Do the legal impacts of economic abuse remain widely misunderstood and underutilised in practice?

By Scott Sharp
3PB Barristers

Those working within the Family Court to any degree will undoubtedly be aware of the changes the Domestic Abuse Act 2021 (‘the Act’) brought into effect. The wider definitions of victims, especially for children witnessing abuse and the introduction of further offences, is unarguably a right and positive step forward in combatting domestic abuse of all forms.

However, after 5 years in effect, it appears that in practice the positive changes brought by the Act seem either underutilised, or there is a lack of understanding to the effect that effective change is limited. Specifically, I focus my consideration to the introduction in law of Economic Abuse.

Many, if not all, family practitioners will have likely encountered scenarios where one party asserts there has been a control of finances or limitation in spending alleged by the other, during financial remedies, Children Act proceedings, Family Law Act applications and/or ToLATA claims. But, what is the balance between healthy financial management within a family dynamic and control amounting to abuse?

The Domestic Abuse Act 2021 defines Economic Abuse as:

(4)“Economic abuse” means any behaviour that has a substantial adverse effect on B's ability to—

(a)acquire, use or maintain money or other property, or

(b)obtain goods or services.

I do not think I would be alone in considering this as a broad and undefined explanation for what actually amounts to economic abuse. From a societal perspective, recent publishing would also suggest that behaviours which constitute and are recognised as economic abuse are not easily understandable.[1] Whilst many can recognise the extremes of economic abuse and the obvious elements of control, there appears to be a lack of real guidance, certainly from a legal perspective, on the non-extreme but significantly impactful behaviours.

To the author's knowledge, there is only one reported case specifically on economic abuse post the introduction of the Act. ***DP v EP (Conduct; Economic Abuse; Needs)* [2023] EWFC 6**[2] established the wife was siphoning joint funds away from the husband with the clear intent to keep these out of reach of the husband over time, those that were quantifiable totalling almost £200,000. From an analytical position, in my view this continues to set the bar high applying the 'gasp' factors of conduct arguments that financial remedies proceedings bring, which is ill placed for wider family arrangements such as Children Act 1989 or Family Law Act 1996 proceedings.

Surviving Economic Abuse (SEA) is a UK charity and has recently published a report into the hidden consequences and terrible impacts economic abuse can have on individuals and families.[3] From its research, it identifies three categories of economic abuse being exploitation, sabotage, and restriction. Yet, there is limited reporting and case law establishing how these societal aspects translate in the Courtroom.

In October 2024, Resolution published its report on Domestic abuse within financial remedies proceedings which highlighted real concerns, practical applications, and a cultural shift that needed to occur within the Courts and legal understanding with a mind focused on economic abuse.[4]

However, whilst there is real positive focus outside of the court arena on changes needed around economic abuse and its understanding, I fear that in practice issues of economic abuse continue to get lost in the wider nature of controlling and coercive behaviour which still in and of itself remains challenging to apply in practice.[5]

From professional experiences, one area in which the law falls short in understanding economic abuse is after a financial remedy order has been made, and where implementation and/or enforcement issues are dealt with outside of the family court. Insolvency proceedings

---

[1] https://www.gov.uk/government/news/controlling-spending-is-not-abuse-say-a-fifth-of-young-men
[2] https://www.familylawweek.co.uk/judgments/dp-v-ep-2023-ewfc-6/
[3] Royal, K (2026). Hidden risks, fatal consequences: Economic abuse in Domestic Homicide Reviews: Surviving Economic Abuse - https://survivingeconomicabuse.org/wp-content/uploads/2026/03/Hidden-risks-fatal-consequences_Surviving-Economic-Abuse_March-2026.pdf

[4] https://resolution.org.uk/wp-content/uploads/2024/10/Resolution_DAFRP_Report_ONLINE.pdf

[5] F v M [2021] EWFC 4

can often be brought in scenarios where Mesher Orders or charges and/or equitable interests within the former matrimonial home remain for the absent party, who later files for bankruptcy.

The Insolvency Act 1986 alongside ***Avis v Turner & Anor* [2007] EWCA Civ 748** which remains 'good' law, prioritises the creditors owed over the potential vulnerable resident party and the children.[6] Notably §335a (3) and wider case law sets the bar high for the test of 'exceptionality' over the default after one year being sale in favour of the creditors. Hardship to the remaining party, and any children, is not easily established and given such proceedings are brought within the Civil Court, being adversarial over inquisitory, this will likely bring greater challenges to any victims of economic abuse.

The Act's definition of '*any behaviour...*' ought to include deliberate, neglectful, or acts of omission, and certainly *DP v EP* included reckless behaviour and in this instance Her Honour Judge Reardon comments:

'In my view, W's conduct, even if negligent rather than deliberate, was so serious that the high threshold established by those cases is met.' Para 131

If the Act can be interpreted to really include *any* behaviour, does this create a duty of care for the absentee party to the resident party which must be carefully weighed and considered by the financial remedies court in the first instance when endorsing orders that keep parties financially tied, even when findings of economic abuse at that time are not established? Does the Court need to scrutinise orders further for the *potential* risks of future economic abuse? In making such orders with regards to property, does this create a new trust that would also bind parties' post-separation under the ToLATA? If so, does economic abuse fall into the consideration of the Court under §15 of ToLATA? These are but some of the examples I have come across in practice for which there appears to be no legal guidance nor defined answer currently.

Of course, the above questions remain entirely case specific and apply to the individual circumstances of each case as it is presented. In my view, what remains apparent is the need for wider legal reporting of cases involving economic abuse and the cross application of the impact of any economic abuse findings or consideration of risk factors for possible economic abuse at an early stage to prevent future abuse from occurring.

[6] §335A & §336 Insolvency Act 1986 & *Avis v Turner & Anor [2007] EWCA Civ 748.*

I have written this article in mind that there is no clear answer at this time, and hopefully in shining a light on the above it elicits further positive discussion and thought of practitioners on the ground to not readily or inadvertently dismiss issues of economic abuse as part of a wider controlling pattern. Likewise, consideration of the publication of cases including any elements of economic abuse should be widely promoted.

1 July 2026

Scott Sharp

Barrister
3PB Barristers

0330 332 2633
Scott.sharp@3pb.co.uk

3pb.co.uk