Keeping mum over finances in the family courts

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A new decision out this month gives comfort to divorcing couples that their private financial affairs may remain private. Albeit that they are discussed in court with the media present.

Back in 2010, the then Justice Secretary Jack Straw heralded a new era of transparency when he controversially allowed the media access to previously private hearings in contested divorce cases. The stated reason was to enhance the understanding of the family court justice system.

And with the introduction of the benignly entitled Family Practice Rule 27.11, the media jumped at the chance to attend financial remedy proceedings; and to hear details of marital breakdown and of the wealth under dispute between the former spouses.

What precisely the media was entitled to report having sat in court, remained unclear. This resulted in fears for a ‘blackmailer’s charter’ – that spouses would seek to embarrass the other with the threat of media reporting into handing over a greater stash of the cash.

But a recent case by a first instance District Judge has added some clarity on the imposition of reporting restrictions which prevent publication of matters disclosed in financial remedy proceedings.

The guidance of Dame Butler-Sloss which was in vogue 10 years ago, long before Jack Straw opened the door to the courts for the media, provided that an implied undertaking as to confidentiality extended to virtually every piece of information disclosed in financial remedy applications. Notwithstanding the new transparency post Straw, the District Judge followed this guidance and added that this included evidence given by witnesses. Reasserting the importance of the undertaking – post Jack Straw’s invitation to the media – means that although reporters may be present in court, it is likely that reporting restrictions will be granted to prevent publication.

Divorcing couples are often already under significant stress. This decision gives them some peace of mind that their financial affairs will not readily become fodder for Fleet Street under the guise of enhancing the understanding of the family justice system.

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