

Family news: McCartney – the legal issues

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The ruling in the well publicized divorce between Sir Paul McCartney and Heather Mills was delivered on 17 March 2008 in the High Court by Mr Justice Bennett. In what has been a widely publicized case Heather Mills was awarded a total of £24.3m from her former husband Sir Paul McCartney, following a four year marriage which produced one child. This included a lump sum of £16.5m payable by Sir Paul McCartney to Heather Mills out of a total £400 million.

A word on asset division on divorce in England In England the Court has a great deal of discretion and flexibility when dividing a couple's assets. The Court is guided by factors contained in the Matrimonial Causes Act 1973 commonly known as the section 25 factors. Whilst the Court is obliged to take into account all the circumstances of the case, section 25 provides a list of eight factors to be considered when dealing with financial claims. These include the income and earning capacity of the parties, their financial needs, obligations and responsibilities, the standard of living enjoyed by the parties before the breakdown of the marriage, the age of each party, any physical or mental disability, the contributions which each of the party has made or are likely to make in the future, the conduct of each of the parties and any benefit which a party will lose as a result of the divorce.

The landmark case of *White v White* [2000] made it plain that the goal should be fairness and a provisional award should be checked against the yardstick of equal division. A departure from 50/50 division might be justified by the source of the assets being one party's since there is no concept of separate or premarital property being safe from attack in England.

The House of Lords expanded on this approach in *Miller v Miller and McFarlane v McFarlane* [2006] by stating that the general principles to be applied when making financial awards were 'needs, compensation and sharing'. In appropriate cases fairness also demanded that the court should exercise its discretion so as to 'compensate' one party and redress the economic disparity between the parties arising from the way in which they had conducted their marriage.