



Warring couples lose chance to make partner pay for divorce

New rules mean that both sides will now be expected to cover their own legal costs, reducing the need to go to court, writes **Jon Robins**

DIVORCE COURTS have adopted a new regime in a bid to put an end to warring spouses running up massive legal bills in the expectation the other side will foot them. Where divorcing couples could previously ask the court to make an order that their ex paid both sides' expenses, the new rule creates a presumption that parties cover their own legal costs. Relate, the marriage counselling service, welcomes the change. Jenny North, head of public policy, says: "The great thing is that it now takes the "winning" element out of a divorce settlement."

COUNTING THE COST: LOUISE'S STORY

'I was terrified. The situation at home was appalling,' recalls 26-year-old Louise McCafferty, pictured right. A few years ago the former medical assistant in the Navy was living with her husband, also in the Navy, and their two children in married quarters at a Scottish Naval base. The couple had fallen out of love, she says. For Louise, walking out of the relationship was a huge gamble. 'I was young enough to feel I could start again but scared about how to do it,' she says. 'I had no idea. I didn't even know how much the water rates would cost.' Louise contacted support group Divorce Aid for advice. For the first time, she says, it seemed manageable. However it took 18 months before she could scrape together £2,500 for a deposit on a flat in her Welsh home town of Llanelli. 'I felt very two-faced, as the relationship was practically non-existent at the time,' she says. 'But it had to be done.' One year after leaving Scotland, Louise filed for divorce. She was eligible for legal

Louise Coubrough, a divorce law specialist at the law firm Bindman and Partners, also applauded the move: 'Gambling over who pays legal costs will effectively end. Those who don't keep their costs to a minimum may end up with a splitting headache when they are faced with the final bill.' Legal fees vary widely, from £140 an hour up to £450 an hour at some London firms. In one notorious case, Ewa Rozalia Piglowska, who fought her husband all the way to the House of Lords, saw her legal costs hit £128,000, eclipsing the £127,400 value of the couple's matrimo-

COUNTING THE COST: KEVIN'S STORY

nial home. A straightforward divorce can be simply the cost of the court process, £300. The rule change is likely to receive backing from the bench. David Hodson, a solicitor who sits as a part-time family judge and advises the support group Divorce Aid, said: 'Judges sometimes feel completely hoodwinked when they see the inconsistency between the open position in court and what one party had previously offered their spouse as a possible out-of-court settlement.' Divorce experts hope the new regime will promote such out-of-court settlements. Relate's Jennie North believes the new regime underlines the fact that 'you don't need to end up in court just because you're divorcing' by removing the 'route to the courts - in other words, having costs awarded'. She said: 'It's always a bad idea to try to get emotional satisfaction through a court order. The risks of going to court are obviously far greater than just having to bear your own costs. It is a stressful, often distressing experience, and can be very hard on the children. Our advice is, take responsibility for your own divorce settlement.' But not all commentators are supportive of the rule change. James Pirrie, of the family law group Resolution, says: 'Most people aim to behave reasonably but the raw emotions and terror of the process all too often lead to hardball tactics being deployed.' He believes the new regime could provide aggrieved partners with 'a carte blanche to behave like maniacs' and that a presumption for parties to bear their own costs could prejudice those who are dragged into the 'trench warfare' of divorce against their will. He points to one of his current clients, known as 'Kevin' (see right), who has spent in the region of £23,000 on legal costs, and been to court twice over the past 18 months as a result of the obstruction of his wife. 'He has bent over backwards to provide a sensible resolution and it has only been the very real threat of a costs order being imposed that has prevented a dispute from spiralling even further out of control,' Pirrie says.

KEEP THE LEGAL BILL LOW

- Supply clear and complete documentation
 - Avoid the temptation to ring your solicitor for advice on non-legal issues
 - Choose a solicitor who does their own advocacy (this reduces the need for expensive barristers)
 - Conduct your own research on options for alternative housing arrangements for yourself or your partner
 - Provide the first draft of court forms
- Source: Bindmans

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COUNTING THE COST: KEVIN'S STORY

'There is every reason to jump off the nearest cliff, but I'm a great believer in being an optimist,' reflects Kevin (not his real name), a father of two who is waiting for his divorce to be finalised after 27 years of marriage. The relationship started to crumble in March 2001 when Kevin was made redundant after 10 years. 'My prospects didn't look too good and getting the same salary again seemed impossible at that stage of life,' he says. An already disintegrating relationship collapsed under the pressure of Kevin losing his job. 'She thought I was washed up,' he says. From a successful career on £60,000 a year, he was unemployed for seven months, then took a series of low-paid jobs from emptying bins to selling hampers. He discovered during that desperate period that his wife had loans of £18,000 that she had not told him about and he was sliding deeper into debt. For the past two years Kevin has been general manager at a cleaning company, earning £30,000. In July 2003 the couple moved to a smaller house to pay off debts. Kevin eventually moved out of the family home in February 2004. Two months later he began divorce proceedings. An attempt to settle their affairs amicably through a collaborative law approach failed. 'We had one meeting but my soon-to-be ex threw a tantrum,' he says. The couple had been unable to agree on the value of assets, in particular an endowment policy from his former employer. This has led to the couple going to court twice. Kevin expects to receive £219,000 by way of settlement and reckons his legal costs are £23,000. 'I worked solidly and achieved pretty good success in the corporate world for 30 years, but it seems to have fallen apart,' he says. 'I'm having to start again.'