

What Price Bad Behaviour in Divorce Cases ?

Katie Price and Peter Andre are apparently set for a 7 day hearing in their divorce proceedings.

Each plan to turn up with a raft of witnesses, presumably to substantiate or disprove the bad behaviour they allege against each other.

But what weight does a court give to allegations of bad behaviour when it comes to legal proceedings?

Very little, is usually the answer. The last thing judges want are accusations flying around which do not move matters forward but entrench the couple in bitter arguments about the past. If accusations start to fly, Resolution-trained lawyers will try to defuse the tension so that the couple can focus on the future – especially important if there are children involved. Long after the divorce is over, a couple still have to be co-parents. Imagine how fraught that could become if both had slung a lot of mud at each other during the divorce.

In some situations, feelings run so high that it may not be possible to pour oil on troubled waters. A court will hear evidence about bad behaviour if:

- One spouse issues an unreasonable behaviour divorce petition against the other and s/he objects so strongly that there has to be a court hearing to determine whose version of events is more likely to be true. Contested divorces are rare because not many couples want to air their dirty linen in public or spend a lot of money having a stranger (the judge) comment on why things ended ;
- In financial cases, if the behaviour alleged is so “grave” that it would be unfair not to take it into account when splitting assets and income (known as a “conduct” argument). Conduct rarely affects financial outcome – it really has to be a “gasp” factor to affect the financial outcome ;
- In disputes about children, where allegations are made about the “fitness” of the other parent, the court can order a “finding of fact” hearing to decide if the allegations are proven

It is human nature to want to be in the right, particularly when emotions are running high. It can be tempting to want to hear an objective person – a judge, say - pronounce that you are right and the other person is wrong. But even if a judge does so, the sense of “victory” may be short-lived and very expensive - and not just in terms of legal fees. Consider the damage done to your ongoing relationship as parents and how that may manifest itself long after the accusations have been flung.