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Dissipation
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What is the latest judicial thinking on dissipation – including post-separation expenditure, soft loans, credit card spending and add-backs?

The Problem

- The intentional or reckless spending of matrimonial assets by one party, which can significantly impact the financial settlement of the other party.

The Solution?

- Add-back

Add-back

- Method available to mitigate or compensate one of the parties for the effect of the other party's financial conduct.
- Expenditure must be “wanton” and “reckless” (Vaughan v Vaughan [2007] EWCA Civ 1085 & Norris v Norris [2002] EWHC 2996)
- Must be formally pleaded.
- Predominantly post separation. Court will not examine years of financial decisions during the marriage.
- Not a punitive measure and is not to be invoked to punish a party for his conduct. The relevance of the conduct is in relation to the impact on the financial position of the parties.
- O v O [2023] EWFC 161 (B) – summary of the law and differing potential approaches.
- AF v GF [2024] EWHC 3478 (Fam) – unwise investment rather than deliberate dissipation.
- DH v RH (No 3) Final Hearing [2024] EWFC 29 – can include excessive spending on legal costs.

Post Separation Expenditure

- Each party responsible for their own post-separation expenditure where there is no financial dependency.
- Not enough to say one party has simply spent more.
- *McCartney v Mills McCartney* [2008] EWHC 401 (Fam) – when post separation spending backfires.
- *JN v GN* [2023] EWFC 244
- *AF v GF* [2024] EWHC 3478 (Fam) – unwise investment rather than deliberate dissipation.
- *VP v SP* [2025] EWFC 447 (B)
- Arguing for add-back - consider nature of the expenditure and whether any of the funds remain within the court's jurisdiction.

Soft Loans

- Definition and treatment of a soft loan not specifically dealt with in legislation; approach is fact specific and to a degree inconsistent.
- Decision whether to include on the asset schedule is discretionary.
- P v Q [2022] EWFC B9 – “the inclusion or exclusion of a technically enforceable debt in an asset schedule can depend on its softness/hardness which is an elusive topic to nail down”
- C v C [2025] EWFC 152 (B) – “a finding that a debt fits this description may lead to it being put to one side for the purposes of establishing “practical liquidity” without being removed from the balance sheet altogether.
- Arguing for add-back on the asset schedule - consider purpose.

Credit Card Spending

- Significance = Scrutiny.
- Distinction between debts for the benefit of the family and debts not so incurred.
- Family debts treated more sympathetically.
- All debt will fall to be considered within the concept of financial needs – section 25(2)(b).
- Very few cases where these arguments will run.
- MAP v MFP [2015] EWHC 627 (Fam) – W sought add-back of £1.5m connected to credit card expenditure.
- JD v RMD [2023] EWFC 125 (B) – modest asset case. H criticised for living on credit cards. “Financially reckless...but no other choice”.
- Arguing for add-back – evidence in support/why incurred/for whose benefit?

Is add-back the only option...

- BJ v MJ [2011] EWHC 2708 (Fam) – “the problem with this technique is that it does not re-create any actual money. It is in truth a process of penalisation.....and should be applied very cautiously indeed and only when the dissipation is demonstrably wanton”
- In small money cases, if the money is no longer there, the needs of the parties will usually have priority over any add-back.
- Undertakings not to spend (early or pre-proceedings).
- Section 37 MCA – where a reversal of a transaction is sought, section 37 can or should be invoked in most cases, rather than wait to add-back later (BJ v MJ [2011] EWHC 2708 (Fam))
- Register appropriate notices/restrictions with Land Registry.

Any Questions?