



Prifysgol
Y Drindod
Universty
Trinity Saint David



ECAY6005: Relationships, Communication and Families in Contemporary Society

Marriage, Civil Partnership and Cohabitation

Trawsnewid Addysg; Trawsnewid Bywydau
Transforming Education; Transforming Lives

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Learning Review

What did we cover in our previous Session?



Guided Study Activity

Take a moment to consider what you understand these three terms to mean:

Marriage

Civil Partnership

Co-habitation



Share your initial thoughts with the group

Marriage & Civil Partnership

What is current Government policy?

Research Skills Discussion (1)



Why would I begin this Theme by looking at Government Policy?

Share your initial thoughts with the group

Marriage & Civil Partnership

What is current Government policy?



Research Skills Discussion (2)

*The Policy is only for **England and Wales**, why might this be the case?*

Share your initial thoughts with the group

Opposite Sex Marriage

- What Legislation covers this form of relationship?
- Provisions set out in the Marriage Act 1949 and the Matrimonial Causes Act 1973.
- Separate legal regime from civil partnership.
- Married couples cannot call themselves civil partners for legal purposes.

Handout: Marriage and Civil Partnership in England and Wales



UK Government (2019)

Same Sex Marriage

- What Legislation covers this form of relationship?
- Provisions set out in the Marriage Act 1949, the Matrimonial Causes Act 1973 and Marriage (Same Sex Couples) Act 2013.
- Separate legal regime from civil partnership.
- Married couples cannot call themselves civil partners for legal purposes.

UK Government (2019)

Opposite Sex Civil Partnership

- What Legislation covers this form of relationship?
- Separate legal regime from marriage. Provisions set out in the Civil Partnership Act 2004 and the Civil Partnership (Opposite sex Couples) Regulations 2019.
- Civil partners cannot call themselves married for legal purposes.

UK Government (2019)

Same Sex Civil Partnership

- What Legislation covers this form of relationship?
- Separate legal regime from marriage. Provisions set out in the Civil Partnership Act 2004.
- Civil partners cannot call themselves married for legal purposes.

Q. Why are Same Sex Civil Partnerships and Opposite Sex Civil Partnerships covered by different legislation?



UK Government (2019)

Opposite Sex Marriage

- Who can get married?
- Two people of the opposite sex can form a marriage if they are:
 - 16 or over (with parents' permission if under 18)
 - Not already married or in a civil partnership
 - Not closely related*

Q. What do we mean by 'not closely related'?



UK Government (2019)

Same Sex Marriage

- Who can get married?
- Two people of the same sex can form a marriage if they are:
 - 16 or over (with parents' permission if under 18)
 - Not already married or in a civil partnership
 - Not closely related

UK Government (2019)

Same Sex Marriage

- Who can get married?
- There is one additional qualification if a same sex couple want to have a religious marriage ceremony
- This is known as the 'quadruple lock' which states that a same sex religious marriage is only possible if:
 - the governing body of the religious organisation has opted in by giving explicit consent to marriages of same sex couples; and
 - the individual minister is willing to conduct the marriage, and
 - if the ceremony takes place in a place of worship, those premises have been registered for marriages of same sex couples.

Why do you think this exception exists?



UK Government (2014)

Opposite Sex Civil Partnership

- Who can form a civil partnership?
- Two people of the opposite sex can form a civil partnership if they are:
 - 16 or over (with parents' permission if under 18)
 - Not already married or in a civil partnership
 - Not closely related

UK Government (2019)

Same Sex Civil Partnership

- Who can form a civil partnership?
- Two people of the opposite sex can form a civil partnership if they are:
 - 16 or over (with parents' permission if under 18)
 - Not already married or in a civil partnership
 - Not closely related

UK Government (2019)

Marriage



- Who cannot get married?
- Young People
- In England and Wales (and Northern Ireland) if you are 16 or 17 you must have parental consent in order to marry.
- In Scotland young people aged 16-17 do not need parental consent.
- However, it has been reported that the UK Government is considering raising the minimum age to 18?

Why do you think this is?



Marriage

- Pre-nuptial and post-nuptial agreements
- A pre-nuptial agreement is a contract entered into before marriage which outlines how a couple wish to divide their money and property if they get divorced. A post-nuptial agreement is similar but entered into after marriage.
- Pre-nuptial and post-nuptial agreements are now legally binding unless considered to be unfair by the court.
- However, you should get legal advice if you are thinking about entering into one of these agreements.

House of Commons Library (2017)

Marriage

- Where can a Marriage take place?
 - a Register Office
 - premises approved by the local authority such as a hotel
 - a church of the Church of England, Church in Wales, Church of Ireland, Presbyterian or Roman Catholic Church in N. Ireland (opposite sex couples only)
 - a synagogue or any other private place if both partners are Jewish
 - a Meeting House if one or both partners are either members of the Society of Friends (Quakers) or are associated with the Society by attending meetings
 - any registered religious building (England and Wales only)
 - the home of one of the partners if the partner is housebound or detained, for example, in prison
 - a place where one partner is seriously ill and not expected to recover, for example, in hospital
 - a licensed naval, military or air force chapel.

UK Government (2019)

Marriage

- How to Marry?
 - You can get married by a civil ceremony or a religious ceremony.
 - In both cases, the following legal requirements must be met:-
 - the marriage must be conducted by a person or in the presence of a person authorised to register marriages in the district
 - the marriage must be entered in the marriage register and signed by both parties, two witnesses, the person who conducted the ceremony and, if that person is not authorised to register marriages, the person who is registering the marriage.

UK Government (2019)

Marriage

- Bigamy
 - If you marry in the United Kingdom and are already legally married, the marriage will be bigamous and therefore is void.
 - Although it is a criminal offence to marry someone when you are already married, prosecution is not automatic.
 - If you who think you may be about to enter into a bigamous marriage you should seek advice from a specialist solicitor.

UK Government (2019)

Marriage

- Remarriage/ Second Marriage
 - As long as the legal requirements described earlier are met, there is nothing to prevent you from marrying again in a civil ceremony in the UK if you are widowed or divorced or if you were in a civil partnership that has been dissolved.
 - Religions have different rules about whether someone can remarry in a religious ceremony.
 - If people have been married before, or have been in a civil partnership that is now dissolved, and you want a religious ceremony, you will need to check with an official of the relevant religion.

UK Government (2019)

Cohabitation / Living Together

- What is cohabitation?
 - Cohabiting relationships are not formalised, and since “cohabitation” can be described and defined in different ways, it is difficult to collect entirely accurate data about it.
 - Although there is no legal definition of living together, it generally means to live together as a couple without being married or in a civil partnership.

(Gov.UK, No date: a)

Cohabitation / Living Together

- Living Together
 - You can formalise aspects of your status with a partner by drawing up a legal agreement called a cohabitation contract or living together agreement.
 - A living together agreement outlines the rights and obligations of each partner towards each other. It is not clear whether living together agreements are legally enforceable but they can be useful to remind a couple of their original intentions.
 - In practice, instead of a living together agreement, or as well as, it's possible to make a series of legally enforceable agreements on specific matters, for example, how a jointly-owned house is shared. This should always be done following legal advice.

Cohabitation / Living Together



- Common-law spouses
 - Although the terms common-law wife or husband are frequently used to describe a couple who live together, these relationships do not have legal recognition.
 - Although cohabitants do have some legal protection in several areas, cohabitation gives no general legal status to a couple, unlike marriage and civil partnership from which many legal rights and responsibilities flow.
 - Many people are unaware that there is no specific
 - legal status for what is often referred to as a “common law marriage”. This is the case no matter how long the couple lived together and even if they had children together.

House of Commons Library (2021)

What are the statistics telling us?

ONS Statistics: Marriage, cohabitation and civil partnerships



Moral, ideological and sociological influences on family policy.

Look back at the slides and your notes from the first part of this Theme and identify where you feel you can detect moral, ideological or sociological attitudes to the family in what we have discussed.



Guided Study 2:



So, what difference does it make?

- Banking
- Married Couples
 - If a married couple has a joint bank account, the money is owned jointly regardless of who put it into the account. On the death of one partner, the whole account immediately becomes the property of the other. Debts and overdrafts relating to a joint bank account will be the responsibility of both or either partner, irrespective of who incurred them.
 - If each partner in a married couple has a separate bank account and one dies, the bank may allow the other partner to withdraw the balance providing the amount is small.
 - If you separate from your partner, you should consider closing an account in joint names to avoid your partner accessing the funds or running up debts which will be your responsibility.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Banking
- Civil Partners
 - If you and your civil partner have separate bank accounts and one of you dies, the bank may allow the other one to withdraw any money left in the account. The amount left would need to be small. The bank would probably require proof of your relationship and also proof that your partner has died.
 - If you have a joint bank account, the money is owned jointly regardless of who put it into the account. Debts and overdrafts relating to a joint bank account are the responsibility of both you and your partner. This is regardless of whose debt it is.
 - If one of you dies, the whole account immediately becomes the property of the other.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Banking
- Cohabitants
 - If you are living together with your partner and you both have separate bank accounts, neither of you can have access to money held in the other one's account.
 - If one of you dies, any balance in the account will be the property of the person who died and cannot be used until the estate is settled.
 - If you and your partner have a joint bank account, you both have access to the money in the account.
 - If the account is in joint names and one of you dies, the whole account immediately becomes the property of the other partner.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Death and Inheritance
- Married Couples
 - When your married partner dies, you will inherit under the will of the dead partner if it makes provision for you.
 - If either married partner dies without making a will, the other will inherit all or some of the estate.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Death and Inheritance
- Civil Partners
 - If either you or your partner dies without making a will, the other partner will still inherit some or possibly all of your property.
 - If your civil partner dies and has made a will, you will inherit under the terms of the will if it makes provision for you.
 - If property is left to you by your civil partner, you do not have to pay inheritance tax on it.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Death and Inheritance
- Cohabitants
 - If one of you dies without leaving a will, there are rules about how your property will be distributed. The surviving partner will not automatically inherit anything unless you and your partner owned property together.
 - When one of you dies and you there is a valid will, the surviving partner will inherit under the terms of the will if it makes provision for them.
 - If you and your partner are living together, you will each need to make wills to make sure that your partner is provided for.
 - If property is left to you by your partner, you may have to pay inheritance tax on it if it is valued at over a certain amount.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – tenants
- Married Couples
 - Both married partners have the right to live in the matrimonial home. It does not matter in whose name the tenancy agreement was made. This applies unless a court has ordered otherwise, for example, in the course of separation or divorce proceedings.
 - If you and your ex-partner both agree on who should stay in the home, you can ask the landlord to transfer the tenancy into the name of the partner who is staying. If both names are on the tenancy, you can ask for one of the names to be taken off.
 - If you can't agree on who should stay and you are divorcing, the long-term right to your tenancy can be decided alongside divorce proceedings. The court can transfer the tenancy to your name, even if your partner is the sole tenant, or you and your partner were joint tenants.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – tenants
- Civil Partners
 - Both you and your civil partner have the right to stay in your home, regardless of whose name is on the tenancy agreement. If your partner asks you to leave, you don't have to go unless a court has ordered you to. A court can order you to leave your home when dealing with the breakdown of your civil partnership.
 - If your partner dies and your name is not on the tenancy, you may have the right to continue living in the accommodation. If you are in this position, you should get legal advice.
 - If you are living in rented accommodation, you may need advice about your rights to stay in the accommodation if your civil partnership ends or if you or your partner dies.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – tenants
- Cohabitants
 - If you live in rented accommodation with your partner, one or both of you may be tenants. If your partner leaves, or asks you to leave and you aren't named on the tenancy agreement, you will usually have no right to stay in the accommodation. This applies whether you live in privately rented or social housing accommodation.
 - However, you may, in some circumstances, be able to ask a court to give you short-term rights to stay in the accommodation or to transfer the tenancy into your name. You should get legal advice before doing this.
 - If you are living together with your partner in rented accommodation, it is usually advisable for you to be joint tenants. This will give you both the same rights and responsibilities.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – Owner Occupiers
- Married Couples
 - Both married partners have a right to remain in the matrimonial home, regardless of who bought it or has a mortgage on it. This is known as home rights. You will have the right to stay in the home until a court has ordered otherwise, for example, in the course of a separation or divorce settlement.
 - If you and your partner are divorcing, the long-term right to ownership of your property can be decided alongside divorce proceedings. The court has the power to transfer property regardless of original ownership. However, if you are not separating legally, the court will only agree to transfer ownership of a property if it is in the best interests of your children.
 - If you are the sole or joint owner of the home, your partner will not be able to sell it without your agreement.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – Owner Occupiers
- Married Couples
 - However, if your partner is the sole owner, you will need to register your home rights in order to protect your interests. Unless you register your home rights, you will not be able to prevent your partner from selling the home or be able to remain there if it is sold.
 - You can register your home rights, regardless of whether or not you are still living in the home.
 - You will need to register your home rights with either the Land Registry or at the Land Charges Department, depending on whether your home has already been registered or not.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – owner occupiers
- Civil Partners
 - Both civil partners have a right to remain in the home, regardless of who bought it or has a mortgage on it. This is known as home rights. You will have the right to stay in the home until a court has ordered otherwise, for example, when dealing with the breakdown of your civil partnership.
 - If you and your partner are ending your civil partnership, the long-term right to ownership of your property can be decided alongside dissolution proceedings. The court has the power to transfer property regardless of original ownership. However, if you are not separating legally, the court will only agree to transfer ownership of a property if it is in the best interests of your children.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – owner occupiers
- Civil Partners
 - If you are the sole or joint owner of the home, your partner will not be able to sell it without your agreement.
 - However, if your partner is the sole owner, you will need to register your home rights in order to protect your interests. Unless you register your home rights, you will not be able to prevent your partner from selling the home or be able to remain there if it is sold.
 - You can register your home rights, regardless of whether or not you are still living in the home.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – owner occupiers
- Cohabitants
 - A property may be owned in the sole name of one partner or may be owned jointly.
 - If you are the sole owner, you have a right to stay in the home. However, your partner may be able to claim a 'beneficial interest' in it – see below.
 - If you are joint owners, you and your partner have equal rights to stay in the home. However, if you have children, you can ask a court to transfer the property into your name. The court will only do this if it decides it is in the best interests of your children. It is usually done for a limited period, for example, until your youngest child is 18 years old.

Citizen's Advice Bureau (2019)

So, what difference does it make?

- Housing – owner occupiers
- Cohabitants
 - If your partner is the sole owner, you may have no rights to remain in the home if you are asked to leave. However, if you have children, you can ask a court to transfer the property into your name. The court will only do this if it decides it is in the best interests of your children. It is usually done for a limited period, for example, until your youngest child is 18 years old.
 - If you don't have children and your partner is the sole owner, the only way you may be able to claim long-term rights to the property is if you are able to show you have a 'beneficial interest' in it. This is a way of getting a court to formally recognise contributions you have made towards the home.

Citizen's Advice Bureau (2019)

Marriage / Cohabitation Debate

Watch the following videos and summarise the key points in the marriage / cohabitation debate.



Guided Study Activity: The Marriage Cohabitation Debate



BBC News 2011



Catholic News
Agency 2011



The Atheist Voice
2014



Resolution Solicitors
2017

What bias can you detect in any of the contributions?

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