

Financial Remedies Update

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- **Standish v Standish** [2025] UKSC 26
- **A v N** [2025] EWFC 371 (B)
- **Y v Z** [2025] EWFC 221
- **Helliwell v Entwistle** [\[2025\] EWCA Civ 1055](#)
- **BC v BC** [\[2025\] EWFC 236](#)
- **D Culligan v A Culligan (Wells Sharing)** [\[2025\] EWFC 1](#)
- **Galbraith-Marten v De Renée** (*Extension of Extended Civil Restraint Order*) [\[2025\] EWFC 96](#) -
- **FI v DO** [\[2024\] EWFC 384 \(B\)](#) and **RI v NG** [\[2025\] EWFC 9 \(B\)](#)

The Question Standish Was Meant to Answer

What does “matrimonialisation” actually mean?

When does non-matrimonial property become matrimonial?

Has the Supreme Court brought clarity?

Key Definitions

Matrimonial property:

- The product of joint endeavour
- The fruits of the marital partnership

Matrimonialisation:

- The process by which non-matrimonial property becomes matrimonial during the marriage

The Facts of Standish

- £78 million transferred from husband to wife
- Largely derived from husband's pre-marital wealth
- Transfer made for inheritance tax planning
- Intended trust for children never created
- Wife issued divorce before trust implemented

First Instance Decision

Total assets: c. £133 million

£20 million farmland excluded as non-matrimonial

£78 million treated as matrimonial

Unequal sharing

Wife awarded £45 million (approx. one-third)

Court of Appeal Decision

Transfer into wife's sole name did not change character

Assets largely remained non-matrimonial

Only 25% matrimonialised

Reflecting income during marriage

Wife's award reduced to £25 million

Supreme Court: Overview

Supreme Court allowed the husband's appeal

Five key principles articulated

Clear attempt to reframe matrimonialisation

Principle 1: Distinction Remains

Clear distinction between:

- Matrimonial property
- Non-matrimonial property

Familiar and orthodox

Principle 2: Sharing Principle Limited

Sharing principle does not apply to non-matrimonial property

Door firmly closed

No sharing simply because of fairness

Principle 3: Equal Sharing of Matrimonial Property

Starting point is equality

Departures only where justified

No examples given of justified departures

Principle 4: How Matrimonialisation Occurs

Non-matrimonial property can become matrimonial

K v L examples are illustrative, not exhaustive

Focus on treatment over time

Key Test from Standish

How did the parties deal with the asset?

Did they treat it as shared?

Did both stand to benefit?

Was the treatment settled?

Time and Treatment

Time need not be long

Must be long enough for intention to be settled

No fixed minimum period

Principle 5: Tax Planning Transfers

Transfers for tax planning do not, without more, matrimonialise assets

Fiscal prudence \neq marital generosity

Title is not decisive

A Conceptual Problem

Marriage is a partnership of equals

Matrimonial assets shared regardless of intention

External assets treated differently

Intention suddenly becomes decisive

What Does “Treated as Shared” Mean?

No clear definition

Requires inference from conduct

Highly fact-sensitive

Risk of uncertainty

Example: Inherited Property

Inheritance during marriage

Beneficial ownership rearranged for tax

Supreme Court answer:

- Not matrimonialised
- Title irrelevant
- Treatment decisive

Pensions Post-Standish

Pre-marital accrual usually non-matrimonial

Previously resistant to matrimonialisation

New argument:

- Treated as joint retirement provision

Unclear boundaries

Businesses and Lifestyle

One spouse owns business

Family lifestyle funded by business

No shares or discussions

Are profits shared?

Is the asset itself shared?

Can Assets Be De-Matrimonialised?

Asset treated as shared, then separated

Brief period of sharing

Is that enough?

How settled must treatment be?

Proving Treatment

Treatment = inferred intention

No direct evidence

Rarely documented

Reconstructed from memory

Evidential difficulty

Where Does Standish Leave Us?

New test based on intention and treatment

Asset status can evolve

No clear framework

Significant uncertainty remains

Practical Advice Post-Standish

Start with source

Then examine treatment

Identify benefit to family

Look for intention to share asset itself

Consider duration of treatment

Transition to Other Key Cases

Pre-nuptial agreements

FDR privilege

Conduct

A v N [2025] EWFC 371; Order for Sale

A case where an elderly parent made a significant financial contribution to the Former Matrimonial Home, and all parties lived together.

[s.24A\(6\)](#) of the [MCA 1973](#)

*“6)Where a party to a marriage has a beneficial interest in any property, or in the proceeds of sale thereof, **and some other person who is not a party to the marriage also has a beneficial interest in that property** or in the proceeds of sale thereof, then, before deciding whether to make an order under this section in relation to that property, **it shall be the duty of the court to give that other person an opportunity to make representations with respect to the order; and any representations made by that other person shall be included among the circumstances to which the court is required to have regard under [section 25\(1\)](#) below.**”*

Background

H and W live together, married/cohabiting for 29 years.

W's mother moved into the Former Matrimonial Home, paying circa £90,000 primarily towards building an annexe, ultimately paid for by the sale of her property.

Added value to the property of £200,000 or 13% of the property total value.

Constructive Trust Principles

What is the beneficial interest?

1. Is there an express or inferred common intention?
2. Was their detrimental reliance based on the common intention?
3. How do you quantify the interest based on the common intention?

Right to Co-habit

- Not directly relevant to computing beneficial interest except when it comes to whether to force a sale.
- However - *Bannister v Bannister* [1948] 2 All E.R. 133 and *Khan v Khan* [2025] EWCA Civ 1436

S24A(6) of the MCA 1973 - Paragraph 95

- a. The extent of the third party's interest in any property as compared to that of the spouses;
- b. Whether the property is the home of the spouses;
- c. Whether the property is the home of the third party, and in this regard they have a right of occupation by reason of s.12 of ToLATA, or merely a form of investment;
- d. Whether the property has been modified or adapted in some particular way for the benefit of the third party;
- e. Whether by reason of the third party's age or medical condition the fact of the sale will be particularly onerous upon them; and
- f. Where the property is the third party's home whether it is proposed and practical that they will be adequately rehoused with one of the other parties.

Charging Order Case law

Mortgage Corporation v Shaire [2001] Ch 743 and ***Bank of Ireland v Bell*** [2001] All ER (Comm) 920

“That if there is no other way in which the debt can realistically be paid the interests of the third party co-owners will rarely prevail so as to prevent a sale”

Y v Z [2025] EWFC 221: Conduct Arguments

Tsvetkov v Khayrova [2023] EWFC 130

- i. Conduct is a specific [s25](#) factor and must always be pleaded as such. It is wholly inappropriate to advance matters at final hearing as being part of the general circumstances of the case which do not meet the high threshold for conduct. That approach is forensically dishonest; it impermissibly uses the back door when the front door is not available: para 29 of [RM v TM \[2020\] EWFC 41](#).*
- ii. A party who seeks to rely upon the other's iniquitous behaviour must say so at the earliest opportunity, and in so doing should; (a) state with particularised specificity the allegations, (b) state how the allegations meet the threshold criteria for a conduct claim, and (c) identify the financial impact caused by the alleged conduct. The author of the alleged misconduct is entitled to know with precision what case he/she must meet.*

Outcome

Commonsense and proportionate approach to the question in each case.

<https://www.42br.com/latest-news/fortytwo-talks-regarding-your-ex-y-v-z-2025-ewfc-221-and-non-financial-misconduct-in-financial-remedies.htm>

Helliwell v Entwistle

Wife worth £60–70 million

Husband worth c. £850,000

Pre-nup signed on wedding day

‘Drop hands’ agreement

Disclosure Failure

Wife disclosed £18 million

Failed to disclose £48 million

Around 73% of wealth undisclosed

Express obligation of full disclosure

First Instance Decision

Agreement upheld

Modest needs award to husband

Disclosure failures minimised

Court of Appeal Decision

Fraudulent non-disclosure vitiates agreement

Radmacher is a two-stage test

First stage is mandatory

Agreement set aside

Key Principles from Helliwell

Fraud undermines autonomy

No duty of due diligence on victim

Strong presumption of reliance

Indemnity costs possible

BC v BC

Can parties refer to events at a private FDR?

Husband referred to wife's conduct at FDR

Alleged breach of confidentiality

Decision of Peel J

References must be deleted

Conduct and reasons for failure are privileged

Court must not know why settlement failed

Scope of Permissible Disclosure

That FDR took place

Who attended

Identity of judge or evaluator

Location and duration

What Is Not Permitted

Whether offers were made

Whether an indication was given

Behaviour of parties

Reasons for ending the FDR

Conduct

OG v AG remains leading authority

Four categories:

- Gross personal misconduct
- Add-back
- Litigation misconduct
- Drawing inferences

The Tsvetkov Test

Facts must be proved

Conduct must be exceptional

Must have financial impact

Causal link required

Rosemin-Culligan v Culligan

Long marriage, substantial wealth

Multiple conduct allegations

Threshold not met

Conduct dealt with via costs

Galbraith-Marten v De Renée (Extension of Extended Civil Restraint Order)

[2025] EWFC 96

Long history; 5th reported judgment.

Ongoing litigation in England and Australia since 2009

ECRO made in October 2019.

Extended in October 2022 and October 2024

ECRO

Original Test

An extended civil restraint order may be made where a party has persistently made applications which are totally without merit. Para.3.1 of PD4B FPR 2010

In this instance the order stated:

“restrained from making applications in any court specified below concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of Mr Justice Mostyn or, if unavailable a permanent puisne judge of the Family Division of the High Court of Justice. The specified courts are the Court of Appeal, the High Court and the Family Court”

Test for Extension

Sole criterion for an application for an extension is “appropriateness”

Para.3.10 of PD4B FPR 2010

“The rationale for a different test for an extension of an ECRO (as opposed to a first grant) is that the person who has already been subject of an ECRO will (theoretically at least) have had limited if any opportunity to issue any application or claim ruled to be totally without merit.”

MRU v ECR

Serious criminal conduct

Guilty pleas and imprisonment

Clear financial consequences

Conduct taken into account

Practical Lessons on Conduct

Must be pleaded

Must be raised early

Must be evidenced

High statutory threshold

Rarely affects distribution

FI v DO [2024] EWFC 384 (B)

- Pets are chattels?
 - But don't kidnap your dog
 - And definitely don't kidnap your dog if the dog will return to its home
-
- Not a citable authority

FI v DO [\[2024\] EWFC 384 \(B\)](#)

“The legal authority to which I have referred provides assistance as to who has principally looked after the dog. Not who has purchased the dog, that fact in my view is not as important as who the dog sees as her carer. This is not who had previously looked after the dog, but who does now.”

RK v RK [2011] EWHC 3910 - is citable and was cited.

RI v NG [\[2025\] EWFC 9 \(B\)](#): Who keeps the ring?

Engaged couple, but the wedding was called off.

The judge refused to allow conduct arguments as not raised before.

“That being the case there is a presumption it was a gift, rebuttable by Mr RI proving that the ring was given on the condition, express or implied, that it should be returned if the marriage did not take place for any reason”

Other items were gifts occasioned by the marriage, and as such, returnable as that had been the intention of the parties.

Questions