

## Reflections on the reduction in opposite sex marriages: Love in a time of Covid

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A couple of news items deliciously coalesced during the lockdown period.

*The Financial Times* of 16 April 2020 carried a beautifully written and reflective article by Madison Darbyshire on the ‘joy of six’.

No, I am not talking about Liverpool FC’s glorious sixth European Cup win in Madrid in June 2019. Another event that I will not forget.

I’m talking instead about the rise in online dating that has been tracked during the coronavirus lockdown. To give but one example, the dating app Tinder saw its busiest day ever in March 2020. This was well charted, researched and described by the *FT* writer with a host of evidence and tips on effective video dating.

And on 14 April 2020 we had the publication of the latest figures relating to the number of marriages between women and men at 235,910 in 2017 – the lowest on record and a 45% drop since 1972. The total number of marriages fell by 2.8% from 249,793 in 2016 to 242,842, according to the Office for National Statistics.

Adding these two news stories together, what do we find?

First, the trend towards cohabitation as a choice of mode of relationship is hardly surprising. It is of course a continuation of a trend.

Us lawyers regrettably find that family law tends to be the poor daughter of Parliamentary time. So how is this government going to address the manifest failings of our system to protect those in

cohabiting relationships, especially may we say mothers, who are seen to be eventual victims of lack of remedy upon termination of the relationship.

With Great Britain led by Prime Minister Boris Johnson, who is not only in a cohabiting relationship with Carrie Symonds, but who is also (at the time of writing) expecting his first child by that relationship in the near future, there will be added impetus for the government to act.

Our firm is surely not alone in experiencing a sharp uptake in the use of cohabitation agreements. Since I have in my possession an opinion from a professor of law from Oxford University confirming the in principle enforceability of cohabitation agreements, I can sleep peacefully at night when drafting these for clients.

Of course a cohabitation agreement, like for example a prenup or a post-nup, is subject to the criteria of fairness so famously explained by the Supreme Court in *Radmacher* in October 2010 (see *Radmacher (Formerly Granatino) v Granatino* [2010] UKSC 42, [2010] 2 FLR 1900).

The *FT* article reflects on the different kinds of relationship induced by dating, when physical intimacy is not on the menu, because of the social distancing laws necessitated by the coronavirus epidemic.

Will this new mode of dating lead to better-lasting relationships, whether of a cohabiting or a marrying kind? Is this business as (un)usual, carried out by inventive would-be suitors? Or is this phenomenon merely a novel flash in the pan in these unprecedented times? Time will tell.

Meanwhile please allow the law to intrude on the seductive Netflix sharing and other video dating described in the *FT* article.

There is a really good online legal guide to the etiquette and legality of what you may or may not show or talk about online, published by my French colleague Anne Marion de Cayeux. But it's in French, and has not yet been translated into English by a certified translator, so that's for another day.

Beware however of s 127 of the Communications Act 2003, which forbids

the transmission of video footage that could be construed to be obscene. Apps that have seen a popularity spike during lockdown come with a side of horror stories, with unwanted 'guests' abruptly joining unsecured video calls. Consider the risks that are inextricably entwined with the rewards of virtual dating. Do not assume that the line is secure!

In the meantime, let's take comfort in society's adaptability.