

Comments by **Simon Beccle, Family law specialist and partner at Payne Hicks Beach**, first published in The Telegraph on 25 July 2018 and reproduced with kind permission <https://www.telegraph.co.uk/news/2018/07/25/woman-must-stay-unhappy-marriage-judges-rule-urge-parliament/>

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Woman must stay in unhappy marriage, judges rule, as they urge Parliament to change divorce law



Tini Owens. Lady Hale, president of the Supreme Court, said the case was "troubling". CREDIT:DOMINIC LIPINSKI

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Supreme Court judges have "reluctantly" forced a woman to stay in an unhappy marriage as they urged Parliament to change the law.

The unanimous decision by five senior judges means Tini Owens, 68, must remain married to husband Hugh, 80, until at least 2020 because she has been unable to show good enough grounds that they have to split.

Judges said the case "generates uneasy feelings" and suggested that the current system, in which partners must demonstrate bad behaviour by their spouse, was out of date.

Mrs Owens first approached lawyers about a divorce in 2012, before moving out and filing her petition in 2015. Mr Owens has repeatedly argued that their marriage has not broken down and refused to consent to the divorce.

She will now have to wait until 2020, when the couple have lived apart for five years, in order to divorce him.

Judges raised concerns that earlier rulings had not taken into account the cumulative effect of Mr Owens' behaviour on his wife.

Mrs Owen's case depended on showing that her husband had embarked upon a "remorseless course of authoritarian conduct", and the family court judge had examined only a handful, they said.

In a judgment published on Wednesday morning Lady Hale, president of the Supreme Court, said the case was "troubling".

"This was a case which depended upon the cumulative effect of a great many small incidents said to be indicative of authoritarian, demeaning and humiliating conduct over a period of time.

"Those who have never experienced such humiliation may find it difficult to understand how destructive such conduct can be of the trust and confidence which should exist in any marriage," she said.

However, the court ruled that they were unable to overturn the earlier judgments and could not change the law.

Lady Hale said: "It is not for us to change the law laid down by Parliament - our role is only to interpret and apply the law that Parliament has given us."

"Parliament may wish to consider whether to replace a law which denies to Mrs Owens any present entitlement to a divorce in the above circumstances," Lord Wilson said.

Family lawyers warned that the case could lead to divorcing couples citing more serious cases of bad behaviour in order to ensure their petition was successful.

"The stronger and more controversial the allegations are the more likely they are to inflame matters at the outset thereby making it harder for the parties to interact properly with each other as a separating family and making the settlement of financial and children related issues even more difficult," said Julian Ribet, partner at law firm Levison Meltzer Pigott.

Simon Beccle, Mrs Owens' solicitor and partner at Payne Hicks Beach, said: "Whilst the decision of the Supreme Court has confirmed that the interpretation of the law as it stands has not changed in over four decades, it underlines the urgent need for Parliament to change the law to allow couples to divorce with greater dignity - by bringing in so-called no fault or no conduct divorce - without them having to trawl over their conduct or behaviour towards one another which so often has an early and adverse effect on resolving issues relating to finances and children which is most unfortunate."