

Every Family Matters

An in-depth review of Family Law in Britain

KEY FACTS

Attitudes to marriage

- The British Household Panel Survey found that 75 per cent of couples currently cohabiting want to marry.¹
- A MORI poll found that by far the most preferable lifestyle for adults was being married with children; chosen by 68 per cent of respondents.²

Couples: Marriage and Cohabitation Trends in the UK

- In 2001 there were more than 11.6 million married couple families in the UK, compared with around 2.2 million cohabiting couple families.³
- Over the last ten years the proportion of cohabiting couple families in the UK has increased to 14 per cent from nine per cent. The proportion of married couple families has decreased over the same period, accounting for 71 per cent of families in 2006, compared with 76 per cent in 1996.⁴
- The percentage of couples who had lived together before marriage rose from ten per cent in the late 1970s to around 80 per cent in the twenty-first century.⁵
- The number choosing to marry in the UK correspondingly fell from a peak of 480,285 marriages in 1972 to just 270,000 in 2007.⁶

Couples with Children

- More than eight million (64 per cent of) dependent children lived with married parents in the UK in 2008.⁷ This compares to 13 per cent living with cohabiting couples and 22 per cent with lone mothers.⁸
- Few births occurred outside marriage during the first 60 years of the 20th century. Births outside marriage became more commonplace during the 1960s and 1970s and by 2006, 44 per cent of all births in the UK occurred outside marriage.⁹

Separation

- Most marriages last a lifetime, and two thirds of first marriages last until one partner dies.¹⁰ On the other hand, non-first marriages are less robust. One in five men and women divorcing in 2007 had a previous marriage ending in divorce.¹¹
- The provisional number of divorces in England and Wales fell by 3.0 per cent to 128,534 in 2007.¹²
- The average length of all marriages on divorce was 11.6 years in 2005.¹³

- In one major British study, 81 per cent of people experiencing family or relationship difficulties chose to visit a solicitor first.¹⁴

Parental Separation

- Millennium Cohort Study data on 15,000 mothers with young children found that cohabiting couples are more than twice as likely as married couples to split up.¹⁵
- Eight per cent of married parents and 43 per cent of unmarried parents had split up before their child's fifth birthday.¹⁶ National Statistics for 2004 for England and Wales showed three quarters of family breakdown cases affecting children under five comes from separation of non-married parents. In stark contrast, the breakdown rate of marriages with children under five actually declined between 1991-2003.¹⁷
- The level of conflict in marriages and divorce is important to child wellbeing. Very high conflict marriages are environments within which children do badly and outside of which children then do much better. In these cases, when the level of conflict is high, children may find it easier to accept parental separation because they can understand the reasons. But most divorces do not involve high levels of conflict;¹⁸ and, contrary to commonly held perceptions, there is evidence that, short of abuse or violence, quarrelling parents are less damaging for children than family breakdown and parental separation. In general then researchers have concluded that children may do badly either because of a high conflict marriage continuing in place or because of a low conflict marriage ending in divorce.¹⁹

Cost of Family Breakdown

- Fractured Families estimated that the financial burden to the country is currently around £20-£24 billion, or £680-820 for every tax-payer. The Relationships Foundation estimated the direct costs of family breakdown to be around £37 billion.²⁰

Domestic Violence

- Domestic violence accounts for 25 per cent of all recorded crime classified as violence against the person, in England and Wales.²¹
- The overall the rate of successful prosecutions for domestic violence has increased from 46 per cent in 2003 to 67 per cent in 2007-2008, if 'success' is measured by conviction rate. However, the attrition rate (between reporting and conviction) in DV cases is very high.²²

Benefits of Marriage

- Those who are married are more likely to enjoy better physical and mental health and well-being, longer life, financial prosperity and other personal advantages than those who are not married, whether single or cohabiting.²³
- Fractured Families stressed the strength of the correlations between family breakdown and its impact on community crime levels, youth delinquency, educational failure, economic dependency, debt and housing shortages.²⁴

Relationship education

- In-depth marriage preparation classes have been shown by research to lead to higher levels of marital satisfaction and lower levels of relationship instability.²⁵

- Seventy five per cent of all relationship support involves the treatment of problems, such as counselling through providers like Relate, rather than their prevention.²⁶

Grandparents

- Sixty-five per cent of people still live close to relatives (within an hour's journey) and many grandparents have frequent contact with their grandchildren.²⁷
- More than three quarters of the young people questioned said that their grandparent was the most important person in their lives outside the immediate family.²⁸
- Sixty per cent of childcare provision (i.e. by non-parents,) is provided by grandparents.²⁹

Legal Aid

- Recent research suggested that a third of barristers would either greatly reduce or stop all legal aid work if fees were reduced by a percentage much lower than that now threatened.³⁰

Taxation and couples

- The present tax and benefit system may impose a substantial penalty on couples who are married or openly cohabit.³¹
- In some cases, the penalty can be as high as £8,500 for a family with an income of only £20,000.³²
- In 2008, the tax burden on a one-earner married couple with children on an average wage in the UK was 44 per cent higher than in most other OECD countries³³ and 25 per cent higher than in other EU countries.³⁴

Polling Results from YouGov (April 2008 and January 2009)

- 84% agreed that it is important for the law to support marriage, with 52% saying that it is very important.
- 57% thought that the law should promote marriage in preference to other kinds of family structure such as cohabitation, compared to 27% who did not.
- 58% thought that giving cohabitants similar legal rights to marriage would undermine marriage and make people less likely to bother to get married.
- 85% supported giving extra financial incentives to married couples through the tax systems as a way of promoting marriage.
- 60% of respondents thought that prenuptial agreements are a good idea for some people, and should be legally binding if a couple divorce.
- Only 8% of married couples took marriage preparation classes before they got married.
- 81% support relationship counselling being made available to help people whose relationships are in trouble.
- 84% of respondents thought that it would be good idea if drugs courts were more widely available across the UK.

¹ *Marriage still the Ideal for many couples currently living together*, <http://www.lse.ac.uk/collections/pressAndInformationOffice/newsAndEvents/archives/2007/MarriageStillIdeal.htm>

² Opinion Research Business Poll, 2000, 'Young People's Lives in Britain Today',

Cited in Social Policy Justice Group, 2006, 'Fractured Families' Volume 2 of *Breakdown Britain*, Centre for Social Justice, pp 17-8

³ ONS, 2008, *Social Trends 38*

⁴ ONS, October 2007, *Focus on Families: Overview of Families*,
<http://www.statistics.gov.uk/CCL/nugget.asp?ID=1865&Pos=1&ColRank=2&Rank=1000>

⁵ Office for National Statistics (ONS), 2008, *Marriage, divorce and adoption statistics*, table 3.38

⁶ ONS, 2009, *Marriages*, <http://www.statistics.gov.uk/CCL/nugget.asp?ID=322&Pos=1&ColRank=2&Rank=1000>

⁷ ONS 2009, *Social Trends 39*.

⁸ ONS 2009, *Social Trends 39*.

⁹ ONS, 2008, *Social Trends 38*, p24,.

¹⁰ ONS 2004, *Social Trends 34*, p4

¹¹ ONS 2009, *Social Trends 39*, p20.

¹² ONS 2009, *Social Trends 39*, p20.

¹³ ONS, 2008, *Social Trends 39*, p20

¹⁴ Genn, H et al, 1999, *Paths to Justice: What People Do and Think About Going to Law*, Hart, Oxford

¹⁵ Benson, H., 2006, *The conflation of marriage and cohabitation in government statistics - a denial of difference rendered untenable by an analysis of outcomes*. Bristol Community Family Trust, p8

¹⁶ Kiernan K, 1999, 'Childbearing outside marriage in Western Europe', *Population Trends*, Vol.98, pp.11-20

¹⁷ ONS, Autumn 2004, *Population Trends 117*, p75

¹⁸ Social Justice Policy Group, 2006, 'Fractured Families', *Breakdown Britain*, CSJ, p69

¹⁹ Booth, A. & Amato, P., 2001, 'Parental Predivorce Relations and Offspring Postdivorce Well-Being,' *Journal of Marriage and Family*, Vol.63, pp.197-212. This issue is covered in more detail in 'Fractured Families': Vol 2 *Breakdown Britain*, p79

²⁰ Relationships Foundation, February 2009, *When Relationships Go Wrong: counting the cost of family failure*

²¹ Metropolitan Police, April 2006, *Violence against the person (VAP)- Summary of data and trends*,

http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/archive/2004/summary_performance_violence_against_the_person_2004-05.pdf

²² Burton, M, 2008, *Domestic Abuse Literature Review*, Review for the Legal Services Commission, p14

²³ For supporting research see: Smock, P.J. et al., 1999, 'The Effect of Marriage and Divorce on Women's Economic Well-Being', *American Sociological Review* 64, pp. 794-812; McLanahan, S., 2000, 'Family, State, and Child Well-Being', *Annual Review of Sociology* 26(1), pp. 703-706; Lupton, J. and Smith, J.P., 2002, 'Marriage, Assets and Savings', *Marriage and the Economy*, Cambridge: Cambridge University Press; Horwitz, A.V. et al., 1996 'Becoming Married and Mental Health: A Longitudinal Study of a Cohort of Young Adults', *Journal of Marriage and the Family* 58, pp. 895-907; Hirschl, T. 2003, 'Does Marriage Increase the Odds of Alluence,' *Journal of Marriage and the Family*, 65; Waite, L.J. and Gallagher, M., 2000, *The Case for Marriage: Why Married People are Happier, Healthier, and Better-Off Financially*, New York: Doubleday; Oswald, A. and Blanchflower, D., 1999, *Wellbeing in Britain and the US*

²⁴ Social Policy Justice Group, 2006, 'Fractured Families' Volume 2 of *Breakdown Britain*, Centre for Social Justice, p45-68

²⁵ Clark, M., Lynas, R., & Percival, D. 2009, *Relationship Education: Building a National Agenda*. Relationships Foundation, p15 and 31. *Forthcoming*

²⁶ Social Justice Policy Group, 2007, 'Family Breakdown' Volume 1 of *Breakthrough Britain*, Centre for Social Justice, p44

²⁷ The Cabinet Office Strategy Unit paper for the Department for Children, Schools And Families, December 2008, *Families in Britain*, p 48

²⁸ Lecture, Young Foundation, London, 20th Jan 2009

²⁹ Social Policy Justice Group, 2006, 'Fractured Families' Volume 2 of *Breakdown Britain*, Centre for Social Justice, p64

³⁰ Price, D., and Laybourne, A., February 2009, *The Work of the Family Bar: Report of the Week-at-a-Glance Survey 2008*, King's College London, p37 and Table 27

³¹ See Draper, D. & Beighton, L., 2006, *The need to restructure tax credits*, CARE Policy Paper; Institute of Fiscal Studies, 2007, *The IFS Green Budget 2007*

³² Beighton, L. and Draper, D., 2008, *Taxation of Married Families: How the UK compares Internationally*, CARE

³³ Compared with 37 per cent in 2006/07. It rose from 20.4 per cent to 20.6 per cent in the UK whereas in other OECD countries it decreased from 14.9 per cent to 14.3 per cent. Data extracted from OECD, 2007, *Taxing Wages*, Table II 5.c. cited in Beighton, L. and Draper, D., 2009, *The Taxation of Families 2007/2008*, p9

³⁴ OECD data is not available to enable systematic comparisons to be made with those on lower incomes. Beighton, L. and Draper, D., 2009, *The Taxation of Families 2007/2008*, p8 and p32