Standish one year on: where are we now with matrimonialisation?

Banker's ex-wife kept £80m that he gave her before split to put in trust and avoid threat of inheritance tax - now she's fighting to keep share of it, court hears[1]

The facts

H (aged 69 at the final hearing) and W (aged 54 at the final hearing) became engaged in 2003, cohabited in 2004, and married in 2005.

Both parties had been married previously and had adult children from those marriages.

The parties have two children together (16 and 15 at the final hearing) and lived in Switzerland and Australia before moving to England in 2010.

H had a highly successful career in the financial services industry (he was a former CFO of UBS) and generated the vast majority of his significant asset base prior to the parties' relationship. He retired in 2007. W was a homemaker throughout the parties' relationship.

Up until 2017, all of H's wealth, aside from two joint bank accounts and the FMH (a c. £21m property funded by H's wealth but purchased in the joint names of the parties), was held in his sole name.

In or around April 2017, H transferred to W investments with a total value of £77.8m as part of an IHT planning scheme to benefit from her non-domiciled tax status. It was the express intention and understanding that W would then transfer ownership into discretionary trusts in Jersey to which H could subsequently be added as a beneficiary. Those assets had originally been the husband's non-matrimonial property.

W did not settle the funds into trust and when she issued divorce proceedings in April 2020 she argued that the funds now belonged to her. Indeed, she asserted that they should be treated as her 'separate' property and that they were only available for sharing because she had conceded she was willing to share them with H.

First Instance

At first instance – published as ***ARQ v YAQ* [2022] EWFC 128 –** Moor J found that the transfer of the non-marital assets by H to W had the effect of 'matrimonialising' them, thus making them available for sharing.

He stated at [61] that *"… the Husband is now estopped from arguing that the money did not legally and beneficially become the property of the Wife … I take the view that he was giving the assets to the*

[1] Mail Online (*dailymail.co.uk*) – 30th April 2025

Wife without reservation of benefit as, if he had reserved benefit, the scheme would not have worked. … Parties must understand that saving large sums in tax comes at a price."

Further he stated that [emphasis added]:

> [74] … It is accepted that the Husband divested himself of his interest in the portfolio of assets that he transferred to the Wife, now worth some £80 million. There was no reservation of benefit as that would have defeated the tax saving scheme. The assets became the Wife's. The only claim that the Husband could possibly have to them … is in the context of financial remedy proceedings following divorce … I do, however, reject the suggestion that this money became the Wife's separate property, entirely free of any claim by the Husband other than on a needs basis. It has long been clear in this jurisdiction that you cannot benefit from keeping assets in your sole name.
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> The obvious example is the money-maker who generates significant assets during the marriage but keeps them in his sole name. The home-maker's claim to share those assets is just as strong as if he had placed them in joint names. In the same way, if a money-maker transfers assets earned during the marriage into the name of the other, the money-maker can still make a sharing claim against those assets on marital breakdown. For it to be otherwise would be both discriminatory and entirely unfair.
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> [75] **As the £80 million transferred to the Wife did not become her separate assets, I must decide what it did become**. Mr Bishop urges me to find that it did not become marital property. He cannot be right about that. The assets are not held by the Wife on trust for the Husband as he had to give up all interest in them for the tax saving scheme to work. **The only possibility is that they became matrimonial property**. **I am, however, equally clear that this does not mean that this matrimonial property is automatically shared equally**. I have already set out the authorities that show that matrimonial property can be shared unequally. The source of the funds must and does remain a very significant feature. It could not be otherwise. The transfer cannot automatically give the recipient a half share without consideration of the section 25 factors. To do so would be just as wrong as allowing a money-maker to keep assets earned during the marriage without sharing them with the homemaker. I reject Mr Todd's arguments that this is a return to pre-*Lambert* days. The distinction is that, at least in significant part, this is money that was generated before the marriage, not money generated during the marital partnership to which *Lambert* applies. I further reject his submission that this cannot be right as it would mean that the Wife is in a worse position than a cohabitee. I have not considered whether the transferring money-maker in that situation would have any arguments pursuant to a resulting trust, assuming there was no need to divest oneself of the money entirely for tax reasons. The point is that very different financial considerations apply depending on whether you are married or you merely cohabit. In general, marriage protects the home-maker. The fact that it may be different in this case does not make it wrong. Whatever I decide, the Wife is going to leave this marriage in an infinitely better financial position than she entered it.

The total assets were found to be c. £132m and the matrimonial property was valued at c. £112m, being a mixture of standard matrimonial acquest and the c. £80m in property matrimonialised through the tax planning scheme. £20m was H's non-matrimonial property (a farm in Australia).

However, Moor J determined as that the pre-marital source of the property matrimonialised through the tax planning scheme was the magnetic feature of the case and accordingly should be shared unequally:

> [81] … I am quite clear that there should not be an equal division. I have found the transferred assets, amounting to some £80 million to be matrimonialised but they are most certainly not matrimonial

> acquest in the standard sense as they were not all earned during the marital partnership. To a significant extent, this money was pre-marital and has only been matrimonialised towards the end of the marriage. I would not go as far as to say that the assets are only matrimonial as a result of a technicality because there is no doubt that the Husband intended to transfer them to the Wife and he could not reserve any benefit in them to himself. Equally, however, I cannot ignore what Mr Bishop calls *"the magnetic feature",* namely the pre-marital origin of most of this sum.

At [84] Moor J stated he had decided that *"overall, the appropriate division of the matrimonial assets is 40% to the Wife and 60% to the Husband"*.

He therefore ordered that W should receive £45m (40%) of the £112m (with H receiving £67m (60%) plus the non-matrimonial property of £20m: i.e. a total of £87m) – an overall split of 35% to W and 65% to H of the £132m - and she was ordered to transfer to H the other assets owned by her.

Moor J stated at [85] that *"I do not need to undertake a needs assessment as it is quite clear to me that the Wife can live very well on a sum of £45 million."*

Court of Appeal

This award was appealed by both parties with both arguing that the 2017 transfer was *their* separate property. W argued that legal title was determinative; this would provide litigants with certainty as to how the (equal) sharing principle would be applied and would respect parties' autonomy. In other words, the 2017 transfer had made those assets W's non-matrimonial property, although she conceded to sharing them. She therefore sought to increase her award from £45m to £66m, i.e. half of the overall wealth of £132m.

H argued that the source was the critical factor; designation of property as matrimonial or not was a step on the path to applying the (unequal) sharing principle with the ultimate objective of fairness. The assets transferred in 2017 were not matrimonial and W receiving 40% of them was too much.

In the judgment – reported as ***Standish v Standish*** **[2024] 2 FLR 966** - Moylan LJ was critical of Moor J's analysis [emphasis added]:

> [66] I propose, at this stage, to consider the effect of the judge's award through a different perspective, adopting the approach taken by Mr Bishop when challenging the judge's application of the sharing principle in particular to the 2017 Assets of £80m. The net effect of the judge's decision was to award the wife £45m. **On the judge's findings, excluding the 2017 Assets of £80m, £32.6m comprised matrimonial property (I have included the assets of £3.5m within this). He found that Ardenside (£20m) was not matrimonial property. On this basis, the wife was entitled to just over £16m from the matrimonial assets (of £32.6m). This meant that wife received 36%, namely £29m, of the 2017 Assets of £80m** to make up the balance of her share of the matrimonial property. **Put another way, this meant that, mathematically, the judge treated £58m of those Assets (73%) as matrimonial property and £22m as not being subject to sharing. This seems very far removed from the judge's conclusions, as set out in para 63 above, for example that the 'origin of *most* of this sum' was pre-marital, at [81].**

In relation to the issue of *"source not title"* Moylan LJ stated [emphasis added]:

> [149] In my view, it is clearly established that, in the application of the sharing principle, the source of an asset is the critical factor and not title. It can be seen from the cases cited above that title does not feature as a significant factor in contrast to the *"source"* of an asset which features prominently in explaining the court's approach to the application of the sharing principle and, in particular, the different approach to an asset which is the product of the parties' endeavours, namely matrimonial property, and property which is not. As submitted by Mr Bishop, the sharing principle is founded or based on each party, in accordance with the objectives of fairness, equality and non-discrimination, being entitled to an equal share of their matrimonial property, namely the *"fruits of the partnership"* or the wealth built up by the parties' endeavours during the marriage.
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> [152] … I agree, as the judge noted at [74], that to adopt the approach proposed by Mr Todd would be *'both discriminatory and entirely unfair'*. **It would be to return to the pre-*White* days and, as the judge also noted at [74], contrary to the clearly established approach that the sharing principle will apply with equal force to an asset in the sole name of one spouse as it does to an asset in joint names**. The discriminatory effect of the wife's proposed approach is, in my view, self-evident. It would place undue weight on legal and beneficial title when this is unlikely, or at least may well not, reflect whether the wealth has been generated during the marriage because experience shows that such wealth will often be largely or significantly in the name of the 'money-maker' who remains much more likely to be the husband than the wife. To adopt what was said in *Charman* in respect of what were called *'unilateral assets'*, to base an award on title *'would be deeply discriminatory and would gravely undermine the sharing principle'*.

In relation to the issue of 'matrimonialisation' Moylan LJ stated [emphasis added]:

> [160] I now turn to the issue of matrimonialisation. As submitted by Mr Bishop, the underlying principle is that fairness may require or justify treating property, which was not purely the product of the parties' joint endeavours, as matrimonial property and, therefore, within the scope of the sharing principle. I should make clear that this is not to depart from what was said in *Hart* and other cases about the court's approach to determining whether the parties' assets include assets which might be said to comprise or reflect the product of non-marital endeavour. It is about when an asset or assets which were at one stage non-marital property might be included within the sharing principle. The general issue is when this might apply …
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> [162] As has been discussed in many cases, when setting out the principles applicable to the determination of financial remedy cases there is a balance to be struck between flexibility and certainty. The flexibility to achieve a fair outcome in the individual case and a sufficient degree of certainty as to the likely outcome. **I consider that it would be wrong to state that, as a matter of principle, property which has a non-marital source can never be subject to the sharing principle**. There may well be situations when, as referred to above, fairness justifies this. However because, as Mr Bishop submitted, **it is a derogation from the principle that sharing applies to matrimonial property and does not apply to non-matrimonial property, it should be applied narrowly**. **This is so that it is not used by parties in a way which would undermine the clarity of the sharing principle, namely that it is the sharing of property generated by the parties' endeavours during the marriage**.
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> [163] **In my view, therefore, it would be helpful to make clear, expressly, that the concept of matrimonialisation should be applied narrowly**. This is not a hard and fast line but remains a question of fairness, reflecting, as Wilson LJ said in *K v L* at [18], *that 'the importance of the [non-marital] source of [an asset or assets] may diminish over time'*. With some diffidence, I would propose the following slight reformulation of the situations to which Wilson LJ referred in *K v L*, having regard to the developments that have taken place since that decision as follows: (a) The percentage of the parties' assets (or of an asset), which were or which might be said to comprise or reflect the product of non-

> marital endeavour, is not sufficiently significant to justify an evidential investigation and/or an other than equal division of the wealth; (b) The extent to which and the manner in which non-matrimonial property has been mixed with matrimonial property mean that, in fairness, it should be included within the sharing principle; and (c) Non-marital property has been used in the purchase of the former matrimonial home, an asset which typically stands in a category of its own.
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> [164] In the first example, the sharing principle would apply in conventional form. In (c), the court will typically conclude that the former matrimonial home should be shared equally although this is not inevitable as shown by cases such as *FB v PS*.
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> [169] Where I respectfully part company with the judge is when he concluded that the 2017 Assets *'became matrimonial property'*. This was not the *'only possibility'*. **I disagree with him because this conclusion was based, and solely based, on the fact that those assets were transferred by the husband into the wife's name**. **This is making title the determinative factor when deciding how the wealth is to be characterised rather than its source**. This is particularly so in this case when the reason for the transfer was a tax scheme which was never fulfilled and in which the next step would have been the transfer by the wife of those assets into a trust. There was, in my view, **nothing which justified the conclusion that the importance and relevance of the source of the 2017 Assets being non-matrimonial (which I deal with further below) was in any way diminished as a result of their transfer to the wife.**

Moylan LJ concluded his analysis as follows [emphasis added]:

> [176] The judge's decision, at [76], that Ardenside Angus *'became matrimonial'* is not disturbed for the reasons set out above. Applying the judge's analysis as set out in para 67 above, namely that *'the source of the business'* remained relevant although *'much of their value may well have been generated during the marital partnership'*, I consider it fair to treat 20% of the value of this asset as non-matrimonial. This would mean that 80% (£6.88m) would be matrimonial. In other words, the division of this asset with the wife receiving 40% and the husband 60% *'makes fair allowance for [it] in part comprising or reflecting the product of non-marital endeavour'*. That would bring the matrimonial assets to £30.48m of which half is £15.24m.
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> [177] That leaves the 2017 Assets of £80m. The judge's conclusions in respect of the source of these Assets is set out at various points in his judgment: at [75], he said that *'at least in significant part, this is money that was generated before the marriage'*; at [81], he said *'to a significant extent, this money was pre-marital'* and he referred to *'the pre-marital origin of most of this sum'*; at [82], he said that *'an element of the sum of £80m is not pre-marital'* because at *'least a part of this figure was generated'* during the parties' relationship; and, at [83], that it was *'almost impossible to say what proportion of the £80m was earned'* during the marriage and that all *'I can do is say that I find that a part of the sum of £80m is money that was earned during the marriage.'*
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> [178] **It is clear that these findings do not support the actual division of the 2017 Assets effected by the judge, namely, as referred to in para 66 above, by awarding her £29m or 36% of their value**. Despite the judge's comment that he considered it *'almost impossible'* to conclude what proportion of the £80m was earned during the marriage and while he might not have been able to arrive at a precise proportion, he had clearly determined that *'most of this sum was pre-marital'* and only *'an element'* was not. **The division he effected did not properly reflect these conclusions; in fact, it reflected precisely the opposite.** It did not adhere to the approach set out in *Jones* and *Hart*, namely to award the wife such percentage *'as makes fair allowance for [it] in part comprising or reflecting the product of non-marital endeavour'*. **The *source* of this wealth had not changed as a result of its transfer to the wife and, in the application of the sharing principle, this remained the critical factor**. If the judge had

> adopted that approach, which in my view he should have done, he could not have concluded other than, at least, 75% was non-marital. The balance of 25%, or £20m, would then be added to the other matrimonial property of £30.48m, giving a total of £50.48m.

The Court of Appeal therefore held that a fair application of the sharing principle would have resulted in W receiving/retaining £25m. H was therefore left with c. £107m. W's total award was therefore reduced from £45m by 40% to £25m.

The matter was to be remitted to Moor J to decide if £25m met W's needs.

This remains the largest reduction to a divorce settlement ever ordered by the English courts.

Subsequent to the Court of Appeal judgment *Standish* reduced the likelihood that pre-marriage assets will be treated as *"matrimonialised".* One example of this is *ST v AR* [2025] EWFC 4 per Her Honour Judge Vincent:

> [26] Mr Todd referred me to *Standish v Standish* [2024] EWCA Civ 567. Whether or not assets have become matrimonialised, and therefore liable to be shared, is a question of fact in each case. Mr Todd highlights the guidance that, '*it would be helpful to make clear, expressly, that the concept of matrimonialisation should be applied narrowly.*'

<u>Supreme Court</u>

W appealed to the Supreme Court. She abandoned her argument that assets transferred to her in 2017 were her separate property (i.e. she abandoned any argument based on title) and instead complained that the Court of Appeal was wrong to conclude that the transfer had not matrimonialised those assets in full (arguing that they had been and she thereby sought half the matrimonial property (i.e. £56m) or at least the £45m awarded by Moor J).

In October 2024, the wife was granted leave to appeal on that sole ground by the Supreme Court.

On 30th April 2025 and 1st May 2025, the Supreme Court - Lord Reed, Lord Lloyd-Jones, Lord Burrows, Lord Stephens and Lady Simler - heard W's appeal.

Standish gave the Supreme Court its first real opportunity in almost 20 years — since *White v White* in 2000 and *Miller/McFarlane* in 2006 — to revisit how the courts divide assets on divorce.

In their judgment, reported as ***Standish v Standish* [2025] 2 FLR 489**, Lord Burrows and Lord Stephens (with whom Lord Reed, Lord Lloyd-Jones and Lady Simler agreed) formulated the *"essential question"* they were required to determine as follows (at [6]):

> … How does the sharing principle apply where, a relatively short time before the divorce, the husband made a transfer of assets ("the 2017 Assets"), worth some £80 million, to the wife for the purpose of setting up a trust to negate inheritance tax and where, at the date of the divorce, the wife had not set up the trusts and retains the assets?

In answering that question, the court set out the following five legal principles as being relevant in relation to the application of the sharing principle:

a) [47] – *"there is a conceptual distinction between matrimonial and non-matrimonial property"*. In general terms, this distinction turns on the source of the assets. It has long been recognised that what is not determinative in deciding what is and what is not matrimonial property is who has title to the property. To base an award on title would run counter to the discrimination and sharing principles;

b) [48] [49] – *"non-matrimonial property should not be subject to the sharing principle (though non-matrimonial property can be subject to the principles of needs and compensation)"*. The distinction between matrimonial and non-matrimonial property becomes largely meaningless if the sharing principle applies to the latter as well as the former. The law is also rendered clearer and more certain if one rejects the proposition that there can be sharing of non-matrimonial property;[2]

c) [50] - *"the sharing of the matrimonial property should normally be on an equal basis"*. Although there can be justified departures from that, equal sharing is the appropriate and principled starting position. Indeed, once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away.

d) [51] – *"what starts as non-matrimonial property may become matrimonial property"*. The important question on any facts is whether that transformation has occurred:
    a. Wilson LJ (as he then was) *obiter dicta* in *K v L Non-Matrimonial Property: Special Contribution)* [2011] 2 FLR 980 at [18][3] were correct but not "*exclusive"* ([51]–[52]);

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[2] The Supreme Court therefore overruled the following proposition from *Charman v Charman (No. 4)* [2007] 1 FLR 1246 per Sir Mark Potter P at [66]:

To what property does the sharing principle apply? The answer might well have been that it applies only to matrimonial property, namely the property of the parties generated during the marriage otherwise than by external donation; and the consequence would have been that non-matrimonial property would have fallen for redistribution by reference only to one of the two other principles of need and compensation to which we refer in para 68, below. Such an answer might better have reflected the origins of the principle in the parties' contributions to the welfare of the family; and it would have been more consonant with the references of Baroness Hale in Miller at paras 141 and 143 to *'sharing … the fruits of the matrimonial partnership' and to 'the approach of roughly equal sharing of partnership assets'*. We consider, however, the answer to be that, subject to [some] exceptions …, the principle applies to all the parties' property but, to the extent that their property is non-matrimonial, there is likely to be better reason for departure from equality.

[3] Thus, with respect to Lady Hale, I believe that the true proposition is that the importance of the source of the assets may diminish over time. Three situations come to mind:

(a) Over time matrimonial property of such value has been acquired as to diminish the significance of the initial contribution by one spouse of non-matrimonial property.

(b) Over time the non-matrimonial property initially contributed has been mixed with matrimonial property in circumstances in which the contributor may be said to have accepted that it should be treated as matrimonial property or in which, at any rate, the task of identifying its current value is too difficult.

(c) The contributor of non-matrimonial property has chosen to invest it in the purchase of a matrimonial home which, although vested in his or her sole name, has—as in most cases one would expect—come over time to be treated by the parties as a central item of matrimonial property.

b. disagreeing with Moylan LJ, there is no good reason to confine the principle; it is neither narrow nor wide ([51]–[52]);
c. what is important (leaving aside matrimonial property resting on contributions from each party) is to consider how the parties have been dealing with the asset and whether this shows that, over time, they have been treating the asset as shared between them. That is, matrimonialisation rests on the parties, over time, treating the asset as shared. The period of time must be sufficiently long for the parties' treatment of the asset as shared to be regarded as settled ([51]–[52]);
d. matrimonial property is not something that is predetermined at the outset of a marriage, but is governed by the parties' intentions and how they treat the relevant asset over a period of time. Thus where a party has demonstrated an intention to use an inheritance for the benefit of the family, by translating it into actual use and enjoyment, the parties have elected to treat it as matrimonial property, even if its origin was from outside the marriage ([53]). There must be an intention to benefit the other spouse, not just the parties' children [62];
e. the sharing principle must be tied back to seeking a fair outcome. But putting to one side contributions made by both parties so that the assets in question are matrimonial for that reason, it is our view that it is the parties' treatment of what was initially non-matrimonial property, over time, as shared between them, that is central in deciding the fairness of that property being viewed as matrimonialised [54]; and
f. the percentage of the parties' assets (or of an asset), which were or which might be said to comprise or reflect the product of non-marital endeavour, is not sufficiently significant to justify an evidential investigation and/or an other than equal division of the wealth is, as a matter of pragmatic fairness, a helpful additional reason for applying matrimonialisation [55]; and

e) [56] – "*in relation to a scheme designed to save tax, under which one spouse transfers an asset to the other spouse, the parties' dealings with the asset, irrespective of the time period involved, do not normally show that the asset is being treated as shared between them"*. Rather the intention is simply to save tax. Tax planning schemes to save income tax, involving transfers of assets from one spouse to another, are commonplace given that there is no capital transfer tax on transfers between spouses. However, transfers of capital assets with the intention of saving tax, do not, without some further compelling evidence, establish that the parties are treating the capital asset as shared between them.

Applying those principles, the Supreme Court found no reason to interfere with Moylan LJ's conclusion that the 2017 Assets had not been matrimonialised; not because the source of the assets was determinative but because the transfer did not demonstrate an acceptance that the 2017 Assets would be shared <u>with W</u>. The transfer, which was accepted by both parties, was the consequence of a tax-saving scheme intended ultimately to benefit <u>the children</u>. An intention to share with W could not be established on the facts.

The situations described in (a) and (b) were both present in *White*. By contrast, there is nothing in the facts of the present case which logically justifies a conclusion that, as the long marriage proceeded, there was a diminution in the importance of the source of the parties' entire wealth, at all times ringfenced by share certificates in the wife's sole name which to a large extent were just kept safely and left to grow in value.

Analysis

In his excellent Blog for the Financial Remedies Journal - *Final Reflections on Standish: Was It All Worthwhile?* (9th July 2025)[4] - Calum Smith makes the following observations:

a) had the intention been for W to hold the assets and to apply them for the benefit of the family (not exclusively for the children), the outcome may well have been different;

b) Moylan LJ's judgment in the Court of Appeal narrowed the scope of matrimonialisation. That may have been intended to quell the common practice of arbitrarily 'recognising' the non-matrimonial source of an asset with a modest departure from equality in favour of the contributing party. His judgment emphasised that to conclude that an asset – the generation of which is unrelated to the marital partnership – has transformed into a matrimonial asset takes more than the transfer of title; the source of the asset could not be easily diminished. That was because – endorsing the submission made by Tim Bishop KC on H's behalf – the matrimonialisation represents *'a derogation from the principle that sharing applies to matrimonial property and does not apply to non-matrimonial property'* (see [162]–[163]);

c) the Supreme Court disagreed with that reasoning, concluding that *'there is no good reason to treat matrimonialisation as a narrow concept'*, adding, *'it is neither narrow nor wide'*. But why? Either:

    a. matrimonialisation is not a derogation from the sharing principle because it applies to assets which have undergone an irreversible transformation of character from non-matrimonial to matrimonial property (this proposition is supported by the Supreme Court making clear that the sharing principle does not apply to non-matrimonial property); or
    b. matrimonialisation is a derogation from the sharing principle but this is not a good reason for the concept to be applied narrowly.

    The former seems more likely.

d) if matrimonialisation is not a derogation from the sharing principle because a matrimonialised asset has become matrimonial, the question remains: how will courts apply the sharing principle to matrimonialised assets? Especially when it has been reiterated in the Supreme Court's judgment that the *'appropriate and principled starting position'* is equal sharing.

e) because Moylan LJ found that the 2017 Assets had *not* been matrimonialised, and the Supreme Court agreed, there is little analysis in either judgment of how the courts should treat a matrimonialised asset. It is unclear whether matrimonialisation is a principle designed in black and white or a spectrum of grey. Previously, it was commonplace for judges to depart from equality to reflect a non-matrimonial source. While that approach has been

[4] https://financialremediesjournal.com/final-reflections-on-standish-was-it-all-worthwhile/

criticised elsewhere as lacking intellectual rigour, it has not been expressly criticised by the Court of Appeal or Supreme Court in *Standish*;

f) if matrimonialisation signifies an irreversible 'transformation' of an asset's character 'over time', and the importance of the source of an asset diminishes during that period, there seems to be no good reason to reflect the source of an asset that, by the time it has matrimonialised, is of minimal or no importance. This point is supported by para [50] of the Supreme Court's judgment, which, having clarified that equal sharing is the appropriate and principled starting position, adds, '*once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away*'. It is, therefore, anticipated that judges may need some persuading that matrimonialised property should be shared other than equally;

g) if a departure from equal sharing is justified on the facts of a given case, it seems unlikely that it could extend beyond a 60/40 division while remaining within the broad boundaries of fairness;

h) it is argued that expressly narrowing the concept was helpful. It encouraged judges to utilise the tools born out of case law to identify non-matrimonial property within a matrimonial asset rather than arbitrarily alighting upon a 60/40 division. It reminded judges of the significance of matrimonialisation; that it is not a concept which should be invoked routinely because it does represent a derogation from the sharing principle and the principle that a spouse's entitlement to share is founded upon the assumption that parties to a marriage may be equal but often different contributions to its prosperity. If there has been no contribution towards the generation of an asset, there is no entitlement to share in it. Now, the resultant caution has gone;

i) in *WX v HX (NX and Another Intervening) (Treatment of Matrimonial and Non-matrimonial Property)* [2021] EWFC 14 [at [117], referring to *K v L*, Roberts J remarked at [117] (emphasis added):[5]

> … There are other more complex situations which fall into sub-categories (a) and (b) above where the court will need to analyse carefully whether the evidence will support a finding that property which was originally non-matrimonial has been treated, or dealt with, in such a way as to bring it within a sharing claim made by the other spouse. ***If the evidence leads the court to conclude that one of the parties has indeed through words, actions or deeds manifested an acceptance that it should be treated as such***, it must then go on to determine the extent to which that property falls to be shared as between them.'

The omission of this case from Moylan LJ's judgment, and the emphasis in his reformulation on mixing rather than a holistic assessment of how the parties treat an asset, was the subject of some criticism in which it was said that his reformulation does not account for broader

[5] In *ND v GD (Financial Remedies)* [2022] 1 FLR 716 Peel J stated to similar effect at [48] (emphasis added):

> … Difficult questions can arise as to whether and to what extent property which starts out as non-marital acquires a marital character requiring it to be divided under the sharing principle. It will all depend on the circumstances, and the court will look at when the property was acquired, **how it has been used**, whether it has been mingled with the family finances **and what the parties intended**.

circumstances where the court may infer an acceptance that the property has become matrimonial because of how the parties used, treated and dealt with the property. Thankfully, this was corrected by the Supreme Court at [52] where is it said that what is important "*is to consider how the parties have been dealing with the asset and whether this shows that, over time, they have been treating it as shared between them. That is, matrimonialisation rests on the parties, over time, treating the asset as shared"*. That conclusion was supported by reference to Baroness Hale's observation in *Miller/McFarlane* [2006] 1 FLR 1186 at [153] (emphasis added):

> [I]n a matrimonial property regime which still starts with the premise of separate property, there is still some scope for one party to acquire and retain separate property which is not automatically to be shared equally between them. ***The nature and the source of the property and the way the couple have run their lives may be taken into account in deciding how it should be shared***.

j) there will now be an investigation into how parties have dealt with and treated a non-matrimonial asset during their marriage. Mingling will be relevant, but it is not the sole or dominant indicator of matrimonialisation. There must be more. There must be an acceptance by the contributing party, inferred from how the property has been used, that it is to be shared with the other spouse. The determination will follow a holistic assessment, of all the relevant factors, of which mingling may be one;

k) establishing a party's intention through inferences drawn from their conduct is a task familiar to practitioners acting in claims brought under the Trusts of Land and Appointment of Trustees Act 1996, but perhaps less familiar to financial remedy practitioners;

l) in *Standish,* both parties agreed that the intention behind the transfer was to settle the 2017 Assets into trust to avoid inheritance tax and ultimately to benefit the children. The Supreme Court was persuaded that their intention was a highly relevant fact because it precluded an inference that H ever intended to share the 2017 Assets with W;

m) in some cases, the intention underpinning the act or acts which are alleged to have matrimonialised an asset will be disputed. If so, the court must make findings to determine whether an asset has been treated as shared. Not only is it uncertain for the success of a party's case to hang on a finding of fact, made on the balance of probabilities, following oral evidence, but it is expensive to argue, and even more expensive to lose. As result, a whole load of uncertainty abounds;

n) if intention is important, it may also make settlement at FDR more difficult. An indication can be given on the strength of one party's case based on a hypothetical set of findings of fact, but if the parties are fundamentally opposed on veracity of the alleged facts, they may be more inclined to go to final hearing. Will this justify a preliminary determination of the issue in advance of an FDR? It is foreseeable;

o) the Supreme Court dispatched Mrs Standish's appeal with little hesitation but opted not to go beyond that. The *ratio decidendi* is clear: W could not prove that the 2017 Assets were treated as shared; but there are no useful *obiter dicta*. The judgment is an excellent example of clear and simple writing from which we all could learn. It explains the sharing principle with perspicuity, but by failing to explain how matrimonialised property should be treated it falls short of expectations leaving questions remaining;

p) there is now certainty that non-matrimonial property cannot be shared. But condemning the white leopard to extinction is not the certainty the law needed. Matrimonialisation's ephemeral stint as a 'narrow concept' has come to an end; however, to prove that an asset has been matrimonialised remains a challenge. The claimant party must convince a court that, over time, the contributing party intended for that asset to be shared with them, with direct reference to how that asset has been treated. However, without the explicit limitation of the principle, there is now less discouragement than there was previously. Consequently, parties may feel encouraged that they can emerge victorious from the risk-laden and expensive court arena. For some, this uncertainty may encourage settlement, while for others, especially in big money cases, it may be worth the gamble to gain or protect 10%;

q) If matrimonialisation has occurred, the court will be left with a discretion to determine whether to share that asset equally on the basis that it has undergone an irreversible transformation into matrimonial property which, as we are reminded, should 'normally' be shared equally; or whether to reflect the non-matrimonial source of the asset in a departure from equality. It is contended that the correct approach, following this judgment, is that the asset should be shared equally; and

r) a new category has been added to the trio of situations in *K v L* and *Standish*, but while not back to square one, we are not far from it, and the law is not materially different to that which followed *K v L* 14 years ago.

<u>Other thoughts</u>

There may well be some focus in future authorities to the Supreme Court's emphasis *"over time"* given that paragraph [52] concludes as follows:

> *"Over time"*, which was the phrase used by Wilson LJ in relation to each of his three situations, means that the period of time must be sufficiently long for the parties' treatment of the asset as shared to be regarded as settled.

But what does *"over time"* actually mean in practice? And in particular, how long Is *"sufficiently long"*? Why can't parties' treatment of an asset be regarded as settled after only a very short period of time?

Second, and linked, it is of note that *N v F (Financial Orders: Pre-Acquired Wealth)* [2011] 2 FLR 533 per Mostyn J is cited immediately prior to the above in paragraph [52] but it is of note that this judgment says as follows:

> [14] I adhere to my view that the two-step approach is the right one, generally speaking. It is precisely what Wilson LJ did in *Jones*. It seems to me that the process should be as follows:
>
> (i) whether the existence of pre-marital property should be reflected at all. This depends on questions of duration and mingling; …

Mostyn J therefore seemed to state that there were two separate questions - i.e. two ways to matrimonialise an asset - duration of the marriage and mingling. Consequently the mere passage of time could matrimonialise (e.g. £100,000 brought into a marriage but kept separate might well have been matrimonialised simply by the effluxion of time after a 30-year marriage but not after a 1 year marriage). But is it now solely a focus on how the parties have dealt with the asset - and whether they treated it as shared - over time and so duration *per se* absent mingling (or if not mingling then an evidenced acceptance by the contributing party, inferred from how the property has been used, that it is to be shared with the other spouse) is no longer sufficient to matrimonialise an asset? Does *Standish* therefore mean the end of the *"the marriage is simply too long to say x hasn't been matrimonialised"* argument?

The post-*Standish* authorities

***ED v AP* [2025] EWFC 399** – His Honour Judge Hess (23rd September 2025) [citeable]

H and W were married for 28 years. H was a senior manager in a private equity firm. W was a homemaker. The parties had four adult children. HHJ Hess divided the parties' assets into two categories. Category 1 comprised existing assets and liabilities valued at over £22 million. This included the family home, worth £6,741,500 held in joint names. Category 2 comprised contingent assets and liabilities, mainly future carried interest (carry), that H might receive given his work with private equity funds.

W sought to retain the FMH as part of an equal division of the category 1 assets and to receive an equal share of most of the category two assets. H proposed selling the FMH and dividing the proceeds, and that W should receive varying percentages of the category 2 assets. HHJ Hess approached the two categories as follows:

- Category 1 assets were matrimonial property accrued during the marriage. The equal sharing principle applied (per *Standish*). Each party would receive £11,183,219. The FMH would be transferred to W. However, to reflect estimated purchase costs of £400,000 that H would incur buying a new home, HHJ Hess adjusted the equalising lump sum due from H to W. This followed his approach in *OS v DT* [2025] EWFC 156 (B).

- Category 2 assets would be divided on a *Wells* sharing basis to avoid unfairness given the high level of contingent assets in the case (*Versteegh v Versteegh* [2018] EWCA Civ 1050). HHJ Hess adopted a broad as well as mathematical evaluation, endorsing Cohen J's approach in *ES v SS* [2023] EWFC 177 to identify the extent to which the assets were the product of marital endeavour. He noted that one party's endeavour that post-dates separation cannot be categorised as marital endeavour (*C v C* [2018] EWHC 3186). On this basis, it was appropriate for W to receive differing percentages of the sums H might receive from carry, for example, 50% where the carry predominantly resulted from marital endeavour and 30% where significant post-separation endeavour was involved.

HHJ Hess disagreed with Mostyn J's purely mathematical formula for dividing carry (*A v M* [2021] EWFC 89). He highlighted that the way that carry is awarded, earned and vested is not a linear reflection of endeavour that is susceptible to a straightforward mathematical formula.

***RKV v JWC* [2025] EWFC 430 (B)** – Recorder Taylor (14th November 2025) [non-citeable]

The parties began their relationship in around 2000 and married in November 2005. Both had been previously married. There were two children, born in 2007 and 2012. The marriage lasted approximately 18 years, with an even longer period of pre-marital cohabitation.

Property 1 had been acquired in 2001, prior to marriage, in W's sole name. The purchase had been funded largely by a $210,000 loan from W's mother. Initially it was used by W; later it was occupied by both H and W as their family home before the family moved to a different property.

The family home had been purchased in 2010 in H's sole name and had been used as the long-term family home.

H had also acquired multiple UK investment properties, overseas property, and interests in several companies linked to his private security business.

The marriage broke down in August 2023 following a serious incident alleged by W. H was later convicted of criminal offences, served a custodial sentence (about a year – W also received a suspended sentence in the same criminal proceedings). In the family proceedings, H was found to have engaged in extensive non-disclosure and dissipation/*"warehousing"* of assets through third parties. His litigation conduct was described as dishonest, obstructive and contumacious, leading to adverse inferences and add-backs.

The central *Standish* issue arose in relation to Property 1 - was it a non-matrimonial asset retained by W, or had it been matrimonialised (fully or partially) so as to fall into the sharing exercise?

Recorder Taylor expressly directed himself to *Standish* focusing on:

- The source of the asset;
- How the parties treated the asset over time;
- Their shared intentions in respect of it; and
- Whether, and to what extent, fairness required its integration into the marital acquest.

Importantly, the court rejected any automatic or binary approach to matrimonialisation.

The court made the following findings:

- Property 1 was clearly non-matrimonial at acquisition:
  - Bought pre-marriage;
  - In the wife's sole name;
  - Funded via her family loan.

- However, it was later:
  - Occupied by the parties together;
  - Treated as "home" for a period; and
  - Benefited from some contributions and management by the husband (repairs, landlord functions, replacements).

- At the same time W:
    - Retained sole rental income;
    - Treated that income as her own; and
    - Did not integrate the property fully into joint finances.

- The property ceased to be the family home in 2010, long before separation.

Applying *Standish*, the court held that:

- Matrimonialisation *"does not have to be all or nothing"*.
- Fairness required recognition of both the non-matrimonial origin and later marital use.
- Accordingly, only 30% of Property 1 was treated as matrimonial and brought into the sharing calculation.

***VP v SP* [2025] EWFC 447 (B)** – Deputy District Judge Cassidy-Hope (20th November 2025) [non-citeable]

W (57) and H (58) began their relationship in around 2006, married in 2007 and separated in 2019, making it a marriage of approximately 12 years. W petitioned in 2020, but the conditional order had not yet been pronounced at the time of judgment.

The parties had one child together, XP (aged 18), who has significant disabilities and is unlikely ever to live independently. W is XP's full-time carer. W left the family home with XP in 2019. H has not spent time with XP for several years. H also has an adult son, JP, from a previous relationship.

W's income is limited to carer's allowance, universal credit and child benefit. H, although unemployed at the time of the hearing, had recently worked as an HGV driver earning c. £29,000 net pa, and received £15,000 pa rental income from JP and JP's partner, who live with him in the FMH.

There had been extensive prior litigation between the parties, including Children Act 1989 and Family Law Act 1996 proceedings. Findings of domestic abuse were made against H, a child arrangements order provided that XP live with W, and a non-molestation order was in force between 2021 and 2024.

The financial remedy proceedings were protracted, with delay and non-compliance on both sides. The final hearing took place in October 2025. Given the earlier findings of domestic abuse, FPR Part 3A and PD3AB applied, and special measures were implemented. H was unrepresented and prohibited from cross-examining W; the court adopted the approach in *Re Z (Prohibition on Cross-examination: No QLR)* [2024] EWFC 22, putting H's pre-submitted questions on his behalf.

The parties were relatively close overall, but differed on:

- alleged non-disclosure by W (inheritance and business income);
- whether H's cashed-in pension should be added back;
- whether certain debts were matrimonial (in particular a historic secured debt, the "G debt");
- the extent to which W's needs justified a departure from equality.

Both parties agreed that the FMH (valued at £525,000) should be sold, potentially to H's adult son, JP.

Although the case was plainly needs-driven, DDJ Cassidy-Hope expressly applied *Standish* when determining the matrimonial or non-matrimonial character of assets and liabilities. The judge observed an *"air of artificiality"* in engaging in a strict matrimonialisation analysis in a needs case, but nevertheless followed the structured approach mandated by *Standish*, identifying:

- The FMH had been owned by H prior to the relationship.
- Applying *Standish*, the court asked whether and to what extent the property had been matrimonialised.
- The judge held that the FMH had clearly become matrimonial property:
    - it had been used throughout the marriage as the family home;
    - it had been adapted to meet the needs of XP;
    - it was central to the family's life during the marriage.
- The non-matrimonial origin of the FMH therefore carried little weight.
- The G debt originated from H's pre-marital property.
- Applying *Standish*, the judge held that this debt had not been matrimonialised.
- It remained non-matrimonial and should be borne by H alone, even though the FMH itself had become matrimonial.

Credit cards and loans incurred during the marriage, whether in joint or sole names, were treated as matrimonial liabilities.

The court found the case to be firmly needs-based. W's needs were significantly greater than H's due to:

- her lifelong caring responsibilities for XP;
- her limited earning capacity;
- the need for suitable, adapted accommodation.

H retained a greater earning capacity and an additional housing resource through remaining in the FMH with his adult son. Applying MCA 1973 s25, and notwithstanding the matrimonialisation of the FMH, the judge concluded that W's needs justified a substantial departure from equality. The FMH was to be sold, and after discharging the mortgage, costs of sale and limited credit card liabilities, the net proceeds were divided 71% to W and 29% to H, with the G debt to be met from H's share.

***LIN v PAR* [2025] EWFC 401**, **[2026] 1 FLR 712** – Peel J (21st November 2025) [citeable]

H and W separated in 2000 following a childless marriage of approximately nine years. A decree absolute was granted in February 2002.

In 2001, during divorce negotiations, the parties reached what Peel J later found to be a *Xydhias* agreement, under which their modest assets were divided broadly equally. Although a draft consent order was prepared, it was never sealed by the court. Importantly, both parties believed that an order had been made and acted on that basis, implementing an equal division and proceeding on the understanding that there had been a clean break.

Following the divorce, H went on to become a very wealthy businessman and remarried. W did not remarry and had a comparatively modest financial trajectory, earning her living as an artist.

In 2005, after the successful sale of one of H's companies, H voluntarily paid W £193,000.

In 2022, more than 20 years after the divorce, W became involved with a third party ("Mr TP"), who encouraged her to pursue a financial remedies claim upon discovering that no final order had been sealed. Peel J found that Mr TP had a malign influence and was motivated by a desire to obtain information about H's wealth. His involvement ceased by early 2025.

W initially sought extensive relief, including:

- £10m for interim needs;
- full disclosure of H's wealth;
- injunctive protection.

By October 2024, W confirmed that her claim was capped at £5m and advanced solely on a needs basis. No sharing claim was pursued.

H's primary position was that W should be held to the 2001 agreement, and that her claims should be dismissed. Ultimately, H adopted a pragmatic stance, offering a clean break and later proposing a life-interest style housing solution, while maintaining that no award was justified.

W had modest assets and significant indebtedness, much of which the court considered unlikely ever to be enforced. Peel J assessed that W could generate an income of approximately £100,000 net pa. H relied upon the "millionaire's defence", accepting that his wealth exceeded £100m and that he could meet any reasonable order.

Peel J found that the parties had entered into a binding *Xydhias* agreement in October 2001, consistent with *White v White*, dividing assets broadly equally. He concluded that:

- drafting issues did not undermine the substantive agreement;
- W had accepted H's proposals in January 2002;
- it was a *"mystery"* why the draft order was never sent to the court;
- crucially, both parties believed an order had been made and acted accordingly.

The parties exited the marriage with negligible assets, achieving what they believed to be a clean break.

W sought to reduce the weight of the agreement by alleging:

- undue pressure (per *Edgar v Edgar*);
- material non-disclosure;
- failure to implement the agreement.

Peel J rejected each of these arguments. He found no undue pressure, no material non-disclosure, and concluded that the agreement had in fact been implemented. Allegations that H failed to disclose interests in "Company E" were rejected: W was aware of its existence, it was illiquid at the time, and any non-disclosure would not have led to a materially different outcome.

Although the case turned primarily on delay, agreement and needs, Peel J expressly considered *Standish* when addressing W's argument that H's later-acquired wealth — in particular his shares in Company E — had become matrimonialised. Applying *Standish* Peel J held:

- H's shares in Company E were non-matrimonial property;
- they were acquired long after the parties' separation;
- W made no contribution to them, direct or indirect;
- there was no basis on which they could be said to have become *"matrimonialised"*.

The court made no financial order in favour of either party, effecting an immediate clean break.

***LP v MP* [2025] EWFC 473**, **[2026] 1 FLR 1089** – Cusworth J (22nd November 2025) [citeable]

H (72) and W (60) began their relationship in around 2010 and married in August 2011. The marriage lasted just under 12 years. There was one child, X (born 2014 via surrogate), who lived with H at the time of the hearing.

H was a very high-net-worth individual before the relationship began. He had accumulated the overwhelming majority of his wealth well before the marriage and had effectively retired by the time the parties met. His wealth at the start of cohabitation was around £21.6m.

W brought very modest assets to the marriage, including a property in Leicester (later retained by her). She made no financial contribution to the acquisition of any of the main family assets.

During the marriage, two significant properties were used as family homes and acquired in joint names:

- Park Street (net value c. £4.365m)
- North Farm (house plus adjoining farmland; total gross c. £2.9m, with the farmland later separated out for sharing purposes)

The funds used to acquire both properties were entirely non-matrimonial in origin and came from H. There was no meaningful marital acquest. At the end of the marriage, H's wealth was broadly the same as at the start; if anything, it had been depleted by W's financial demands and litigation costs.

W had been convicted of fraud during the marriage. There was extensive evidence that she had extracted substantial sums of money from H under false pretences and transferred funds abroad.

The key issue for the court was how the sharing principle should apply to:

- Properties acquired during the marriage
- Held in joint names
- Used as matrimonial homes
- But funded entirely from H's non-matrimonial wealth, with no contribution from W

Cusworth J accepted that both Park Street and the house element of North Farm were matrimonial property:

- They were acquired during the marriage
- They were used as family homes

However, the farmland at North Farm was treated differently:

- It was commercially let
- Never used as part of family life
- W had no involvement or contribution

It was excluded from the matrimonial property despite being in joint names.

The judge adopted the Supreme Court's statement in *Standish* that legal title is not determinative of whether property is matrimonial.

Cusworth J emphasised:

- Equal sharing is the principled starting point
- But it is not inevitable
- Matrimonialisation does not erase the relevance of non-matrimonial source

The court relied in particular on:

- Moylan LJ's statement that the former matrimonial home is typically, not inevitably, shared equally
- The Supreme Court's endorsement of equality as a starting point, but with room for justified departures

The judge rejected any suggestion that once property is matrimonial, equality must follow automatically.

Cusworth J concluded that equal sharing would be unfair, and identified several reasons grounded firmly in *Standish* principles:

- Non-matrimonial source
  - Both matrimonial homes were acquired entirely from H's pre-marital wealth
  - There was no mingling of marital acquest (because there essentially was none)
  - The source of funds remained a powerful and relevant factor

- Lack of contribution by W
  - W made no financial contribution whatsoever
  - Her non-financial contribution was also significantly in dispute
  - While occupation as a spouse justified inclusion within the sharing principle, it did not justify equality

- Separation of farmland from the home
  - The court drew a careful asset-by-asset distinction, excluding the farmland entirely from sharing

Conduct was treated as an additional factor reinforcing departure from equality, rather than the sole driver.

The combined matrimonial property value (after excluding farmland) was c. £6.64m. Instead of 50% of that pool, W was awarded 30% overall. This reflected:

- A 40% reduction from her notional half-share
- Justified by the non-matrimonial source and reinforced by conduct

[30] In *Standish v Standish* [2024] EWCA Civ 567, Moylan LJ said from [164] that:

> … the court will typically conclude that the former matrimonial home should be shared equally although this is not inevitable as shown by cases such as *FB v PS*…
>
> [165] … Does fairness require or justify the asset being included within the sharing principle?
>
> [166] The conclusion that it does, … does not mean that it must be shared equally. The submission by [counsel] that, once an asset is matrimonialised and treated as matrimonial property, it *must* be shared equally is unsupported by any authority and would be contrary to the objective of a fair outcome. This is because, again as Mostyn J said in *JL v SL (No. 1*) at [19], it may be that the *"non-matrimonial source of the moneys in question"* remains *"a relevant consideration"*. In its evaluation of all the relevant factors … it would be perverse if the court could not decide that the non-matrimonial source, in whole or in part, of an asset treated as matrimonial property could not justify an other than equal division.

[31] Of course, I recognise that, when the case of *Standish* went to the Supreme Court - [2025] UKSC 26 - Lord Burrows and Lord Stephens made clear at [50] that:

> '… the sharing of the matrimonial property should normally be on an equal basis. Although there can be justified departures from that, equal sharing is the appropriate and principled starting position. Indeed, once non-matrimonial property is excluded, much of the justification for not applying equality in sharing fades away.'

[32] I do not take from that expression however that their Lordships intended to move the test away significantly from what had been the established principle enunciated by the Court of Appeal – their use of the word 'normally' can surely be equated very closely to Moylan LJ's use of 'typically' in the passage of his judgment cited above. Whilst they were at pains to express at [52] their disagreement with his formulation that the concept of matrimonialisation should only be applied 'narrowly', by stating that 'It is neither narrow nor wide', there was no suggestion of any correction to other parts of his reasoning.

***RRE v JPR* [2026] EWFC 7** – Sir Jonathan Cohen (13th January 2026) [citeable]

H and W married in the 1990s. They separated in December 2013, but remained on relatively cordial terms for several years thereafter. Relations deteriorated significantly from around late 2021, leading to formal proceedings.

Divorce proceedings were issued in October 2022, with financial remedy proceedings following shortly afterwards.

This was a high-value case, with total assets agreed to lie broadly between £21m–£27m depending on the treatment of certain capital. The overwhelming majority of wealth derived from H's non-matrimonial sources, namely:

- inherited family banking assets; and
- substantial restitutionary / compensation-type payments received during the marriage.

During the marriage (and after separation), very substantial sums from H's non-matrimonial wealth were transferred into a trust ("the Trust"). Both H and W were beneficiaries of the Trust. Over time, significant distributions were made to W, such that:

- a large proportion of the assets ended up standing in W's name; and
- W came to hold the majority of the parties' apparent wealth by the time of trial.

The key issue between H and W was whether the assets transferred into W's name had become matrimonialised or whether they retained their non-matrimonial character as H's separate property.

W argued the transfers amounted to outright gifts and/or demonstrated an intention to share the wealth as part of the marital partnership. H argued the transfers were:

- driven by tax planning, asset protection and structural reasons; and
- never intended to give W a substantive beneficial share for the purposes of divorce.

The court expressly applied the principles clarified by the Supreme Court in *Standish* finding:

- The origin of the wealth was overwhelmingly non-matrimonial, having come from H's family and external compensation.
- The transfers into the Trust and into W's name were made:
    - for tax efficiency,
    - for wealth structuring, and
    - to facilitate estate planning and family arrangements —
    - not to effect a redistributive "sharing" between spouses.

Critically:

- There was no evidence of a shared intention that W should treat the assets as part of the parties' jointly owned marital wealth.
- The fact that W ended up holding assets in her sole name did not, of itself, convert them into matrimonial property.
- Nor was there sufficient evidence that the assets were absorbed into the *"marital economy"* in the sense required by *Standish*.

Applying *Standish*, the court concluded that:

- The assets retained their non-matrimonial character.
- They did not fall to be shared under the sharing principle.
- W could not rely on the transfers alone to establish matrimonialisation.

The court stressed that the correct focus is on intention and treatment over time, not simply on legal ownership or convenience-based transfers.

***KMR v AER* [2026] EWFC 10 (B)** – Deputy District Judge Rose (15th February 2026) [non-citeable]

W was a US national aged 55. She was not working at the time of the hearing; last worked before the children were born. Previously worked in investments in the USA and gave evidence of earning c. US$1m a year. in 2011. She was living in rented accommodation in London with the children.

H was a French national aged 53. He was a commodities trader; his income was *"difficult to ascertain"*. He was also living in rented accommodation in London. There were two children aged 16 and 13. They had married in 2009. There was a nuptial agreement.

The key issues to be determined were:

- The true extent of the assets disclosed.
- The validity of a nuptial agreement, including applicable law (England/Wales, Switzerland or France), and any impact on distribution.
- The effect of W's family trusts

H had multiple entities/holdings (some not formally valued), including shareholdings in Swiss/Luxembourg/English/French vehicles. Valuation difficulties were driven by piecemeal disclosure and lack of formal valuation evidence; W's case valued H's business interests at £3,728,691 and H's at £894,207 (with H applying various unevidenced deductions). The judge preferred W's figures for the business assets and was not satisfied H's deductions were evidenced.

Art was a major theme: stored across locations; valuations from auction houses/valuers; and disputes as to whether pieces were sold, missing, or held by corporate "wrappers". ES2 figures: H said collection c. £1.81m; W said c. £3.14m. There was also a tabulated list with low/median/high estimates indicating a median valuation c. £4.29m, but the judge adopted the ES2 figure for H's collection because it better accounted for sold items.

H also owned a Paris apartment in his name. H said it was pre-marital (bought 2003) and should be excluded; there was a dispute on net value. The judge's approach was to look at whether it was treated as a matrimonial home / integrated into the marital partnership. The judge found that the parties had never lived there as a main residence and it had not been treated as a matrimonial home; therefore it had not been matrimonialised and was excluded as non-matrimonial.

W had New York family trusts created by her parents; her interest was described as contingent (not vested until death of the survivor parent). A New York apartment acquired by W in 2012 was transferred into the family trust in 2019; W's evidence was this was tax/estate planning and not intended as matrimonial. Although W had acquired the NY apartment during the marriage, the judge noted:

- it was not purchased using marital funds on either party's evidence, and
- it was transferred into a trust that might benefit W and siblings in future, without intention to make it matrimonial.

As a result, the judge was not satisfied this was intended to be matrimonial property and the property was excluded from the marital pot as non-matrimonial.

Finally, the nuptial agreement. The judge found that the alleged pre-nup signed in March 2009 (and which W had disputed) was a *"falsehood"*, was not valid and had been created by H or on his behalf to mislead W and the court.

***BS v HC* [2026] EWFC 20 (B)** – His Honour Judge Hess (3rd February 2026) [citeable]

H (63) and W (60) married in August 2009 following a period of cohabitation from April 2009. The marriage lasted around 15 years, and was accepted by the court to be a long marriage. There were no children of the marriage. H had four adult children from a previous marriage.

H had had a long career in industry and senior management. He was largely retired by 2021, undertaking limited consultancy work through his own company. W had previously worked as an interior designer but had not worked for over a decade. She had some health issues (notably severe arthritis in both thumbs), no current earnings and limited employment prospects going forward.

The parties lived together at various properties during the marriage, including:

- A rent-free East London property owned by W's father (used until 2014, and by H during the working week until 2018); and
- A jointly occupied former matrimonial home in Gloucestershire.

In later years the parties owned two main properties:

- A Bristol property purchased in joint names, intended to become the family home; and
- AB in Devon, also jointly owned.

At separation in 2024, W moved into the Bristol property and H remained at AB (later also renting in London).

Divorce proceedings were issued in June 2024. Financial remedy proceedings reached a final hearing in January 2026 over four days. Neither party sought ongoing spousal maintenance; the dispute concerned capital division and pensions. Non-pension capital was largely agreed and accepted to be matrimonial property. The central dispute concerned H's pensions, which had a capital value of c. £3.06m, compared with W's modest pension of c. £35k.

The question was:

- what proportion of H's pensions had accrued during the marriage; and
- to what extent any pre-marital pension should be treated as matrimonialised.

The court expressly relied on *Standish*, confirming the distinction between:

- Non-matrimonial property (pre-acquired or externally sourced); and
- Matrimonial property, being the product of the marital partnership.

In HHJ Hess's words, the key question was "*whether an asset that began as non-matrimonial had, over time, been treated by the parties as shared, such that it had become matrimonialised".*

H's main pension accrued from long-standing employment starting well before the marriage. During the marriage:

- no further service accrued after 2012, but
- the pension's value increased very substantially due to:

- company funding to remedy under-funding, and
- later actuarial and investment growth.

W's case was that H's pension had become wholly matrimonialised relying in part on:

- her substantial financial contributions from family wealth;
- the parties' sharing ethos; and
- a conversation in 2013 when W contributed £1.5m from a gift by her father towards a family home placed in joint names.

The court accepted that *Standish* allows for matrimonialisation where:

- non-matrimonial property is treated over time as shared, and
- there is evidence of a settled intention to that effect.

However, HHJ Hess held that pensions are inherently different from other assets:

- they remain in one name,
- are often not drawn or *"used"* during the marriage, and
- are rarely *"mingled"* in the ordinary sense.

While actual use and enjoyment is not essential, something more than general statements about sharing was required.

On the facts, the court was not persuaded that H's pension had been treated as a jointly shared asset in a manner sufficient to meet the *Standish* threshold.

The court considered multiple actuarial methodologies and concluded, on a broad fairness assessment, that:

- 55% of the pension should be treated as accrued during the marriage, and
- 45% as non-marital.

This led to a pension sharing order of 27.5% of H's main SIPP in favour of W (reflecting half of the marital portion).

At [32] His Honour Judge Hess referred to paragraphs [51] – [54] of *Standish* as having *"provided a definition of this term [i.e. matrimonialisation], or at least a methodology for identifying when it has happened"*. He continued as follows:

> [34] The issue of matrimonialisation is, in my view, rather a different one. Rights in a pension, unlike cash or property, rarely become *'mingled'* during a marriage. They remain in the sole name of the person who earned the pension rights – that is just a feature of how pensions are held. They are never put into joint names. Where, as here, the pension rights have not been drawn down at all then they remain an un-mixed and un-utilised asset, but the source of future income. What does it take for it to be fair to treat such an asset as having been matrimonialised? Mr Warshaw has argued that, since the pension fund remains untouched, it can in no sense meet the Supreme Court test in *Standish* because it has not yet been translated into *'actual use and enjoyment'*. In my view, whilst I recognise that these words do appear in the *Standish* judgment, this is too literal an interpretation. An actual use and enjoyment provides a clearer example, but a common intention to put the asset into use and enjoyment in the future could also in my view give rise to matrimonialisation if that intention was relied upon by the other party to his or her detriment. As I put it to Mr Warshaw in argument here, if, for example,

one spouse said to the other words to the effect of, *“if I contribute my £1,000,000 of cash to purchase a family home in joint names will you agree to treat your £1,000,000 pension as a joint asset, even if it remains in your name”* and the other spouse agrees then (notwithstanding that the pension has not yet been put into actual use and enjoyment) that would amount to matrimonialisation in my view. A different conclusion would not be fair.

[35] So has this happened here? What is essentially relied upon here by the wife is a conversation which took place in 2013 when she received the gift of £1,500,000 from her father. It was agreed that there would be a purchase of CD, which was to cost £838,000 plus purchase costs and was then to have substantial refurbishment costs, initially at least funded by the wife to the extent of several hundred thousand pounds, and was eventually sold in 2023 for £1,600,000. This issue arose as to whether CD would be placed in the wife's sole name (since she was paying for it) or in joint names. The wife says, and I accept her evidence on this, that the husband asked for the property to be placed in joint names and said words to the effect of *“it doesn't matter that I am not contributing to the purchase price because we will share everything equally in our marriage, everything comes and goes out of the same pot”.* It is not suggested that he made any specific reference to his pension in this conversation and there were other assets to which he could have been, and probably was, referring, most obviously his company shares (which eventually sold for a sum which was broadly equal to the wife's father's gift). It is a difficult question, but I have not been persuaded on the facts of the present case that these words could fairly give rise to the husband's pension rights thereby became matrimonialised. More, in my view, would be required to meet the *Standish* test.

BC v BC (No. 2) (Matrimonialisation; Division of Shareholding; Provision for Debt) **[2026] EWFC 37** – Garrido J (20th February 2026) [citeable]

H held his shareholding in CC when the parties began to cohabit at the beginning of 2007. The shares were therefore non-matrimonial in origin. Their value at that time is less clear.

[37] In the summer of 2005, when H settled the financial claims of a previous wife, he ascribed a value of £30,000 to his shares, although the D81 filed with the consent order in March 2006 ascribed no value to them. Having entered into a joint venture with DD in December 2005, CC grew considerably during 2006, ending the year with a turnover of £596,000 compared to £2,000 in 2005. Further growth continued through 2007 so that by the end of 2007, CC was floated by a reverse takeover of another quoted company, valuing H’s shareholding at just over £10 million. Was that growth during 2007 a result of joint matrimonial endeavour, or simply the result of what proved to be a good deal with DD 12 months earlier? The answer to that question may well be of little importance now, because of what happened next.

[38] H did not realise any money in the flotation. In fact, no money was realised from those shares until 2014 by which time H had spent seven years of the marriage working with his wife’s support. In 2014 he pledged his shares to borrow £6.5 million, which was paid into the joint bank account and spent on acquiring a London flat (£1 million), the Caribbean property and its renovation (£3.7 million), renovations to the matrimonial home and other expenses of the family. The balance of the unpledged shares was sold over time after H left CC in 2015, realising a further c. £1.5 million. So much is uncontroversial.

[39] In this way, what started as a non-matrimonial shareholding at the outset of the cohabitation / marriage in 2007 had become, in my judgment, well and truly ‘matrimonialised’ by 2014 in eventually acquiring and being spent on jointly owned property and in deferring marital expenses from their joint bank account. Categories (b) and (c) identified by Wilson LJ in *K v L* as endorsed by the Supreme Court in *Standish* (above) apply here. Those categories are not, in any event, exhaustive. *“[M]atrimonialisation rests on the parties, over time, treating the asset as shared”* and *“it is the parties’ treatment of what was initially non-matrimonial property, over time, as shared between them, that is central in deciding the fairness of that property being viewed as matrimonialised”* (per Lord Burrows

and Lord Stephens). In my judgment, H and W treated the realisation of the CC shares as a shared resource when using the resulting monies on joint expenditure.

Is a departure from equality nevertheless justified?

[40] The value of these shares having been matrimonialised by 2014 in the ways I have described, should their original non-matrimonial character nevertheless still be recognised by a departure from equality when I make a financial order in 2026? In my judgment, the answer to that question must be 'no'.

[41] In my judgment, either an asset is non-matrimonial, in which case it is excluded from equal sharing, or it is matrimonialised, in which case it is included in equal sharing along with all other matrimonial property (unless there is another, additional justification for departure from equality). I take from paragraph 50 of *Standish* that there is no room for a hybrid treatment of assets that have been matrimonialised: they are subject to the same normal rule of equal sharing as other matrimonial assets, and the same limited justifications for departure, for example and perhaps most commonly, to meet needs, which are not relevant in this case. After 18 years of marriage there is no room for an unprincipled, randomly alighted upon, 5% (why not 4% or 6%?) departure from the equal sharing of what I find to be now entirely matrimonial wealth.

***Thirsk v Thirsk* [2026] EWHC 1501 (Ch)** – Cusworth J (15th May 2026) [citeable] [heard in the Chancery Division, Business and Property Courts – claim under the I(PFD)A 1975]

Claimant widow (W) Sarah Jane Thirsk, 47, survived her husband's (H's) death on 20.04.2022 in a tragic accident and sought reasonable financial provision from his estate. The First Defendant Henry Stamford Thirsk (HST) aged 36, was H's only child from a previous relationship, the main beneficiary of the estate and one of H's executors. The Second Defendant was H's accountant and another of the executors, who adopted a neutral stance in the proceedings.

W and H started living together probably in 2003. She was 24. She was a travel consultant and gave up working outside of the home a couple of years later. They had no children together. H was 56 when the relationship began. HST described H, his father, as a farmer.

In 1984 H had inherited land, Groves Farm (a farmhouse) and an option to purchase more land from his father, which he exercised. Later, a new local plan meant the land had development potential. By 2001, land sales generated c£5.5m. Land purchases totalled nearly £2m including a pub, developed into a hotel. There were reduced sales over the next 10 years and some purchases, including another pub.

There were further planning developments after 2012. Groves Farm (which was the family home) and land were sold for development in phases up until 2021, generating in total over £26m. H acquired Glebe Farm and additional land, which became their home, now worth c. £2.5m. W lives there. There were various other purchases of farmhouses and land, and other farm buildings, together totalling c. £12m.

H and W married on 30.03.2021.

H made a Will on 02.02.2022 providing for:

- W to select two cars (which she did on his death – a Rolls Royce and Range Rover, total value for probate £500k)
- W to occupy Glebe Farm rent free for life or earlier remarriage/cohabitation. W to pay the

outgoings after two years.
- W to have £5m outright
- The residuary estate to HST

It was clear that:
- Total net value of estate assets ignoring pensions and the assets held by W was £30.7m, of which £9.1m was held prior to the relationship.
- The rest was acquired later, from H's inheritance/acquisition prior to the relationship
- None of the land development etc would have been possible without H's inheritance and the external planning changes along the way.
- H wanted HST to have a viable farming and hospitality business.

W's income needs were said by her to be £545k pa, then at trial £480k pa, including costs relating to a private plane, holidays of £51k and shooting costs of £70k pa.

W said the Will was a stop-gap and a planned post-nuptial agreement would have been significantly more generous. However H had told his advisers that he thought the Will might have been too generous.

HST's open offer was Glebe Farm outright, plus £5m and the cars (total provision c. £8.5m). W sought £16m for her capitalised needs.

The court found:
- W found to have exaggerated her budget and lifestyle; her budget should be £275k pa
- HST was a straightforward witness.
- The two stage I(PFD)A 1975 test was applied: (1) has reasonable financial provision been made; and (2) if not, what order should be made, and the difficulty in applying the *"divorce cross-check"* noted. In such cases the length of the marriage is terminated by death, not divorce, but under the Act, the deceased has only to make reasonable financial provision, not to share the estate in any specified way.

The court considered that
- The length of the pre-marriage cohabitation must be fully brought into account, but
- The fact the marriage was short (the wedding being just over one year prior to death) may be relevant when interpreting intentions and expectations at different points in the relationship

Cusworth J stated as follows:

> [37] Sharing. I will start with the principles governing the assessment of the Claimant's notional sharing entitlement under the provisions of the MCA 1973, and how a Financial Remedy Court might approach the quantification of the matrimonial assets which would consequently inform the calculation of her entitlement. In this regard, the recent case of *Standish v Standish* [2025] UKSC 26 in the Supreme Court has made clear beyond doubt the underlying principles to be applied …
>
> [40] Prior to the decision in *Standish*, other judges have attempted to provide a satisfactory rationale for the basis upon which they have determined the size of the parties' respective sharing entitlements. Without always appearing to use identical language or categorisation to that now understood, it is clear

> that the principles which they have applied have been very much in line with what the Supreme Court have now mandated.

Having previously cited from *K v L Non-Matrimonial Property: Special Contribution)* [2011] 2 FLR 980 he thereafter cited from *JL v SL (No. 2) (Appeal: Non-Matrimonial Property)* [2015] 2 FLR 1202 and *S v S (Non-Matrimonial Property: Conduct)* [2007] 1 FLR 1496 per Burton J before continuing:

> [42] Analysing the ratio of these decisions it becomes clear that the judges involved have, in reality, not been dividing properly classed matrimonial assets unequally, but rather determining that some proportion of the assets in question, which have begun outside the marriage, but been employed *'as part of the economic life of the marriage'*, has in fact retained its non-matrimonial character. The size of that proportion will depend on all of the factual circumstances before the court in each case, including where relevant the scale of the non-matrimonial contribution, the extent of the assets' employment during the marriage, the period of time over which it was employed, and possibly whether and if so to what extent the party introducing the asset intended that the asset be treated as shared. The fact of sharing, of course, might override or reduce the impact of any lack of intention to share, as this may generate a tension between how the parties have in fact treated an asset, and whether either of them intended by that treatment to share the asset. And it will be relevant that in this case, throughout the bulk of the relationship, the parties were not in fact married, so that finding any intention to share over time is more difficult.
>
> [43] Intention nevertheless will usually remain a relevant consideration, if not determinative. So, as with testamentary wishes, it may be overridden if it proves to be at odds with the reality of how an asset has been treated, but it may remain illuminating in considering in all of the circumstances how the court should interpret the ways in which assets have been used during the marital relationship. As to testamentary intention, it is the case that the deceased's testamentary wishes may be relevant: as held in *Ilott v The Blue Cross* (above) at [47], they carry weight in some cases, but can be overridden by the 1975 Act …

On the question of any intention to share here:

- The couple were unmarried for all but the last year
- H's 2019 Will gave W only £1m plus right to occupy until cohabitation, he told his solicitors just before the wedding that W had *"not contributed to his wealth"* and that if W did not agree to a pre-nup there would be no wedding
- a statement of intent was signed to enter into a post-nup within 3 months
- W's solicitor said she would not be seeking *"anywhere near 50%"*
- After the marriage H told his solicitor he wanted his son to carry on farming, and he wanted to reduce the £5m in his 2022 Will to £4m to keep the farms intact

Re the sharing argument, the court found that:

- Groves Farm had been the family home, so W would have some significant sharing entitlement; although the right to share only arose on marriage and only the Farmhouse itself could be considered fully matrimonial.
- £9.1m was non-matrimonial. The rest (£20.3m) was susceptible to sharing in part; and 1/2 to 2/3 was matrimonialised; equating to between £5.01m and £6.8m; less than H's open offer

Re needs (as part of the divorce cross-check):

- Whole of life *Duxbury* under I(PFD)A 1975 more appropriate for a widow/er than a W on divorce, but testamentary intentions are *"a powerful counterbalance"*

- 20 years sufficient *Duxbury* given W's age and the age difference; @£275k = £4.6m, plus housing of £1.4m, so needs outcome c. £6m. 30 years also possible but not within range of realistic outcomes

Finally, considering outcome under I(PFD)A 1975:

- H's intentions do not assist W in seeking a higher sum; predominant wish for HST to farm
- Stockpiling for retirement (as per *Duxbury* working party) not appropriate given headroom in figures although pension entitlement modest
- 30 years *Duxbury* capitalisation more justifiable, but W's assets sufficient to cover that, and with a surplus if the cars are included.

Order made reflecting HST's final offer.

There are other judgments (such as *Kroupeeva v Kroupeev* [2026] EWFC 85 and *Potanina v Potanin (Case Management)* [2026] EWFC 80) but these do not contain a substantive application of *Standish*.

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5th July 2026