

# MATRIMONIALISATION

Where is the leeway to structure wealth so that it avoids matrimonialisation in light of Standish [2025], and what if one party shares and the other doesn't?

Justin Warshaw KC



News > UK News

# **NEVER TEAR US APART** Former INXS assistant **WINS** £14m divorce battle against SAS major ex and millionaire mum who 'hates' her

[Holly Christodoulou](#), Assistant Head of News (Courts)

**Published:** 17:22, 17 Mar 2026 | **Updated:** 11:10, 18 Mar 2026



**Ex-husband**



**Rock assistant**



**Millionaire mum**



# The Form of Solemnization of Matrimony Book of Common Prayer:

WITH this ring I thee wed,  
with my body I thee worship,

**and with all my  
worldly goods I**

**thee endow:** In the  
Name of the Father, and of  
the Son, and of the Holy  
Ghost. Amen

and with all my  
worldly goods I thee  
endow **subject to  
classification,  
provenance, and a  
careful eye on  
matrimonialisation**

- A. the income, earning capacity, property and other financial resources [...]
- B. the financial needs, obligations and responsibilities [...]
- C. the standard of living [...]
- D. parties' ages and duration of the marriage
- E. any physical or mental disability
- F. the contributions [...] a party made or is likely [...] to make to the welfare of the family, including [...] looking after the home or caring for the family
- G. the conduct of each of the parties, if [...] inequitable to disregard it
- H. [...] the value [...] of any benefit [...] a party will lose the chance of acquiring.

Where else?

White v White [2000]

Miller & McFarlane [2006]

Charman v Charman [2007]

## **WX v HX (NX and Another Intervening)** **[2021] EWHC 241**

112. Before setting out my conclusions in relation to the 'matrimonialisation' argument....

116...in cases where there is an issue relating to whether or not non-matrimonial property has been 'mixed', 'merged' or 'mingled' with matrimonial property, the court will need to consider whether the 'contributor' has accepted that his or her property should be treated as matrimonial property.

Although it may be new to the English language, we accept that that is a useful shorthand term to describe the process or mechanism by which non-matrimonial property may become matrimonial property.

*Charman* (No 4) 2007 1 FLR 1246

To what property does the sharing principle apply?...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.

# THE LEOPARD VS. JUDGE!



GREAT SCOTT!

READY TO STRIKE!

TERROR IN THE COURTROOM!

CAN HE ESCAPE?



JL v SL (No 1) [2014] EWHC 3658 (Fam)

22. "Given that a claim to share non-matrimonial property (as opposed to having a sum awarded from it to meet needs) would have no moral or principled foundation it is hard to envisage a case where such an award would be made. If you like, such a case would be as rare as a white leopard."

*K v L* [2012] 1 WLR 306

[21]...The ordinary consequence of the application to [non-matrimonial property] of the sharing principle is extensive departure from equal division, often (so it would appear) to 100%–0%.

# *K v L* [2012] 1 WLR 306

18...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.

*WC v HC (Financial Remedies Agreements)* [2022] EWFC 22

Rule 11:

The evaluation by the court of the demarcation between marital and non-marital assets is not always easy. It must be carried out with the degree of particularity or generality appropriate in each case; **Hart v Hart [2018]**. [.....]. 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.

Standish [2025]

“the time has come to make clear that non-matrimonial property should not be subject to the sharing principle”

Standish [2025]

52. ‘Although this has not previously been clearly spelt out, 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 the asset as shared between them. That is, matrimonialisation rests on the parties, over time, treating the asset as shared.’

Standish [2025]

[54]‘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’.

# Peter Duckworth

...a better view may be that 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 ....



## VP v SP [2025] EWFC 447 (B)

The Supreme Court in *Standish* did not explicitly state on whom the burden of proving matrimonialisation should rest, but adopting the approach that they who assert must prove, the G debt having originally been non-matrimonial, I consider the burden lies on the respondent to show that it was matrimonialised. I have no evidence that the debt was ever treated as shared. While I have wondered whether, just as the matrimonial home, having pre-dated the marriage became matrimonialised, the charge upon it should be treated the same way, the charge was not in fact secured against the property until either shortly before or after the marriage at a time when the parties' relationship was established.

## KMR v AER [2026] EWFC 10 (B)

86. The Paris apartment was purchased by the respondent in 2003, plainly prior to the marriage and any period of cohabitation. The parties have never lived together in this property as a main residence, or treated it as a matrimonial home. It has not been matrimonialised.

87. It is clear that the applicant's New York apartment on West 85th Street was incorporated into the applicant's Family Trust in 2019. It was acquired by her in 2012, which was post-marriage, but was not, on either parties' evidence, purchased using marital funds. It was transferred into a trust which may eventually benefit the applicant along with her two siblings. There is no suggestion that the respondent's valuation in the ES2 of £1,395,000 is correct, or achievable. It was supported by a link to 'realtyhop.com' webpage which, when I clicked on the same, did not prove what the respondent thought it did. I am not satisfied that this was intended to be a matrimonial asset

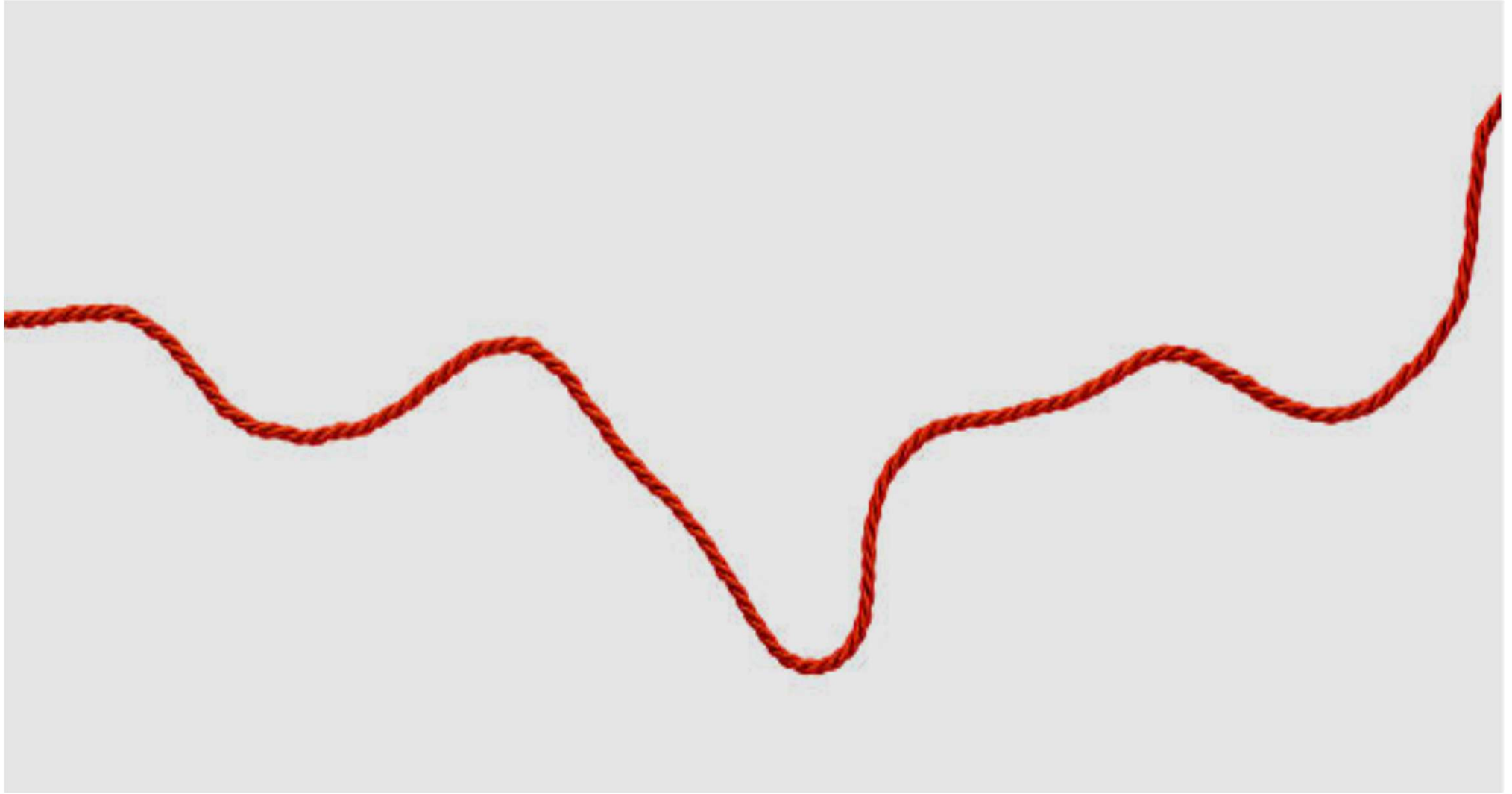
# Peter Duckworth

...a better view may be that 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 ....



## BS v HC [2026] EWFC 20 (B)

34. 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.



# FAIRNESS

We agree that the sharing principle must be tied back to seeking a fair outcome.

