

Divorcing couples must be prudent in managing their settlement proceeds

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In the case of [Mills v Mills](#), the Supreme Court has issued a further warning to divorcing couples that they must be prudent with the management of their settlement proceeds and should exercise caution before making applications to hold their ex-spouse responsible for their self-inflicted financial difficulties.

The Supreme Court found that Mrs Mills had mismanaged her original share of the divorce proceeds and her subsequent property investments between 2002 and 2009, which left her without ownership of a property and at the mercy of the private rental market. By the time the case came back before the court in 2015, Mrs Mills had amassed debts in the region of £42,000. Her application sought to increase her joint lives* maintenance order from £1,100 per month from her ex-husband to £1,441 per month to assist her vulnerable financial position and high rental payments.

The Supreme Court did not go as far as to permit Mr Mills' counter application in reducing or terminating his maintenance obligations. However, by refusing his ex-wife's application to increase the joint lives maintenance order, they have reiterated the established case law pattern of the past few years, that the courts of England and Wales should seek to achieve a clean break if circumstances enable it, and although maintenance may be ordered, there is to be an implied term on the part of the maintenance recipient that they must prudently manage their financial assets and seek to maximise their earning capacity.

Accordingly, this judgment will stand as an important reminder to all couples engaged in financial remedy negotiations, that the bar has been raised when seeking to increase post-settlement maintenance at court. Specifically, where that increased need has been generated by their own failure to use a lump sum order for housing needs and/or a failure to manage their monthly budget in line with their income stream.

Whilst the court has not removed the option of a joint lives maintenance order, those that are ordered will now be accompanied by a stark reminder that a future upwards variation must be wholly justified and generated by circumstances beyond the applicant's reasonable control.

This case stands as an important step to ensure divorcing couples realise they must make strides towards financial independence rather than continuing to retrospectively rely on the income of their former spouse. As such, the "meal ticket for life" has, through Lord Wilson's judgment, been placed on a diet.

For the full background of this case, see the Supreme Court's press release at [Family Law Week](#).

William Roberts-Phelps
020 7299 7000
william.robertsphelps@riaabg.com
www.riaabarkergillette.com



Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.



* Joint lives means that the obligation continues until the recipient remarries, the payer or payee dies or the court makes a further order.