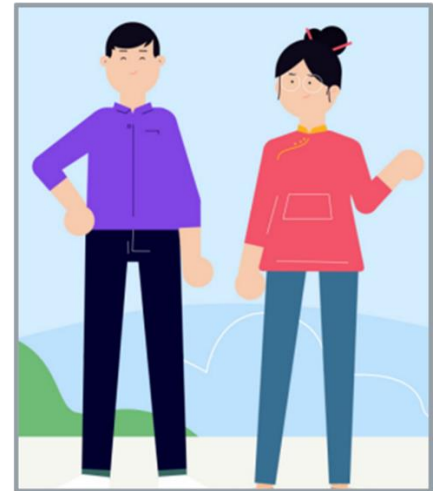
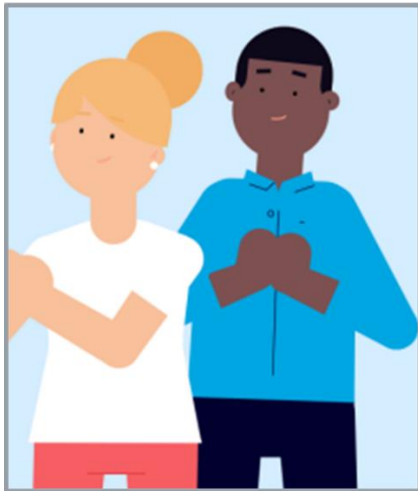




University  
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## *Modern Families: the legal consequences of different family forms*



University of Exeter and Resolution  
Key Stage 4 and Key Stage 5

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## Introduction

This guidance has been written to accompany a two-part lesson plan for Key Stage 4 and Key Stage 5 pupils focusing on how relationships are formalised and the legal rights of individuals in different forms of relationships, particularly when the relationship ends by separation or death. Lesson 1 introduces pupils to three couples in different relationship forms. In considering these couples, pupils will learn about the key regulations on formalising relationships. In particular, they will learn about the ‘common law marriage myth’ - the mistaken belief that unmarried couples who live together for some time have a ‘common law marriage’ which gives them the same legal rights as married couples. They will also learn about non-qualifying ceremonies. In lesson 2, pupils consider the rights and protections provided within legally recognised marriages and civil partnerships compared to other relationships such as cohabitation or couples who have had a non-qualifying ceremony. The legal position of the different family forms considered is correct as of 26.10.22. The lessons are designed to be taught within PSHE.

The lessons have been written by researchers in the Law School at the University of Exeter working in collaboration with Resolution, the 6,500-member strong organisation of family law professionals committed to a non-confrontational approach to family law issues.

Please read and consider this guidance before teaching the lessons.

## Preparing to teach

These lessons should be taught as part of wider learning on the importance of stable, committed relationships, including the rights and protections provided within legally recognised marriages and civil partnerships. It will consider the legal status of other long-term relationships, such as cohabitation and couples who had a non-qualifying ceremony. The lessons aim to equip pupils with ‘knowledge that will enable them to make *informed* decisions about their... relationships’ as they move into adulthood ([DfE Guidance on RSE](#), para. 1). PowerPoint slides accompany each lesson, and the notes below are reproduced in the notes section under the slides for ease of teaching.

Further PSHE Association’s quality assured resources are available on the PSHE website (<https://www.pshe-association.org.uk>). These can be used to embed this lesson within a full RSE programme.

The [DfE Guidance on RSE](#) also makes it clear that RSE teaching should be ‘based on knowledge of pupils and their circumstances... [with] no stigmatisation of children based on their home circumstances (para. 59). Pupils are likely to come from households with a variety of different family forms. The teaching on ‘non-qualifying ceremonies (see page 3 below) is likely to be directly relevant to some pupils but not others.

## The ‘common law marriage myth’

Cohabitation is the fastest growing family form in the UK. The number of families that include a couple who are married or in a civil partnership in the UK increased by 3.7% in the decade to 2021, to 12.7 million; by comparison, the number of cohabiting couple families saw an

increase of 22.9% over the same period, to 3.6 million.<sup>1</sup> In 2020, 18% of couples that lived together were cohabiting rather than married or in a civil partnership.<sup>2</sup> However, how the law treats married or civil partnered couples in England and Wales<sup>3</sup> differs significantly from how cohabiting couples are treated on relationship breakdown or death. On separation, parents who have cohabited must financially support their children, but not each other. Unlike married or civil partnered couples, cohabitants' rights to the couple's home or other capital do not consider non-financial contributions towards the family life. This leaves many primary carer parents (usually 'stay at home' or part-time working mothers) financially disadvantaged. Cohabitants have no automatic rights to a pension or to inherit assets when one dies. Unlike mothers, fathers in cohabiting relationships do not automatically acquire parental responsibility for their child at birth.

However, many cohabitants do not realise that they do not have the same legal rights as married couples or civil partners. Indeed, research in 2018 by the University of Exeter<sup>4</sup> showed that 47% of people in a nationally representative survey believed that cohabitants acquire a 'common law marriage' status giving them the same rights as if they were formally married when this is not the case, the so-called 'common law marriage myth'. Belief in the myth is remarkably persistent, down only four percentage points since 2006, despite public information campaigns. As a result, decisions, often made decades before, can lead to significant financial inequality if the cohabiting relationship subsequently breaks down.

## Non-qualifying ceremonies

To be legally valid, a ceremony must comply with strict rules around notice, use of a licensed venue and have the correct personnel present. Religious-only ceremonies conducted in England and Wales without these formalities will not be valid. Ceremonies conducted by a Humanist or independent celebrant are not legally recognised at all.

The choice of the term for such ceremonies is problematic as there is a risk that the term used might be perceived to negate or undermine the profound meaningfulness of the ceremony for the couple involved. The [DfE Guidance on RSE](#) uses 'unregistered religious marriage' but this can be misleading as it is not possible to 'register' a religious marriage to make it effective under English law; it must comply with the legal requirements which include steps pre-marriage. This resource will use the term 'non-qualifying ceremonies' to refer to any ceremony that does not comply with the required formalities and therefore has no effect under the law of England and Wales as this is the term used recently by the English Court and by the Law Commission in its report on Weddings Law.<sup>5</sup>

Many couples who have ceremonies of this kind also have a short legal wedding complying with the formalities, usually conducted in a Register Office. However, further University of

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<sup>1</sup><https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2021#:~:text=The%20number%20of%20families%20that,same%20period%2C%20to%203.6%20million>

<sup>2</sup> House of Commons Briefing Paper, 2021 available at: <https://commonslibrary.parliament.uk/research-briefings/sn03372/>.

<sup>3</sup> There are different laws in other parts of the UK compared to England and Wales. These teaching resources outline how the law operates in England and Wales only.

<sup>4</sup> See: <https://researchandinnovation.co.uk/1981-2/>

<sup>5</sup> <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2022/07/A-new-weddings-law-LC-report.pdf>.

Exeter<sup>6</sup> research exploring non-qualifying ceremonies has shown that some couples delay having the legal wedding or do not see it as important, with some participants wrongly believing that they had rights as a result of the religious ceremony. As with misconceptions about 'common law marriage', this risks leaving those entering into non-qualifying ceremonies financially vulnerable if their partner dies or the relationship ends. Since Islam is the second most widely practised religion in the UK (after Christianity)<sup>7</sup> this is particularly relevant for the Muslim community, where many couples have a 'nikah' ceremony only in England and Wales. These lessons will help dispel the 'common law marriage myth' and misconceptions around non-qualifying ceremonies for the next generation.

## **Links to PSHE Association Programme of Study 2020-2021 and DfE statutory guidance for RSE**

The table below shows how the lessons fit elements of the core theme, 'Relationships' from the **Programme of Study 2020-2021** at Key Stage 4 and Key Stage 5. It also indicates which aspects of the **DfE Guidance on RSE** are met through the lesson content. The primary purpose is to help pupils learn about the importance of stable, committed relationships, including the rights and protections provided within legally recognised marriages and civil partnerships and the legal status of other long-term relationships (**KS4, R4**). This will be discussed against a backdrop of what different committed family relationships have in common before considering how the law views different family forms. It is important not to imply in any way that one relationship form is any better than another. However, they have different legal consequences, particularly on death or separation, as discussed in lesson 2, so ignorance of those differences may lead to unintended consequences in the way that the couple's financial assets are divided on separation or death, particularly for women. Dispelling the myths about different family forms will ensure that pupils are equipped to make **informed** decisions about their relationship choices in the future.

The lessons are devised to be used within a 'spiral programme', building on lessons the pupils will already have had within the new Relationships and Sex Education (RSE) curriculum. If adopting the PSHE Association's competencies-based model, this suggests that these lessons are taught in Summer 1 of Year 10 (under 'autonomy and advocacy') or if adopting the thematic model, in Summer 1 of Year 11 (under 'families').

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<sup>6</sup> See: [https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when\\_is\\_a\\_wedding\\_not\\_a\\_marriage\\_-\\_exploring\\_non-legally\\_binding\\_ceremonies\\_-\\_final\\_report.pdf](https://www.nuffieldfoundation.org/wp-content/uploads/2020/11/when_is_a_wedding_not_a_marriage_-_exploring_non-legally_binding_ceremonies_-_final_report.pdf).

<sup>7</sup> In the 2011 census, 59.3% of respondents identified as Christian, 4.8 as Muslim and 1.5 as Hindu (25.1% identified as having no religion), see: <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/articles/exploringreligioninenglandandwales/february2020#size-of-the-religious-populations> Figure 1.

**PSHE Association  
Programme of Study 2020**

**DfE Guidance on RSE**

**Core theme: Relationships**

Learning opportunities in Relationships and Sex Education:

Key Stage 4 pupils learn...

- 'the characteristics and benefits of strong, positive relationships, including mutual support, trust, respect and equality' (R1).
- 'the importance of stable, committed relationships, including the rights and protections provided within legally recognised marriages and civil partnerships and the legal status of other long-term relationships' (R4).

Key Stage 5 pupils learn...

- how to articulate their relationship values and to apply them in different types of relationships (R1).
- to recognise and challenge prejudice and discrimination and understand rights and responsibilities with regard to inclusion (R2).
- to recognise, respect and, if appropriate, challenge the ways different faith or cultural views influence relationships (R3).

**RSE teaching should:**

- equip pupils with 'knowledge that will enable them to make *informed* decisions about their... relationships' (para. 1).
- Alongside being taught about intimate relationships, it should teach pupils 'about **family relationships**... that are an equally important part of becoming a successful and happy adult' (para. 72).
- equip pupils to be clear on their **rights** and responsibilities as citizens (para. 76).
- be based on knowledge of pupils and their circumstances... [with] **no stigmatisation** of children based on their home circumstances (para. 59).
- Teachers should be aware of common 'adverse childhood experiences' (such as **family breakdown**...) and when and how these may be affecting any of their pupils and so may be influencing how they experience these subjects (para. 102).

Schools should cover the following content by the end of secondary:

**FAMILY**

- that there are different types of committed, stable relationships.
- how these relationships might contribute to human happiness and their importance for bringing up children.
- what marriage is, including their legal status e.g. that marriage carries legal rights and protections not available to couples who are cohabiting or who have married, for example, in an unregistered religious ceremony.
- the characteristics and legal status of other types of long-term relationships (para. 81).

## Safeguarding

Discussing different family forms may be an emotive subject for some pupils. Evidence from the Millennium Cohort Study in 2014 indicates that 37% of children were not living in the same household as their father by the age of 14, so there is likely to be a number of children in the class whose parents have separated, or whose close friends or family are going through a separation. Others will be living in households with high levels of conflict between parents.

The following safeguards should be put in place:

- Inform pastoral and safeguarding staff of the dates you will be teaching this topic and encourage them to discuss the lesson content with any pupils who are accessing support following parental separation or difficulties within the home. It can also be helpful to inform relevant parents (including directing such parents to the signposted support referred to in the third bullet point below) in case pupils come home with questions or wish to discuss these issues further.
- Give the pupil(s) a chance to withdraw from the lesson if appropriate (without being expected to justify their absence to their peers). Consider how to follow up the missed lesson with the pupil(s), as this learning may be especially relevant to them.
- Signpost sources of support before, during and after the lesson.
- Ensure that all teachers delivering the materials are familiar with school safeguarding/child protection policies and safeguarding protocols.
- Should a pupil make a disclosure about a personal matter during the lesson, following the teaching, teachers should refer to the safeguarding/child protection policy and inform the Designated Safeguarding Lead so that appropriate support can be put in place.

## Creating a safe learning environment

A safe learning environment helps pupils express opinions and consider others' views safely and should be established in all PSHE lessons. Given that this may be a sensitive topic for pupils whose parents have separated or whose home life is difficult, and it touches upon cultural and religious issues which may be relevant to particular students, the learning environment for the pupils must be safe. Teachers must be sensitive to the needs and experiences of the pupils. Distancing techniques are employed in the lesson - pupils discuss family forms through three fictitious families. Pupils should be discouraged from making any personal disclosures about their own families. Teachers should refer to the [Handling complex issues safely in the PSHE Classroom](#) guide before teaching.

If a class has established 'class ground rules' then these can be used, and pupils can also be asked to add to the ground rules as appropriate. Otherwise the following ground rules are suggested:

We will:

- keep anything that others say confidential
- talk about 'someone I know...' rather than using a person's name
- comment on what is said, not who has said it
- have the right to pass
- ensure that comments or views expressed are respectful of different family forms, cultures and beliefs
- seek help in school/encourage friends to seek help if needed.

We will not:

- disclose personal information about ourselves or others
- judge others
- put anyone on the spot
- ask personal questions or try to embarrass someone.

Teachers should also:

- have an 'ask-it-basket'/ question box for pupils to ask questions confidentially
- review and address any questions submitted in the anonymous 'ask-it-basket'/ question box
- work within the school's policies on safeguarding and confidentiality
- link PSHE education into the whole school approach to support pupil wellbeing
- make pupils aware of sources of support, both inside and outside the school
- explain to pupils that while confidentiality is important, if something is said or a behaviour causes concern, teachers may speak to another member of staff who is a member of the safeguarding team.
- ensure that language used is always inclusive
- ensure that any comments or views expressed are respectful of the many forms that family life takes today and of diverse cultures and beliefs.

## Developing understanding

### Glossary of terms

Many of the terms used within the lesson plans may not be familiar to pupils. To ensure that accurate terms are used during the lessons a glossary of terms used is set out below.

#### Lesson 1

Term	Description
Civil wedding	A marriage ceremony performed, recorded and recognised by a government official.
Civil Partnership	A relationship which can be registered between a mixed-sex or same-sex couple.



Cohabitants	A couple who are living together without being married or in a civil partnership.
Cohabitation	Living together as partners without being married or in a civil partnership.
Mahr	The marriage gift provided by the husband to the wife in Islamic marriages.
Marriage	A legal union between a mixed-sex or same-sex couple.
Legally binding ceremony	A marriage or other ceremony that has effect under the law of England and Wales.
Nikah	An Islamic religious marriage ceremony.
Non-qualifying ceremony	A marriage or other ceremony that has no effect under the law of England and Wales.
Registered building	A certified place of worship which is also registered for weddings to take place there. Under the current law, weddings conducted by religious organisations other than those of the Anglican, Jewish and Quaker faiths must take place in registered buildings.
Religious-only ceremony	A marriage ceremony that is recognised by a religious community or organisation but not by the state, because the wedding did not follow the legal requirements.
Religious wedding	A marriage ceremony conducted by a religious community organisation that is recognised by the state because it complies with certain legal requirements.
The 'common-law marriage myth'	The mistaken belief that unmarried couples who live together for some time have a 'common law marriage' which gives them the same legal rights as married couples.

## Lesson 2

Term	Description
Adoption	The act of legally taking on another person's child and bringing the child up as one's own.
Cohabitation agreement	An agreement signed by a couple who intend to live together or are living together. It deals primarily with who owns (and owes) what at the time of the agreement, and in what proportions; what financial arrangements the couple have decided to make while they are living together, and how property, assets and income should be divided if they should split up.
'Home rights'	The right accorded to married or civil partnered couples to occupy the 'family home' even if it is owned by or the tenancy agreement is in the name of the other spouse or civil partner only.
Parental responsibility	The legal rights and responsibilities that a parent has towards a child to make decisions in the child's best interests on such issues as the child's name, education, religion and medical care.
Pre-nuptial agreement	An agreement signed by a couple before their marriage or civil partnership ceremony which sets out how the couple's assets and income will be divided if they separate.
Surrogacy	An arrangement where a woman carries and gives birth to a baby for another person or couple.
Tenancy	An agreement that allows a person to live in a house belonging to someone else for an agreed period, to the exclusion of the owner and in exchange for an agreed payment.
Will	A formal document, signed by the maker of the will in the presence of two independent people, which sets out what will happen to a person's money, property or possessions after their death.

## Signposting to support

### Support for teachers

For further information on the Law Commission's report on weddings law visit:  
<https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jxou24uy7q/uploads/2022/07/A-new-weddings-law-LC-report.pdf> .

For further guidance on marriage, civil partnerships and cohabitation visit:

Citizens Advice: <https://www.citizensadvice.org.uk/family/living-together-marriage-and-civil-partnership/living-together-and-marriage-legal-differences>.

AdviceNow: <https://www.advicenow.org.uk/guides/survival-guide-living-together-and-breaking>.

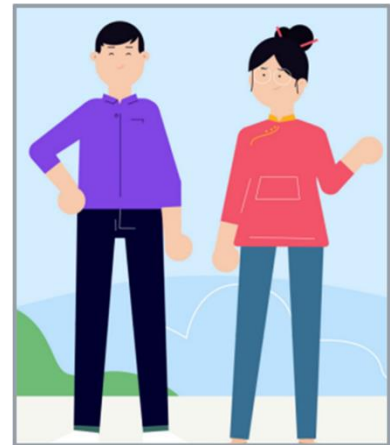
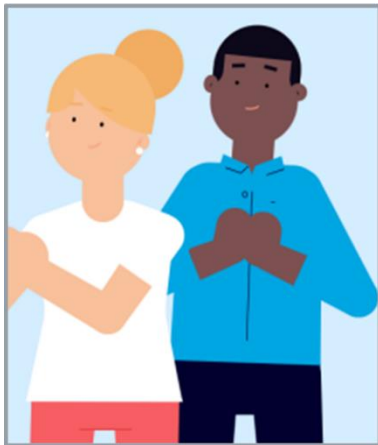
## Support for pupils

For further help and support outside of school visit:

- ChildLine: <https://www.childline.org.uk>
- Muslim Youth helpline: <https://myh.org.uk/>
- National Youth Advocacy Service: <https://NYAS.net>
- Citizen's Advice: <https://www.citizensadvice.org.uk>
- AdviceNow: <https://www.advicenow.org.uk/>



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# ***'Modern Families'*** **Formalising Relationships**

## **Lesson 1**

## Lesson 1: Formalising relationships

This is the first of two lessons for Key Stage 4 and Key Stage 5 focusing on the formation and legal consequences of different family forms.

### Learning Objectives

- To learn about the validity of, and the laws and regulations around, marriages and civil ceremonies in England and Wales.

### Learning Outcomes

Pupils will be able to:

- Explain some of the key features of how the formation of legally binding relationships is regulated in England and Wales.
- Identify when a religious ceremony may give rise to a legally binding marriage and when it may be considered a 'non-qualifying ceremony'.
- Analyse and challenge misconceptions regarding the common law marriage myth.

### Support and extension

To differentiate teaching some activities have support and extension activities marked with icons below and on the slides



### Resources:

- Sticky notes
- Handout for 'Quick fire quiz' if using
- An 'ask-it-basket'/ question box for pupils to ask questions confidentially.



### Timing:

The lesson is designed to be taught over 55 minutes



### Climate for learning:

Read the accompanying teacher guidance before teaching for advice on establishing ground rules, the limits of confidentiality and sources of support



### Keywords:

Marriage, civil partnership, cohabitation, the common-law marriage myth, non-qualifying ceremony, nikah.

## Suggested timing

Activity	Description	Suggested Timing
Introduction	Ground rules, learning objectives and outcomes.	3 minutes
Baseline activity	Pupils will draw a mind map of family forms and what they have in common.	5 minutes
Odd one out	Pupils will choose the odd one out on the legal recognition of three family forms.	5 minutes
Forming legally valid relationships	Pupils will discuss the rules around forming legally valid relationships. They will create two lists on why the law should and should not regulate where weddings are held.	10 minutes
Non-qualifying ceremonies	Pupils will consider the legal consequences of non-qualifying ceremonies, particularly nikah ceremonies, and why couples might have this ceremony only.	10 minutes
The 'common law marriage myth'	Pupils will discuss the meaning and prevalence of the 'common law marriage myth' and why mistaken belief in the myth matters.	12 minutes
Quick fire quiz	Pupils will consolidate learning with a quick fire quiz.	3 minutes
Endpoint assessment	Pupils will revisit and revise the baseline answers as appropriate.	5 minutes
Homework/extension	Wrap up and setting homework (or extension) task.	2 minutes

The timings given are the minimum time required to deliver the activities. If some activities are generating lots of discussion and you feel students are making good progress towards achieving the learning outcomes, you may wish to spend longer on some activities and extend the lesson plans across multiple lessons.

## Baseline assessment



### 8 Introduction and baseline activity (What is a family?) slides 9-11

Negotiate or revisit ground rules for the lesson. Introduce the learning objective and outcomes and explain that today's lesson will explore the key regulations on formalising relationships and some common misconceptions around when a marriage ceremony will be legally binding.

First, ask pupils to draw a mind map with the word 'family' in the middle. Around the outside, ask them to write down (without conferring):

- a) Who or what they think of when they think of 'a family'. Pupils might mention the different people who can be part of a family (e.g., parents, children, brothers, sisters, grandparents, aunts, uncles, cousins, step-parents and step-siblings). They may also list different family forms (e.g., married parents, civil partners, cohabitants (mixed-sex and same-sex); single-parent families, blended families, adoptive families etc.).
- b) What different family forms have in common. (Pupils might mention that at least some family members tend to live together; they provide love and support for one another; they provide financially for dependent members; they spend time together socially etc.).
- c) What rights do married couples have?
- d) What rights do couples who live together have?

**Note:** Do not give further hints or tips, even if pupils ask questions. They should not share their ideas with classmates during the activity. This will allow you to see pupils' beliefs and ideas before the lesson begins.

Circulate the room as pupils complete their mind maps to gauge what pupils know/think/feel/believe concerning the topic. After pupils have had three to four minutes or so to complete their mind maps, ask for all class feedback (using the suggested answers above to guide you). Ask pupils not to add anything else to their mind maps during class feedback and to put these to one side as they will return to them (and these two questions) at the end of the lesson.

This exercise gets pupils to think about the various kinds of families and what they have in common before considering how the law views different family forms.

## Core activities



### 5 Odd one out – slides 12-15

#### Slide 12

To set up the odd one out exercise, explain to students that they will be introduced to three couples; John and Jake, Emad and Saira and Henry and Mary. Explain that two of the couples have had different forms of ceremonies and one of them has not had any form of ceremony to recognise their relationship. Some of those ceremonies will be legally binding ceremonies so will

have legal effect in England and Wales and some will be non-qualifying ceremonies that have no legal effect in England and Wales. Explain that this can have implications both during the relationship and if it ends either by separation or death as the law treats these different forms of relationship very differently. Tell pupils that they will be exploring some of these differences over the course of this and the next lesson.

To gauge pupils' knowledge about how the law views different family forms, take five minutes to ask the class to answer the three questions. To ensure that all participate, working individually without conferring, either ask pupils to write 'A', 'B' and 'C' on separate pieces of paper that they can hold up in response to each question or ask pupils to write down their answers before asking individual pupils to give their answer to a question.

### **Slide 13: Legally binding or non-qualifying ceremony?**

In slideshow mode, each option appears and then, on a click, the validity of each ceremony is revealed to confirm that A is the odd one out. It is a non-qualifying ceremony i.e. not legally binding because although, from June 2021, civil weddings and civil partnerships can be held outdoors, the venue must be licensed – which John and Jake's home won't be. (The measure to allow outdoor ceremonies, initially temporary in response to the pandemic, was made permanent in March 2022.)

B and C emphasise that same-sex partners can opt to have a civil partnership or a marriage. When civil partnership was first introduced in 2006 it was available only to same-sex couples but from December 2019, mixed-sex couples can choose to have a civil partnership.

### **Slide 14: Legal wedding or non-qualifying ceremony?**

A is the odd one out as it would be considered a non-qualifying ceremony, whereas the other two would be legal weddings. The nikah in A and B would be a non-qualifying ceremony. However, if (as many couples do) Emad and Saira either have a combined nikah and civil wedding at a mosque that is a registered place of worship i.e. a registered building, or a nikah followed by a civil wedding at a register office, the civil weddings in each case would be legally binding.

### **Slide 15: Not legally recognised relationship or valid marriage?**

A is the odd one out as it is the only relationship that is legally recognised.

Including the whirlwind marriage emphasises the arbitrary nature of the current rules – a couple married three months after meeting has a valid marriage with legal consequences yet a committed couple living together without marrying for 10 years who have a child together do not (as pupils will learn) acquire legal rights automatically.



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## **Forming legally valid relationships – slides 16-17**

Slides 16 to 22 consider in further detail the legal validity of these three different family forms discussed in the 'odd one out' exercise.

To consolidate learning from this and the following six slides on the legal status of different family forms and to scaffold this part of the teaching, there is a quick fire quiz on slide 23. To ensure



that all pupils participate, either provide a handout for pupils to complete/refer back to if they need the information in future (a handout is at the end of the Teacher Guidance) or write the questions on the whiteboard at the start of the lesson. If using the handout, hand it out now and ask the pupils to write the answers on the handout/make a note of the answers as you go through the slides as you will be asking individual pupils to give their answers to a question later.

Run through the contents of slide 16 on the rules on forming legally binding relationships and check whether pupils have any questions. Point out that the changes on where relationships could be formalised after June 2021 apply to civil weddings and civil partnerships only but not to religious weddings (i.e. a marriage ceremony conducted by a religious community organisation that is recognised by the state because it complies with certain legal requirements.)

Next, on slide 17, give pupils five minutes to work in pairs to create two lists – noting down on one list at least three reasons why the Government should regulate where a marriage or civil partnership is held and on the other three reasons why couples should be free to marry wherever they choose. Then take three minutes to **ask** some of the pupils to feedback what they have put on the two lists. Remind pupils that in June 2021, the law changed to allow civil weddings and civil partnerships to take place outdoors provided the venue is licensed. The changes in the rules to civil weddings and civil partnerships only, not to religious weddings. This temporary measure was made permanent in March 2022.

Alternatively, consider asking some pupils to present arguments for and some to present arguments against the regulation of venues from the front of the classroom, debate-style. The rest of the class should vote, with a show of hands, on whether they think that regulation should stay the same, be relaxed or be abolished to allow couples to marry wherever they choose.



**Support activity** - Consider suggesting that pupils list only one reason for and against regulating the place of marriage.



**Extension activity** - Consider asking pupils to write down and then share with the class their ideas for **how** weddings should be regulated. (For example, should couples be able to give notice online instead of in person? Should the venue be licensed, or should it be the person conducting the licensed ceremony? Should all ceremonies – including religious ones - be allowed to take place outdoors?)



## 10 Non-qualifying ceremonies – slides 18-20

To set up the discussion on non-qualifying ceremonies and check the pupils' knowledge in this area, run through the contents of slide 18 about the nikah ceremony – the Islamic religious ceremony.

Stress that different religions have different customs in their marriage ceremonies which can be deeply meaningful to the couple. Here we concentrate on the nikah, the Islamic marriage ceremony, because Islam is the most widely practised religion in the UK after Christianity. In the

2011 census, 59.3% of respondents identified as Christian, 4.8 as Muslim and 1.5 as Hindu (25.1% identified as having no religion), (see slide for reference).

Then run through the contents of slide 19 on the rules on non-qualifying ceremonies and check whether pupils have any questions.

Explain to pupils that many mosques are also registered buildings so a couple can have their nikah ceremony and the legal wedding at the same time. If the mosque is not a registered building then the couple also need to have a legal wedding, often at a register office, to have the same rights and protections as couples who are legally married.

It is important to stress that having a non-qualifying ceremony does not detract from the marriage ceremony's cultural and personal significance to the couple.

Next, on slide 20, give pupils five minutes on their tables to discuss why they think couples might have a religious-only ceremony and then ask them to nominate one person on the table to give feedback on their answers.

Answers might include:

1. The couple may be unaware that a religious-only ceremony conducted in England and Wales is not legally binding.
2. One member of the couple may be aware that a religious-only ceremony is not legally binding, but they may decide that there are advantages to them, so do not tell the other person.
3. Both members of the couple may be aware that a religious ceremony is not legally binding but may be unconcerned about this because the religious only ceremony holds far more meaning to them than a civil ceremony. They may also believe that the legal differences are of no consequence to them as they are convinced they will not separate. Around 45% of all marriages break down, but because of optimism bias (a person's belief that an adverse event is less likely to happen to them), many people do not expect that they will separate.<sup>8</sup>
4. Both members of the couple may be aware that a religious-only ceremony is not legally binding but one person is resistant to a civil ceremony.



**Support activity** - Consider suggesting some of the above reasons to the class. (For example, lack of awareness that a religious only ceremony is not legally binding; a belief that they will not separate, so it is not important; one of them not wanting to go through the civil ceremony). **Ask** the pupils to say which they think is the **most likely** reason couples might have a religious-only wedding. .



**Extension activity** - Consider asking pupils **how** the issue of couples being unaware of the lack of legal validity of a non-qualifying ceremony might be overcome. (Examples may include education in schools, colleges and universities; a public education campaign; a storyline in a soap opera; compulsory information given when couples enter a non-qualifying ceremony and information at touchpoints such as GP surgeries, places of worship etc.).

<sup>8</sup> Barlow, A., Burgoyne, C., Clery, E., & Smithson, J. (2008). Cohabitation and the law: Myths, money and the media. In A. Park, J. Curtice, K. Thomson, M. Phillips, M. Johnson, & E. Clery (Eds.), *British Social Attitudes: The 24th Report* (pp. 29-53). London: Sage Publications Ltd.



## 12 The 'common law marriage myth' – slides 21-22

Run through the contents of slide 21 on the 'common law marriage myth' and check whether pupils have any questions.

**Ask** pupils why couples might live together rather than get married (note in slideshow mode this question will appear on the slide on a click). Answers may include:

1. The cost of the wedding.
2. Optimism bias (believing that they will not be one of the couples who separate) may lead them to think there is no need to marry to secure rights.
3. Belief in the 'common law marriage myth'– if one or both believe that they will have acquired rights, there may not seem to be any need to marry.
4. Belief that the institution is outdated.

Others might not realise that their relationship is not legally binding because, for example, they believe that a religious-only ceremony entered into in England and Wales is legally binding – see slide 20.

Then, on slide 22, **ask** pupils why belief in the 'common law marriage myth' matters.

Answers may include:

1. It means people are not making informed decisions about their relationships (see [DfE Guidance on RSE para. 1.](#))
2. Belief in the myth is likely to mean that couples fail to take steps that may have given them better financial protection if the relationship was to break down or one of them was to die.

NB – It is important not to imply in any way that one relationship form is any better than another. However, they have different legal consequences on death or separation, as will be discussed in lesson 2. Ignorance of those differences may lead to inequalities and unforeseen outcomes in the way that the couple's financial assets are divided on separation or death – which can adversely affect women.

Explain to pupils that they will be exploring in lesson 2 the legal differences between married and unmarried relationships as relationships develop and couples, for example, buy a home or have a child, as well as on death or separation.

**Extension activity** - Consider asking pupils to suggest reasons why the myth came about in the first place and why it persists: For example, it could have come about historically when there was less regulation around marriage. It may have persisted because it is an entrenched belief widely held amongst the public and media. People may assume that cohabitants will have rights because that seems to them to be fair.



### 3 Quick fire quiz – slide 23

To consolidate learning from the lesson, take five minutes to ask the class to answer the five questions. To ensure that all participate, either provide a handout for pupils to complete/refer back to if they find they need the information in future (a handout is at the end of the Teacher Guidance), or ask pupils to write down their answers before asking individual pupils to give their answer to a question. As noted on slide 16, if using the handout, it should be handed out at the start of the discussion on forming legally valid relationships.

In slideshow mode, each question in the left-hand box is followed by an answer in the right-hand box.

## Assessment of learning



### 5 Endpoint assessment Activity – slide 24

**Ask** the pupils to return to the mind map they drew earlier and, in a different colour, add to the mind map by:

- Writing down any additional family forms that they have learned about today not on their original list.
- Indicating which of the couples included in their family forms or types of relationships have legally binding status and which do not.
- Explaining what ceremonies would be needed to ensure that couples have a legally binding status if this is something they wish to have.

Pupils should now identify that cohabiting couples, or couples who have had a religious-only ceremony, or any other non-qualifying ceremony would not be legally binding. They should be able to explain that couples would need to have a civil wedding or civil partnership ceremony if they would like their relationship to be legally binding.



### 2 Homework or extension task and sources of support – slides 25 and 26

**Homework or extension task:** In lesson 2, pupils will be considering the different legal rights of cohabitants compared to married couples or those in a civil partnership. To put the scale of the issue into context, for homework or as an extension task, **ask** pupils to do some research on the number of couples in cohabiting relationships in England and Wales.

(It is estimated that between approximately 3.4 – 3.6 million couples cohabit in England and Wales.)

NB - The question is restricted to England and Wales because the countries that make up the rest of the UK each have different legal systems.

Remind pupils whom they can talk to in school, e.g. teacher or head of year, or the pastoral support team (you may wish to personalise this slide with names of contact staff) or outside of school.

ChildLine can assist if the child has problems in their home and family life.

Muslim Youth helpline may be helpful given the culturally sensitive issues raised.

National Youth Advocacy Service (NYAS) provides a range of rights-based services for children and young people through a network of qualified advocates. Advocates ensure that the views of children and young people are listened to, particularly in decisions made about them. This may be helpful for any pupil whose parents have separated.

Citizen's Advice and AdviceNow have lots of information on some of the issues the pupils have been discussing, such as cohabitants' rights.



University  
of Exeter



# ***'Modern Families'*** **Legal Rights When Relationships End**

## **Lesson 2**

## Lesson 2: Legal Rights When Relationships End

This is the second of two lessons for Key Stage 4 and Key Stage 5 focusing on the legal consequences of different family forms.

### Learning Objectives:

- To learn about key differences in legal rights between couples who are legally married or in a civil partnership and couples in a non-legally binding relationships, and why it is important to know these differences.

### Learning Outcomes

Pupils will be able to:

- Describe the legal rights of couples who are legally married or in a civil partnership.
- Analyse the reasons why a couple may or may not choose to marry or have a civil partnership.
- Explain the consequences of not having a legally binding relationship.

### Support and extension

To differentiate teaching some activities have support and extension activities marked with icons below and on the slides.

### Resources:



- Sticky notes
- An 'ask-it-basket'/ question box for pupils to ask questions confidentially
- Resources A, B, C and D (see slides) and slides 16-20.

### Timing:



The lesson is designed to be taught over 55 minutes

### Climate for learning:



Read the accompanying teacher guidance before teaching for advice on establishing ground rules, limits of confidentiality and sources of support.

### Keywords:



non-qualifying ceremony, common-law marriage myth, parental separation, cohabitants rights.

## Suggested timing

Activity	Description	Suggested timing
Introduction	Ground rules, learning objectives and outcomes.	3 minutes
Baseline activity	Pupils will consider what rights they think couples who live together should have.	5 minutes
Rights and protections	Pupils will complete a grid by choosing from a set of flashcards the rights and protections given to three different family forms.	10 minutes
Differences in rights and protections	Pupils will learn about the differences in rights and protections that married couples or couples in a civil partnership have compared to cohabitants or couples who had a non-qualifying ceremony and steps that couples can take to protect their rights. Pupils will apply the learning to a set of scenarios.	15 minutes
Lawmaker for a day	Pupils will be asked to imagine that they have been given the responsibility to draft a new law for cohabitants – what would it include and when would it apply?	15 minutes
Endpoint assessment	Pupils will complete an exit slip that will show whether their views have changed from the baseline activity.	5 minutes
Homework/extension	Wrap up and setting homework (or extension) task.	2 minutes

The timings given are the minimum time required to deliver the activities. If some activities are generating lots of discussion and you feel students are making good progress towards achieving the learning outcomes, you may wish to spend longer on some activities and extend the lesson plans across multiple lessons.



## Baseline assessment



### 6 Introduction – slides 9-10

Before the lesson begins, print out Resources A (if using), B and C with enough copies for one per table. Print out Resource D with enough copies for pupils to work in pairs. Print out slides 16 to 20 and stick them around the room.

Negotiate or revisit ground rules for the lesson. Introduce the learning objective and outcomes and explain that today's lesson will explore key differences in legal rights across the life stages for different family forms and how misconceptions about those legal rights can lead to unintended outcomes.



### 2 Who should have rights? – slide 11

Ask pupils, without conferring, to complete the table on the slide to gauge their views on what rights couples who live together (cohabitants) should have. To ensure that all pupils participate, either provide a handout for pupils to complete (a handout is at the end of the slides – Resource A) or ask them to write their responses to the five questions (strongly disagree, disagree etc. ) on a blank piece of paper.

**Note:** Do not give further hints or tips, even if pupils ask questions. They should not share their ideas with classmates during the activity. This will allow you to see pupils' beliefs and ideas before the lesson begins.

**Circulate the room** as pupils complete the scale in Resource A to gauge what pupils think/feel/believe concerning the topic. After pupils have had three to four minutes or so to complete their responses, ask for all class feedback (using a show of hands for each question's options). **Ask** pupils not to change their answers during class feedback and to put these to one side as they complete an exit slip based on these questions at the end of the lesson.

## Core activities



### 10 Rights and protections – slides 12-15

Handout to each table the grid template found at the end of the pupil-facing slides at slides 27 (Resource B), with cards at slides 28-29 (Resource C). The cards list the legal position on each of the events listed e.g. the position regarding parental responsibility depending on whether a couple is in a civil partnership, married or cohabiting.

Before the lesson, print (with enough for a set for each table) Resource B and the two slides for Resource C, which will need to be printed, two-sided (with the printer set to 'flip on the short edge') and cut up.

Remind pupils of the brief scenarios: the same-sex couple, John and Jake, are in a civil partnership, the second couple, Emad and Saira, have had a religious ceremony followed by a civil ceremony that complied with the legal regulations (so they are legally married) and the third couple, Henry and Mary, are cohabitants.

Ask pupils to place the cards on the grid (Resource B) according to which solution they believe applies to each couple for each life stage e.g. renting a house, having a child etc.

On slide 13, in slideshow mode on a click, each box is revealed to show the legal position for each couple per event. Check that pupils have placed the cards in the correct boxes. Answer any queries from pupils who placed a card in the incorrect box/ explain why the cards have been placed in a particular box if there have been any issues.

Ask: What do you notice about the rights of each family form?

Answer: The same-sex couple in a civil partnership and the married mixed-sex couple have exactly the same rights, whereas the cohabiting couple has significantly fewer rights, especially if the couple separates or one dies.

Next, ask pupils to remove the cards and then put the relevant cards in the column for Emad and Saira only that indicate what the position would have been on the occurrence of each event. This time, they should assume that the couple had a non-qualifying ceremony by way of a nikah ceremony in England.

The answer is that the position for couples with a non-qualifying ceremony is the same as cohabitants. The pupils should have placed the cards they used in the previous exercise for the cohabitants in Emad and Saira's column.

The key point to draw out is that the position of civil partners and couples with a legally binding marriage is the same but that where there has been a non-qualifying ceremony in England and Wales, this is treated as if the couple is not married. The couple's rights are the same as if they were cohabitants.

(Note that slides 14 and 15 are there to create the animation on slide 13 and will be hidden when in slideshow mode.)



**Support activity** - For the first exercise (i.e. Emad and Saira in a valid marriage), consider giving pupils the template with the first column for John and Jake completed leaving the pupils with two cards per row, each with a different solution, for the pupils to complete the remaining boxes.



**Extension activity** - Consider asking pupils to discuss which outcomes feel unfair to them. For example, does it feel fair that:

- Henry and Mary, as cohabitants, have far fewer rights than if they were married?
- couples in a civil partnership have the same rights as married couples?
- if Emad and Saira had had a religious-only ceremony in England and Wales, this would be treated as a 'non-qualifying ceremony', and they would be treated the same as cohabitants?



## 15 Differences in rights and protections – slides 16-20

To consolidate learning and underscore the significant difference between the rights of married couples/civil partners and couples who live together (cohabitants) or have a non-qualifying ceremony, this and the next four slides consider a range of typical life stages and how the risks associated with the different family form in each scenario might be mitigated. The key thing to get across in this and the next four slides is that:

1. Couples who have a non-qualifying ceremony are treated in law as if they are cohabitants, not a married couple.
2. The rights of cohabitants and couples who had a non-qualifying ceremony are significantly less than those of couples married or in a civil partnership.

To enable all students to achieve the same learning outcomes in the lesson and ensure that all students actively participate and engage with the content, hand out Resource D. Working in pairs, ask pupils to consider the five scenarios presented in Resource D and give them two to three minutes to circulate the room, considering the information presented on each of the five slides (stuck around the room before the start of the lesson) to determine the steps the person referred to should take in each of the given scenarios. Ask 5 pupils to give their responses to a question. Then, briefly run through the slides to clarify answers and consolidate learning.

### Slide 16

Run through the slide highlighting the differences between the different family forms and the possible remedies when renting a home. Here, and at the end of each slide in this exercise, check whether pupils have any questions.

### Slide 17

Run through the slide highlighting the differences between the different family forms and the possible remedies when having a child.

Point out that while all mothers automatically have parental responsibility (PR) for their children, not all fathers have it. However, provided the father is named on the birth certificate, which most fathers are, they will share PR equally with the mother. As a higher-level teaching point or if the class is particularly interested, unmarried fathers who are not on the birth certificate can also acquire PR by entering a PR agreement with the mother or court order).

### Slide 18

Run through the slide highlighting the differences between the different family forms and the possible remedies.

**Ask:** Why might someone contribute towards purchasing a property but agree to it being bought in the partner's name only? (In slideshow mode this question will appear on a click).

- They may not think about the consequences of the house being in the partner's name only in the excitement of buying a home together.
- They may not realise that they have no automatic rights to the home if they were to separate.

- It may have seemed easier to put the house in one person's name or may have been a requirement of the mortgage, especially if that person was the higher earner.
- It may feel unromantic or as if they do not trust their partner if the person were to say that it did not feel fair to buy the home in one person's name.
- It may seem irrelevant as the person does not think they will ever separate from their partner.

### Slide 19

Run through the slide highlighting the differences between the different family forms and possible remedies when a couple splits up. **The key point to get across is that the rights of cohabitants – to assets in the other person's sole name or to income for themselves - are far more restrictive than the rights of married or CP couples.**

**Ask:** What is a pre-nuptial agreement? (In slideshow mode this question will appear on a click, followed by an abbreviated version of the answer below to help students to complete Resource D.)

Answer: an agreement signed by the couple before the marriage or civil partnership ceremony which sets out how the couple's assets and income will be divided if they separate. Pre-nuptial agreements are not legally binding in England and Wales. However, the court will usually uphold them if they have been freely entered into, with full appreciation of the facts (usually because each person has provided details of their assets and income to the other and the terms of the agreement have been explained to each person by their lawyer) and the agreement is fair.

Explain that a cohabitation agreement is agreed and signed by a couple who intend to live together or are living together. It deals primarily with who owns (and owes) what at the time of the agreement, and in what proportions, what financial arrangements the couple has decided to make while they are living together, and how property, assets and income should be divided if they should split up.

### Slide 20

**The key point to get across is that cohabitants and couples who had a non-qualifying ceremony have no automatic right to assets owned by the other person on that person's death.**

Explain that a will sets out who will inherit a person's assets on death. Provided a will is valid, the assets of the person who has died will be divided following the will, so a surviving partner or spouse would inherit the share left to them, regardless of whether the couple was married. However, if a person dies without making a will, then the rules are very different depending on whether the couple was married/ in a civil partnership.

Run through the slide highlighting the differences between the different family forms and the possible remedies if one person from the couple was to die.

The rights the survivor may have largely depend on the person who has died taking proactive steps in their lifetime to protect the survivor, for example by:

1. Owning an asset jointly or signing a Declaration of Trust setting out what proportion of the asset the survivor will have on the death of the owner of the asset.

2. Nominating the survivor to receive for example a share of a life insurance policy or their pension.

Each person should therefore make a will setting out who will inherit their assets if they die.

Point out that since 2018 bereavement support payments have been payable to cohabitants as well as married couples or civil partners.



## 15 Lawmaker for a day – slide 21

Collect the Resource C cards from each table to ensure that pupils are not just copying these for this exercise. Tell pupils to imagine that they have been given the responsibility to draft a new law for cohabitants. Working on their tables, ask pupils to make a list of:

- The key rights that they would grant to cohabitants (if any). (Tell them that they can use the Resource B grid to ensure they cover rights on the events listed.)
- When they think cohabitants should start to have these rights (e.g. immediately upon moving in together; after a certain period of living together (if so, what); if they have a child together etc.)

Ask pupils to reflect on why they think that the law (if any) that they have proposed is appropriate. What responsibilities do they feel that cohabitants might have towards their partner, or their families? Why should cohabitants have these responsibilities?

Ask pupils for feedback on their answers and their reasoning. Thinking about responsibilities (as well as rights) will help to emphasise that regardless of the legal status of the relationship, those in relationships are expected to maintain healthy relationship behaviours towards one another.

Note that in slideshow mode the following two questions then appear on a click:

**Ask** why might some cohabitants be opposed to marriage or civil partnership?

Answers might include:

- They see any formal regulation of their relationship as an infringement of their freedom of choice.
- They see both marriage and civil partnership as outdated institutions.
- They do not want to have any legal responsibility towards their partners.

**Ask:** Should people be allowed to opt out of any automatic rights for cohabitants that might be introduced? Why/why not?

Answers might include:

- They should be able to because they may have chosen to cohabit specifically because they did not want to be bound by the rules of the institutions of marriage or civil partnership therefore it would be unfair to then make them bound by the rules of a new law regarding cohabitation.
- They should not be able to because they should be responsible for their partner and any children of the relationship. Particularly because one partner may have been financially disadvantaged by the decisions that the couple made during the marriage (e.g. one partner's employment prospects might have worsened if they have worked part time after having children – this impacts especially on women). There is also a possibility, if

the relationship is controlling in any way, that the decision to live together without marrying has not been agreed upon freely by both parties. Even if the relationship is not controlling, if one person does not want to marry but the other does, it means that the financially more vulnerable one is 'stuck' with significantly less rights than if they were married, which can lead to unfair outcomes if the relationship breaks down.

The key thing to get pupils to be thinking about here is that allowing one person the 'right' to choose to be free of any responsibility towards their partner means that if the relationship ends, the partner's 'right' not to be financially disadvantaged by the decisions the couple made during the relationship is curtailed. The question then becomes one of fairness. Is it fair that this should be the outcome? Should there be a safety net of rights for partners who are not married? If so, when should this operate? After a certain period of time together? If the couple have a child?

This discussion will help pupils to consider the responsibilities that people have within their relationships as well as rights.



**Support activity** - Consider giving pupils the Resource C cards so that they can choose which outcome, for each event, they think should apply to cohabitants if they were made a lawmaker for a day.



**Extension activity** - Consider telling the pupils that Henry and Mary are considering entering into a cohabitation agreement that would set out how they would divide their assets and time with their daughter Lily aged two in the event of their separation. Ask pupils to bullet point the things that should be covered in the cohabitation agreement. This might include:

1. How they will divide their household bills during the cohabitation.
2. On separation, how they will divide:
  - any assets they owned before they began to cohabit
  - any assets they acquired during the time they lived together
  - any debts they may have
  - time with Lily and
  - how much one parent will pay the other each month (if anything) towards the cost of Lily's upkeep.

## Assessment of learning



### 5 Endpoint assessment Activity – slide 22

**Ask** pupils to complete an exit slip focusing on their beliefs about who should acquire rights if a relationship breaks down and whether these have changed during the lesson.

**Ask** them to respond to the following question: What would you say to someone who says, “getting married is the best option for all couples!”?

Pupils should write their responses in their PSHE exercise book or on an ‘exit slip’ or sticky note, which they should hand to the teacher before leaving the classroom.



### 2 Homework or extension task and sources of support – slides 23 and 24

Ask pupils to produce and bring a poster to the next lesson setting out considerations people should think about if they are wondering whether to get married/form a civil partnership.

Run through slide 24, which has details of help and support available to pupils in and out of school. Remind pupils to use the ‘ask it basket’ for any questions they may have.

Slides 25 to 30 are the Resources A to D for printing.

## Feedback

It would be helpful for us to understand why you chose these resources and how you have found using them. We would be very grateful if you would take the time to complete a short feedback form. It should take 5-8 minutes to complete. The form can be found here: <https://forms.office.com/e/aMHVfih2y7> or by scanning the code below.

'Modern Families' lesson plans



## *Modern Families:*

# *Learning the legal consequences of different family forms*

## Lesson 1: Quick fire quiz

What did you learn about the rules on forming legally valid relationships? As the teacher goes through the slides, answer the 5 questions below in the boxes.

QUESTION	ANSWER
1. What is the name of the religious only ceremony for Muslim couples?	
1. Does a 'non-qualifying ceremony' have legal consequences?	
2. What is the 'common law marriage myth'?	
3. According to the 2018 British Social Attitudes survey, what percentage of people surveyed believed in the 'common law marriage myth'?	
4. Can couples choose to marry outside in England and Wales?	