by the Family Procedure Rule Committee. Either way, he emphasised that steps needed to be taken.

## Family Judge Labours to Achieve Fairness Between Debt-Laden Divorcees

So-called 'big money' divorces described above may grab the headlines, but lower-value disputes can often be the hardest to resolve. In a case on point, a family judge laboured to meet the reasonable needs of a divorcing couple whose debts far exceeded their modest savings.

The couple's marriage lasted almost 30 years, yielding three children who had grown to adulthood. Whilst the wife worked full time, the father's primary role was that of a stay-at-home parent, looking after the home and children. They lived in a housing association property and, although they each had a few hundred pounds in savings, their combined liabilities came to almost £20,000.

Following their divorce, the husband argued that he should receive 40 per cent of the wife's net income, plus a substantial share of her private pension. For her part, the wife sought a clean break. She asserted that it would not be appropriate to order her to pay spousal maintenance to the husband and that his claim should be limited to 35 per cent of her pension.

Ruling on the matter, the judge noted that, in their differing roles, husband and wife each made equally important contributions to the marriage. The starting point was therefore that any marital assets should be equally divided between them. Due to health difficulties, the husband was currently unable to work and his future earning capacity was questionable. However, his housing needs were currently met by his tenancy of a local authority-owned property.

The judge found that the husband's assessment of his financial needs was wholly excessive. He had failed to show that his very modest needs could not be met from his current income. The division he proposed would not be fair to the wife, whose essential outgoings were greater than his. Were he to receive even a small proportion of her earned income, his entitlement to means-tested benefits might also be compromised.



The judge noted, however, that it was a long marriage during which the husband prioritised the breadwinner wife's career and earning potential over his own. That meant that he did not have the same opportunity to build up a pension pot. Whilst ruling that it was not a case for spousal maintenance, and that there should be a clean break, the judge ordered that the husband should receive a 50 per cent share of the wife's pension.

The information contained in this newsletter is intended for general guidance only. It provides useful information in a concise form and is not a substitute for obtaining legal advice. If you would like advice specific to your circumstances, please contact us.