

RULING ON COHABITATION

**A Critical Study of the Cohabitation Rule
in UK Social Security Law**

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for the degree of Doctor of Philosophy**

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DECLARATION

I hereby confirm that I have composed this thesis and that this thesis is all my own work. I also declare that this work has not been submitted for any other degree or professional qualification.

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DEDICATION

I dedicate this study to my parents, Jean and Joe Kelly and to Dylan, my grandson, the newest member of the family.

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ABSTRACT

This thesis demonstrates that the cohabitation rule in UK law rests on questionable assumptions about financial support and on an unreliable adjudication procedure. It is out-of-step with private law constructions of the obligations of cohabitants and with modern relationship aspirations. It continues to discriminate against women with children, forcing many of them into financial dependence on a male breadwinner who may or may not be willing or able to provide the financial support they need. It is hoped that the thesis will reignite a debate which seemed to fizzle out in the 1970s, by re-examining the underlying assumptions which support arguments for retaining the rule.

The thesis includes an empirical exploration of the contexts in which couples cohabit and sometimes lie about their relationships. This empirical evidence challenges assumptions about cohabitation and its concomitant obligations which underlie arguments used to defend the rule. The insights it generates undermine the basis of cohabitation rule fraud; suggest a different understanding of the value of lone parent status from that favoured by governments and raise serious questions about conflicting and inappropriate constructions of child support obligations.

The thesis seeks to investigate three research questions: How can cohabitants' attitudes and behaviour in relation to money, be understood? How should 'cohabitation' be understood? Does the retention of the cohabitation rule in UK social security law have any social costs? Answers to these questions are based on interviews with 20 participants in the UK, who were or had been affected by the cohabitation rule, and 8 participants in Denmark, who were or had been affected by the *reelt enlig* or really single rule. The small comparative element of the study provides a different lens through which to view the cohabitation rule. The comparison enables me to argue for a different approach to social security for families which respects the rights of individual family members and reflects the value of parenting rather than breadwinner status.

The thesis discusses the wider implications of the study for family policy and concludes that there are significant problems with any form of non-contractual regulation of personal obligations.

GLOSSARY OF ABBREVIATIONS AND TERMS

CSA	Child Support Act or Agency
DHSS	Department for Health and Social Security (later became the DSS)
DM	Decision-maker
DMG	Decision Makers Guide
DSS	Department for Social Security (now the DWP)
DWP	Department for Work and Pensions
FC	Family Credit
FIS	Family Income Supplement
IS	Income Support
I-JSA	Income-based Jobseekers Allowance
JSA	Jobseekers Allowance which may be income-based (above) or contribution-based
LAT	Living Apart Together involving couples who do not live under the same roof
LTAHAW	Living together as husband and wife, the current understanding of cohabitation in UK social security law
LTAHAW rule	Living Together as Husband and Wife rule which is currently the name of the cohabitation rule in UK social security law
Reelt enlig	Danish for 'really single'
WTC	Working Tax Credit

1 INTRODUCTION

This is a critical study of the rule in UK social security law which *governs* the right of cohabitants to claim means-tested benefits. In contrast to other areas of UK law (including other areas of social security law), the rule aligns the treatment of cohabiting couples with that of married couples. The effect of this is that where a couple are considered to be cohabiting, they cannot claim benefit as individuals but one of them must make the claim for both of them and any ‘dependent’ children. Benefit is then assessed on the basis of their joint incomes, their ‘couple status’ and the number of people in their ‘household’. Underlying the rule is the assumption that cohabiting couples have a mutual financial support obligation and that this extends to any children in the family regardless of biological or social parentage. This assumption has *always* been problematic and is the principle focus of my research.

Lone parents in the UK are disproportionately represented in official cohabitation rule fraud statistics. Most lone parents are women so the cohabitation rule raises important gender issues. The rule represents policy continuity in terms of the mediation by men of women’s right to social security thus undermining their citizenship status. A major outcome of this research is that it suggests new understandings of lone parent benefit fraud.

Because lone parents seem to be the ones most affected by the rule, children are involved. The government have put the well being of children first in family policy and have said that stable relationships are important for children. But this study provides evidence to suggest that the cohabitation rule can *destabilise* relationships, whether or not claimants conceal cohabitation.

The issues I raise in this study have been raised before. It is thirty three years since Ruth Lister (1973) carried out her critical study of the cohabitation rule for the Child Poverty Action Group, drawing attention to its intrusive nature and the hardship

caused when couples' relationships were not stable enough for a mutual financial support obligation. But feminist concerns about women's financial dependence on men which the cohabitation rule institutionalises (Sainsbury, 1996) go back a great deal further. As early as 1792, Mary Wollstonecraft was arguing for women to be able to "earn their own subsistence independent of men". Some years later, Sojourner Truth, a 19th century black activist made the link between women's financial dependence and ownership of women by men (Truth, 1867 p. 80).

What we want is a little money. You men know that you get as much again as women... for what you do. When we get our rights we shall not have to come to you for money, for then we shall have money enough in our own pockets; and maybe you will ask us for money...It is a good consolation to know that when we have got this battle once fought we shall not be coming to you any more. You have been having our rights so long that you think, like a slaveholder, that you own us (Truth, 1867, p. 80)

Since Ruth Lister's critique of the rule, the phrase 'as man and wife' has disappeared from official documentation, benefits officials are not allowed to ask a couple about their sex lives and equality legislation means that a "woman [now] has the right to claim and make him [her male partner] her dependent" (Williams, 1989, p. 185). Yet the rule still has clear gendered effects and raises exactly the same problems for low income couples now as it did in the seventies. So why do we still have a cohabitation rule? In this study I critically examine the justifications for the rule at this time and in the context of other stated policy objectives.

The "disciplining [of] adult sexual relations and promoting marriage" (McLaughlin, 1999, p. 181) forms an important part of the policy context in which the cohabitation rule has been retained in UK law and seems to be absent in Danish law. These different cultural and political norms were what led me to consider introducing a small comparative element into my study based on the different expectations of financial support between cohabiting couples in Denmark and the UK. I had read that Denmark did not have a cohabitation rule and that this was related to the fact that marriage did not have privileged status (Eardley, et al, 1996). However, an exploratory trip to Copenhagen confirmed that Denmark has what I describe here as the *reelt enlig* or *really single* rule which works like the UK cohabitation rule in that

lone parents are financially penalised if they take a partner although not to the same extent as lone parents in the UK. This is in itself a valuable finding. I decided to carry out some of my research in Denmark.

Aims of the Study

Despite its obvious gendered significance, problems with administration and inconsistency between public law and private law understandings of the obligations of cohabitation, the cohabitation rule is still in operation. In fact it seems to have become a non-issue, pushed out of sight by particular gender and class based constructions of citizenship. The aims of this study were to resurrect the cohabitation rule as a policy issue and to examine empirically the assumptions underlying the arguments used to justify the rule.

The 'I' in the Research

This study cannot be understood outside my own experience of the cohabitation rule and my personal and political interest in challenging hierarchical relationships.

My experiences of the cohabitation rule and the issues it raises are both personal and work-related. Personally, I have been financially dependent on a man through marriage and cohabitation and I have also claimed benefits as a lone parent. Mostly claims were for in-work benefits but I have spent short periods on Income Support and have been subjected to intrusive interviews in my home. I have had experience of sidestepping the Child Support Agency in the knowledge that it would do me and my children more harm than good. I know what it is like to manage on my own and what it is like to try to accommodate a new partner into the family home. When I started this study I did it from the position of someone who had vowed never to be placed in a dependent position again. I valued my financial autonomy. However, one of the challenges of carrying out this study has been to accept that not all women who commit cohabitation rule fraud do it for that reason.

I worked in the voluntary sector as a welfare rights adviser and trainer for a total of eighteen years. I always positioned myself *on the side of* the claimant. This was where I first came across the cohabitation rule. I was particularly concerned about the effects of an inappropriate determination on a woman's right to claim benefit and maintain the family home.

MSc Research

The cohabitation rule was the subject of my MSc dissertation (Kelly, 1999). Using focus groups and interviews I spoke to women on Income Support and to Benefits Agency fraud investigators.

This small-scale study revealed that, despite a wealth of case law on the subject, there was still no clear definition of 'living together as husband and wife' which meant that it was difficult to make cohabitation rule determinations. By and large, the lone parents I interviewed did not understand the law relating to cohabitation rule or problems with decision-making. The fraud investigators I spoke to knew this and I had concerns that they might take advantage of a claimant's lack of knowledge and fear of being caught for fraud. Fraud investigators seemed to be by-passing adjudication procedures, convincing lone parents in their homes that they were cohabiting and persuading them to give up their claims for benefit. Their judgments also reflected stereotypical attitudes which appeared to influence their identification of fraud as opposed to error. For example, they were more sympathetic to widows and assumed that when the woman in the couple claimed, it was because the man was working and not declaring it. I used the findings of Lipsky (1980) on the behaviour of street-level bureaucrats struggling to adapt their practices to real world conditions with inadequate resources and, in the process becoming an instrument for social control, to help me to interpret my data. The women I spoke to were critical of the rule, raising issues of privacy, relationship choice and independence and it was clear that this was a subject which warranted further investigation.

Anarcho-feminist Influences: Challenging Oppressive Constructions

Although my own personal and work experience made me aware of the existence of the cohabitation rule, feminist literature led me to locate the rule in a wider political context. I began to appreciate the historical and current significance of gender in the construction of welfare provision.

Feminism also helped to shape my research design, influencing the way I saw the relationship between myself and participants in the research process and what I saw as the purpose of carrying out research of this kind. Although I have not adopted a feminist epistemology as such (see Chapter 6), literature which challenged traditional accounts of objectivity, reason and knowledge production was the starting point and initial inspiration for everything I have tried to achieve in this study.

By calling myself a *feminist* I mean that I subscribe to the view that certain constructions of gender in the social world place women in a disadvantaged position. Feminist claims to special knowledge based on the shared experience of being a woman have been shaken by post-modern recognition that women's experiences are far from homogeneous and that other experiences of class, age, ethnicity, disability, sexuality and so on all have an impact on our experience of being female. I see the emancipatory potential of post-modern feminism in the creative possibilities now opened up for the individual, no longer forced to accept a construction of the self which confines and suppresses individual fulfilment and self worth or dignity. This account is a feminist account to the extent that it adds to debates about the ways in which certain constructions of e.g. 'lone parent' and 'dependent' work to disempower women where power is not something that you either possess or do not possess but instead is a relationship: dynamic and not group specific.

...power is employed and exercised through a net-like organisation. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not only its inert or consenting target; they are always also the elements of its articulation. In other words, individuals are the vehicles of power, not its point of application (Foucault, 1980, p. 98)

As this study progressed I became increasingly aware of anarchist literature which challenged the authority of any government, group or individual to dictate the terms upon which people either define themselves or relate to one another. It is a very small step from feminism to the questioning of *all* hierarchical relationships including that of the state over its citizens.

Anarchy derives from the Greek word *anarchia* which means without (an-) rule (arch) although it is often popularly and misleadingly defined as ‘disorder’ or ‘chaos’. The first use of anarchy in anything other than a derogatory sense, was used by Proudhon in 1840. However, in his exploration of the origin of the ideas behind anarchism, Kropotkin (1910) described the beliefs of Aristippus from the 4th century BC who “taught that the wise must not give up their liberty to the State” (Kropotkin, 1910)

Hierarchical relationships are a part of everyday life and the idea of a world without domination is inspirational rather than aspirational. In this sense, anarchism resembles many other ideals in life, such as perfect happiness, immortality or, for those who subscribe to it, the perfect market. Importantly, it provides a check both personally – my understanding of reflexivity in personal relationships, and politically – challenges to oppressive institutions. At this present time it is not possible to separate the organisation of our social lives from the mechanisms of the state and it has to be acknowledged that some real concessions continue to be won from the state. However, this thesis does involve fundamental criticisms of an oppressive state bureaucracy.

Feminism and anarchism could be said to merge through the concept of *amor libre*, which Carlos Abella (2000) describes as “equality and freedom for both men and women in sexual and affective relationships”. A broad spectrum of feminist literature is based on resistance to a particular kind of institutionalised hierarchy, that between men and women. This relationship is maintained by certain constructions of femininity and masculinity helping to maintain a gendered status quo in the public and in the private sphere.

It is impossible to separate the cohabitation rule from the politics of welfare. I believe that welfare provision continues to operate as a means of social control, maintaining rather than challenging hierarchical relationships. In particular the state is implicated in the perpetuation of inequality between men and women. In this respect, I am following in a tradition of anarchists, such as Goldman (Ward, 2004, pp71-2), who have been sceptical about the extent to which the state or legal system can bring about real social change.

Hewitt describes the connection between anarchism and feminism in terms of its emancipatory potential.

The most important link between feminism and anarchism is a common recognition of the need to transform the power structures and social relations of hierarchy and domination. Anarchism helps feminism to address the problem of power, to understand its destructive dynamics, and to pose alternative forms of organisation...the abuse of power through hierarchy and domination is a social construct which we are socialised to accept and reproduce in all aspects of social life, from personal relations to social institutions. Anarcho-feminism understands very well the interconnectedness of oppressive social institutions and personal relations, as is reflected in the paradigm of traditional marriage (Hewitt, 2002, p. 173)

Anarchism celebrates individual autonomy but it is very different from the individualism of western liberalism or market libertarians (Hayek, 1962, 1982) These latter philosophies rest upon a belief that most of the needs of a society can be met through individuals exercising their free will in pursuit of their own rational self-interest. In this account of the human condition, rational self-interest is the engine of survival and the driving force behind all human achievements and progress. Anarchism as understood here, is based on the view that human beings are essentially social, that the individual does not have a unitary existence independent of any social context and that, contrary to liberal individualism “mutual aid and support” (Kropotkin, 1902) is the secret to human survival. However, mutual aid is not something that can be forced on people. Voluntarism is essential to the concept. Nor is autonomy an ‘anything goes’ concept because that would mean accepting domination as a personal preference. Autonomy is essentially a relational freedom and mutual aid is negotiated within the context of particular relationships.

Although pure anarchy is unattainable, anarchists since Kropotkin have been eager to provide examples of voluntarism, mutual aid and more or less successful attempts at non-hierarchical forms of organisation. Colin Ward has argued that “the anarchist society...which organises itself without authority, is always in existence, like a seed beneath the snow, buried under the weight of the state and its bureaucracy, capitalism and its waste, privilege and its injustices, nationalism and its suicidal loyalties, religious differences and their superstitious separatism” (Ward, 1982, p. 14). In one of the interviews, a participant suggests that healthy and sustainable relationships are threatened by oppressive social norms (like couples *ought to* provide financial support to each other) and institutions (like marriage). This probably comes closest to what I understand as an anarchist position although it is by no means representative of participant views. Some of the couples I interviewed have since married. Anarchism influenced my thinking but I did not use it to write over what participants told me.

Thesis Structure

In Chapter 2, I describe the cohabitation rule in its historic and legal context and its implications for benefits claimants. Questions are raised about the construction of LTAHAW fraud and there are substantial theoretical problems with the six issues used by decision makers to identify ‘living together as husband and wife’ cases. I explain that, despite significant problems with the rule, arguments based on responsible couple behaviour; protecting marriage; and cost have all been cited as reasons for its retention. Whether or not these provide *good enough* grounds for keeping the rule is explored empirically in this study.

An important theoretical premise of this thesis is that it is not possible to separate the cohabitation rule from the politics of welfare more generally. In Chapter 3 I look at the political context within which the cohabitation rule is operating. I describe intensified means-testing not as a welfare response to need but as a political decision and a mechanism for social control. Conceptions of lone parenthood as well as the

benefit cheat are welfare-rule specific. I examine available evidence on the politics underlying these conceptions and their implications in terms of diminished citizenship status. The main focus is the use of the 'household' in means-tested benefit assessments and the extent to which it reflects the undervaluing of care work, assumptions about the distribution of income within the home and ignores the disempowering effects of financial dependency.

The cohabitation rule is underpinned by a model of the family inherent in Beveridge's blueprint for the Welfare State put together over sixty years ago but families look nothing like they did in 1942 or even 1972. The lack of recent attention to the effects of the cohabitation rule seems strange in the light of unprecedented family change and practices of and attitudes to cohabitation. In Chapter 4, I outline some of these changes, providing important social context for this study and examine conflicting understandings of the significance of these changes. Against this background I explore the meaning of personal autonomy and raise questions about the regulation of personal financial obligation, which has become much more of an issue since the decline of marriage, historically the principle mechanism for relationship regulation.

Chapter 5 is where I describe my methodology and methods. Conceptualisation of my relationship with participants and the knowledge produced by the interviews comes from exactly the same source as my interest in the issues relevant to the cohabitation rule, that is resistance to any form of hierarchy? I hope that this approach has allowed voices which are very different from my own to come through in my conclusions.

Chapters 6 to 8 provide evidence from twenty semi-structured interviews carried out in the UK with people to whom the cohabitation rule is relevant. Chapter 6 describes participants' stories about undisclosed relationships. This examination of context and cohabitants' own understandings of their behaviour challenges the government view of the benefit cheat. In Chapter 7, I use empirical evidence from this study to explore the meaning of cohabitation and find that the six issues used to operationalise

the cohabitation rule are inadequate to establish 'the truth' about participants' relationships; that 'the truth' is gendered and that the cohabitation rule is still viewed as an unacceptable intrusion into private lives. In Chapter 8, I examine the issues involved in negotiating and sustaining living together *within* the context of the cohabitation rule. The cohabitation rule is found to obstruct rather than support the process.

The comparative element in this study, described in Chapter 9, was small yet productive. I see my research in Denmark as providing an alternative lens through which to view the cohabitation rule. Women in Denmark seem to be facing similar relationship issues to those in the UK but in the context of a more generous benefits system and a different public policy approach to the obligations of cohabitants. I describe exploratory visits to Denmark during which I talked to policy academics and practitioners and I focus on the stories of three women who will lose their lone parent status if they admit they are cohabiting. This leads to some interesting observations about the significance of lone parent status and the disproportionate effects of means-testing on women with children.

Finally, I come to my conclusions. I find that the historical justifications for the cohabitation rule are untenable because they rest on wrong assumptions about responsible couple behaviour and about cohabitation and concomitant obligations. I discuss the implications of insights generated by the empirical evidence in terms of the cohabitation rule, the value of lone parent status and child support obligations. Drawing on research carried out in Denmark, I argue for an alternative system for delivering welfare to families which respects the rights of individual family members and recognises the value of parenting rather than breadwinner status. Finally, I draw conclusions about the regulation of personal obligation in a wider family policy context.

2 THE COHABITATION RULE

In this chapter I compare the private with the public law treatment of cohabitation in the UK and anticipate changes to the law to protect some cohabitants' rights. In the absence of a marriage contract, such changes require a clear definition of what counts as a marriage-style relationship. This is why this study of the public law regulation of cohabitation is so important. I consider the rule historically and explain why it has been retained over the years despite serious concerns about its application. I explore the six issues used to operationalise the cohabitation rule which is nowadays known as the *living together as husband and wife* (LTAHAW) rule and discuss difficulties establishing the facts in cohabitation rule cases. The arguments used historically to justify the rule are established as the basis for the empirical research questions explored in this thesis.

The Legal Treatment of Cohabitation

The treatment of cohabitation in UK law is “complex and puzzling” (Smart and Stevens, 2000, p. 13). At least part of the explanation lies in the fact that despite significant changes in family formation, marriage still has special status in UK policy (Home Office, 1998). Tensions arise because any attempt to sensitise policy to family change must not be seen to *undermine* marriage (Scottish Executive, 2003, section 5.6).

Except in so far as it is equated with ‘living together as husband and wife’, which itself can mean many things, cohabitation remains undefined in either private or public law. It is not difficult to see why. The term cohabitation can encompass very many different kinds of relationship, living arrangements and varying levels of commitment. This is also the reason why any regulation of cohabitation is difficult to achieve either in policy or in practice.

In *private law*, cohabitants have generally not been granted the same rights as spouses. For some time now, there has been some sympathy towards changing the

law to protect vulnerable cohabitants' rights (e.g. Scottish Law Commission, 1990 in Scotland; The Solicitors Family Law Association, 2003 in England) but consistently policymakers have wanted to retain the distinction between marriage and cohabitation wherever not doing so would "undermine marriage [or] undermine the freedom of those who have deliberately opted out of marriage" (Scottish Office Home Department, 1999, section 4.3.1). Echoing many other UK policy documents, *Parents and Children* (Scottish Executive, 2000) affirms its respect for the diversity of family life yet emphasises the importance of retaining the distinction between cohabitation and marriage. The importance of 'choice' is invoked.

Couples who cohabit are making an active choice not to marry or are not free to marry. That difference must be acknowledged and respected by appropriate differences in the legal consequences of cohabitation (sect. 7.1)

This statement is contained in a section dealing with the financial provision of cohabitants. It sets the boundaries to the regulation of cohabitation and the financial obligations that can be expected where there is no marriage contract.

In contrast the cohabitation rule in *public law* involves treating cohabitants in the same way as married couples for some benefits and differently for others. For means-tested benefits no distinction is made between marriage and cohabitation. For these benefits there is a single meaning given to cohabitation, 'living together as husband and wife'. There is no official acknowledgement in public law of the vastly different types or stages of cohabiting relationship as there is in private law. When means-tested benefit claimants cohabit, financial obligation is non-elective.

On the other hand, marital status *is* invoked in determining entitlement to certain dependants' allowances or pensions which are contributory. Care of a child may be enough to gain entitlement to allowances in some cases. In order to claim a bereavement benefit a man or a woman must have been married to the deceased person. In order to continue to qualify for payment, the cohabitation rule applies: widow/widower must not remarry or start living together with someone as husband and wife.

Private Law Changes

Moves are being made in the Scottish and UK Parliaments to make changes to private law to protect the interest of vulnerable cohabitants, both heterosexual and same-sex. The preference is to reserve automatic rights for married couples but to create the potential for a just settlement when some cohabitations end. The Civil Partnership Act (2004) gives marriage-like rights to same-sex couples although it stops short of allowing same-sex couples full marriage status. The Family Law (Scotland) Bill (2005) creates new rights for cohabitants, making no distinction between heterosexual or same-sex cohabitants. Under the new proposals, individuals will be able to apply to the courts for financial provision at the end of a cohabitation either through separation or death and there will be a “presumption in favour of joint ownership of household goods” (Harvie-Clark, 2005, p. 1). The justification for and limits on changes to the existing law were given in a Policy Memorandum to the Family Law (Scotland) Bill as follows.

The Scottish Ministers do not intend to create a new legal status for cohabitants. It is not the intention that marriage-equivalent legal rights should accrue to cohabiting couples, nor is it the intention to undermine the freedom of those who deliberately opted out of marriage or of civil partnership. The Scottish Ministers consider it vital to balance the rights of adults to live unfettered by financial obligations towards partners against the need to protect the vulnerable (Para 65)

Despite introducing substantial changes to cohabitants’ rights and obligations in Scotland, ‘cohabitant’ remains undefined in the 2005 Act. Instead three issues must be looked at in deciding whether or not the new rights should apply.

- The length and nature of the cohabitation
- The extent, if any, to which one cohabitant is financially dependent on the other
- Whether the cohabitants have a child of whom they are the parents

(Harvie-Clark, 2005)

How these issues will be applied in individual cases is far from obvious. How long will a couple have to be together in order to be treated as having marriage-style rights? How will the ‘nature’ of a relationship be determined? Where there is

conflict, whose view of the relationship will count? What significance will *financial dependence* have on decisions? How will the care of children by either partner impact on the issue of financial obligation? These questions are also relevant to the public law equation of cohabitation with marriage but they are far from straightforward, as can be seen in Figure 1. The continued emphasis on the importance of maintaining a distinction in law between the treatment of cohabitation and the treatment of marriage makes the need for a review of the Cohabitation Rule which treats them in exactly the same way, all the more urgent.

Figure 1

Determining cohabitants' rights: Private Law	Determining cases of Cohabitation: Public Law
How long will a couple have to be together in order to be treated as having marriage-style rights?	In public law couples can be found to be cohabiting <i>as soon as</i> they start to live together.
Where there is conflict about the 'nature' of the relationship, whose view of the nature of the relationship will be believed?	In public law, the nature of the relationship has limited significance to a cohabitation rule determination and in fact, historically, claimants were not trusted to tell the 'truth' about the nature of their relationship because of the economic advantage they could gain from lying.
How much weight will be given to choice regarding financial dependence?	In guidance to decision makers, financial support is one issue looked at in deciding whether or not a couple are cohabiting but it is far from conclusive.
How will the parentage and care of children impact on decisions about financial obligation?	Whether or not there are children of the relationship is an issue which is looked at in determining cohabitation rule cases but guidance ignores the gendered dimensions of childcare or parentage.

The amount of weight given to the freedom to choose not to have one's relationship regulated by the State and to be "unfettered by financial obligations" is important. Couples who claim means-tested benefits in the UK have no legal right to have their choice in this matter given any weight at all. Furthermore, it is not only the right to be "unfettered by financial obligations" which is denied benefit claimants but also the right to be unfettered by *dependency*.

What is the Cohabitation Rule?

A statement of the cohabitation rule appears in the 2004 Decision Makers Guide (DMG), reminding adjudicators of its primary purpose.

A couple who live together as husband and wife should be treated in the same way as a married couple. The principle behind this is that an unmarried couple should not be treated more or less favourably than a married couple (DMG, 2004; section 1100).

This statement holds the key to why there are differences between public and private law constructions of cohabitation and the obligations that flow from them. They may appear to be in opposition but in fact they are both designed to protect marriage. In the case of private law, marriage could be seen to be devalued if couples can acquire marriage-style rights without the marriage contract. In the case of public law, a rule which could be seen to treat cohabiting couples better than married couples might deter couples from getting married. In Chapter 9, I compare this approach to the approach in Denmark where cohabitants cannot acquire marriage-like financial support obligations if they have not entered into a marriage contract. It should also be clear that where marriage *and* cohabitation carry a financial penalty, the disincentive to get married remains.

Benefits Affected by the Rule

A number of benefits are affected by the rule. They include all means-tested benefits, the lone parent rate of child benefit and bereavement benefits¹. In the latter

¹ formerly widow's benefits

case, benefit is no longer payable if the bereaved person (widow or widower) marries or starts to cohabit. The cohabitation rule has much less effect on claimants of child benefit because in 1996 one-parent benefit was abolished for all new claimants and the additional amount for existing claimants was frozen. However, for those lone parents who are still in receipt of the one-parent rate of child benefit, they will lose it if they start to cohabit.

For the purposes of means-tested benefit entitlement, two people living together as husband and wife cannot make individual claims but must claim *as* a couple. The couple rate is less than two individual rates. Benefit entitlement is assessed by aggregating the needs and resources of the whole family, including any dependent children living in the same household. Because of the means-test and the relationship between benefit entitlement and the labour market, a new partner may mean the partial or total loss of independent benefit entitlement. In couple claims there is only one *claimant*. The couple must choose which one of them will make the claim and receive payment.

Benefits for the 'Unemployed': Income Support and Income-based Jobseekers Allowance

For the purposes of this study I have focussed on Income Support (IS) and Income-based Jobseekers Allowance (I-JSA) claimants (Chapter 5). Here I explain the significance of IS and I-JSA to those who claim either benefit. IS and I-JSA are both benefits which are paid to those who are 'unemployed' which means not in 'full-time' paid work. What this means is that in the case of I-JSA a couple can claim JSA so long as the claimant is working less than 16 hours per week and his/her partner is working less than 24 hours per week. For IS there is a single definition of full-time work and so IS can only be claimed where neither the claimant or his/her partner work 16 hours per week or more.

The means-test is almost identical for both benefits, using the same basic formula and rates. In order to qualify for I-JSA, a claimant has to satisfy stringent job search

conditions. Those who are not expected to satisfy these conditions can claim IS. Lone parents, full-time carers and people who are incapable of work due to ill-health are amongst those who are exempt from having to be available and actively seeking work. They are thus eligible to claim IS. Where those who are exempt from job search conditions have a partner who is in full-time work, neither can claim either IS or I-JSA. Where both are unemployed or in part-time work and not exempt then both have to satisfy job search conditions but only one of them will make the claim and receive payment for them both. Unless they are both exempt from having to satisfy job search conditions (for example, one has childcare responsibilities, one is incapable of work), a couple claim will be for I-JSA. Where one is exempt (e.g. child care responsibilities, only one partner, in the majority of cases, the man (Bennett, 2004), will claim.

Loss of Passport Benefits

Although the focus of the UK part of this study is on IS and I-JSA, the loss of other benefits will be an issue. This is because entitlement to IS or I-JSA provides a passport to a number of other benefits, for example, full housing and council tax benefits, full access to the social fund, free school meals, free prescriptions and other health and some educational benefits. The withdrawal of IS or I-JSA will mean the loss of all relevant passport benefits although full loss of benefit might be offset by claiming alternative benefits, for example, tax credits, non-passported housing/council tax benefits and health and education benefits on the grounds of low income. It will all depend on the level of aggregated income coming into the household.

The Household

In social security law, the unit of assessment for the calculation of means-tested benefit entitlement is the 'household', not the individual. This involves the aggregation of the needs and resources of those in the household. It matters a great

deal who is considered to be living in the household in terms of benefit entitlement and level.

Not everyone living under the same roof will be counted as part of the household. Essentially the construction of the 'household' reflects assumptions of personal financial support obligation. Thus there is an assumption that parents have a financial support obligation to their *dependent* children, that means children under 16 or under 18 and still at school. The household will include any dependent children so defined. The marriage contract already institutes a financial support commitment between husbands and wives and so, except where they are or are treated as if they are separated, married couples will be part of the same household. Other adults will not be treated as part of the same household unless they have a "particular kind of tie" (Commissioner's File No. CIS/671/1992), that is unless they are treated *as if* they are "living together as husband and wife". Thus, despite the absence of a marriage contract or kinship ties, unmarried couples who cohabit are treated *as if* they are married and have no legal right to make a separate claim. Flat-mates are not treated as part of the same household although in their separate claims for housing and council tax benefit, they will have the rent/council tax equally apportioned in the calculation of their entitlement. Siblings, parents and friends of the claimant can never be treated as being part of the claimant's household for benefit calculation purposes even if they live with the claimant and share the household costs and chores. They will be able to make their own claims for benefit independently although if they are 'close relatives' or the arrangement is believed to be 'non-commercial' they will not be able to claim housing and council tax benefits for their share of the household costs despite the fact that as 'non-dependents' their presence in most circumstances will reduce the householder's housing and council tax benefits. The amount of a **non-dependant deduction** depends on the income of the non-dependant.

On the basis that two can live cheaper than one, a couple's needs are considered to be less than the needs of two individuals maintaining separate households. This means that the aggregate amount of benefit for a couple is less than the aggregate amount of

benefit for two individual claimants. The theory behind this reduction in net income is based on an assumption about economies of scale which is problematic if couples do not pool their resources. As benefit rates are already perceived by many to be too low, there will be a temptation to live together but maintain two individual claims.

Nowadays, couples claiming means-tested benefits can choose which of them makes the claim but in the *real* world, child care and inequality in the jobs market mean that women are far more likely than men to end up in a position of financial dependence because of the cohabitation rule (Bennett, 2004). In Figure 2, I have used a lone parent case to illustrate the effects of cohabitation on a claim.

Figure 2

Jane is a lone parent claiming IS for herself and her child, Emma, aged 4. Jane started claiming IS three years ago after she split up with Emma's father. Jane has a new partner, Martin who has his own rented flat and works full-time. If Martin moves in with Jane and her children, Jane will no longer be able to claim IS. Martin will be expected to provide for the family off his wages. The inclusion of Martin's wage takes them above the threshold in the assessment of alternative means-tested benefits and reduces entitlement to Child Tax Credit.

Considered Historically

In its earliest form the cohabitation rule mirrored an asymmetrical support obligation within marriage. Wives were supposed to look to their husbands for financial support but not the other way round. The first statement of the cohabitation rule appears in the Supplementary Benefit Act 1966. It states

Where a husband and wife are members of the same household, their requirements and resources shall be aggregated and shall be treated as the husband's and similarly, unless there are exceptional circumstances as regards two persons cohabiting as man and wife (Schedule 2, Paragraph 391).

Although this is the first *explicit* statement of the rule, the principle upon which it is based, that is that a woman who is cohabiting with a man should be supported by him, already existed in welfare law. In the National Assistance Act of 1948, the principle was "so much taken for granted that..it was not considered necessary to provide specifically for it" (DHSS, 1976, section 8).

There has been no published empirical research carried out specifically on the cohabitation rule since Ruth Lister's study over thirty years ago (Lister, 1973) and I cannot uncover any research specifically on Cohabitation/Living Together as Husband and Wife rule fraud. This seems odd given the amount of interest in family change documented in the previous chapter and the significant amount of political and academic interest in benefit fraud generally.

In the 1970s when Ruth Lister carried out her study, lone parents were starting to appear as a "significant social category" (Gray, 2001, p. 190), not least because of the number who were reliant on state support. At the time, Lister took a reformist approach, describing the "most serious findings to emerge" from her study as "the lack of a clear-cut definition of what cohabitation means" and that the availability of financial support and the stability of the relationship should be given far more weight in determining cases. Although highly critical of its administration, she nevertheless saw a place for the rule's continued application to those couples "where there is a stable and admitted relationship which the couples themselves wish to be regarded as that of man and wife" (Lister, 1973, p. 40).

The idea that couples should decide for themselves whether or not their relationship is marriage-like had already been rejected by a DHSS commissioner in 1971 on the grounds that claimants could not be trusted to tell the truth if the truth would reduce benefit entitlement.

In the Commission's view.... It would be pushing naiveté to the point of imbecility to suppose that fraud is never attempted, or that the truth about a relationship between a man and a woman will always be openly told. It is not therefore possible to rely on the unsupported word of persons to whom concealment or untruth can bring substantial advantage (DHSS, 1971, section 20, p. 7)

The view that claimants cannot be trusted to tell 'the truth' if the truth does not coincide with their best interests is interesting for two reasons. Firstly, it evokes a certain view of human nature: that human beings naturally pursue their own rational self-interest and that policy must be set on the basis that welfare recipients are all potentially knaves (Le Grand, 1995). It ignores the question of substantial

disadvantage which may arise where a cohabitation rule determination is made inappropriately, that is where a relationship exists but where the relationship does not involve a financial support obligation. It ignores the fact that lack of trust in the system may prevent a couple telling the truth for fear of not being believed. Finally it ignores the possibility that women may choose not to tell the truth not because of 'substantial advantage' (benefits rates are hardly generous) but for reasons of survival or responsibility for others' welfare, that is their children's welfare.

Secondly, the quote from the Commission suggests that the 'truth about a relationship' is something out there that can be evidenced. Trying to establish the *material facts* relevant to a cohabitation rule determination is problematic. The so-called truth about relationships is open to a considerable amount of speculation, interpretation and debate.

Lister agreed with the SBC's 1971 report that

It would be wrong in principle to treat the women who have the support of a partner both as if they had no such support and better than if they were married (*ibid*)

Freeman and Lyon (1983) described this as a "bootstrap argument" because "it assumes and does not question that marriage should contain a breadwinner and dependant" (p. 29). The breadwinner model seems inappropriate to modern families not least because so many families now rely on *two* breadwinners or have no breadwinner at all (Wasoff and Dey, 2000, p. 111).

In 1995, Ogus et al considered the contention that a decision by a couple to cohabit implied an intention that "the legal consequences of marriage should not apply to them". They argued that this makes sense in the context of private law but not in the context of the allocation of public funds.

If state assistance is invoked to meet actual need it can hardly be right to ignore the *de facto* meeting of that need by another party (p. 390)

It is not insignificant that this comment appears in a law manual for advisers. It provides legal authority to what is essentially a normative statement. Thus not only is there no questioning here of whether or not need *will* be met 'by another party', or how "actual need" is established, there is an unquestioned underlying assumption contained in this quotation that marriage-type financial obligations are appropriately assumed to exist between cohabiting couples and not between other adults living under the same roof. "It can hardly be right" suggests a belief in self-evidence which can hardly be justified.

A year after Lister's study was published, the Finer Committee (1974) again considered the abolition of the rule. Despite a traditional approach to gender roles within marriage, the Finer report is considered to have represented a 'watershed' in terms of its acknowledgement of lone parents and its favouring of a less stigmatised approach to lone parenthood (Crow and Hardy, 1999, p. 233). Gone was the term "unmarried mother" and in came the term "one parent family" (*ibid*). Nevertheless its writers settled for improvements in administration of the rule to "minimise the dangers" because they found the discrimination against married women which abolition implied, an "overwhelming argument in its favour" (section 5.269).

A Supplementary Benefit Commission (SBC) report in 1976 (DHSS, 1976) set out the criticisms of the rule. Despite acknowledgement of the problematic nature of the rule and the admission that "like the Finer Committee, we ourselves would be glad if it were not necessary" (*ibid*, section 17), the Commission still favoured reform rather than abolition. The financial cost of doing away with the rule was considered (section 16, p.5) but is not listed as an argument for its retention. Once again the main argument for retention was that married couples would be disadvantaged if cohabitants were treated differently.

It would be unjustifiable for the State to provide an income for the woman who has the support of a man to whom she is not actually married when it is not provided for the married woman (sect. 100, p. 29)

The problem of income distribution within the household was not ignored at the time. In their 1976 report the SBC acknowledged the absence of a legal requirement

on cohabiting couples to provide financial support to each other. However, they concluded that if the cohabitation rule only applied where financial support was actually provided, it would discourage cohabitants from accepting financial responsibility (DHSS, 1976, section 22). But if the distribution of resources is to be retained in the hands of a male 'breadwinner', who would ensure that the needs of the women and children are met? This issue was raised again in 1985. The government's view at the time was that men would just have to be 'trusted' (from the green and white papers on social security reform, quoted in McGlaughlin, 1999, p. 181).

In 1978, the possibility of paying Supplementary Benefit (the predecessor of Income Support) to the individual was considered but rejected on the grounds of cost to the public purse and also "the unwarranted inequities of paying benefit to the partners of prosperous husbands or wives" (DHSS, 1978, 11.7, p. 93).

After lengthy debates throughout the seventies only two significant changes were made to the rule. To avoid any suggestion that the rule was intended to punish unmarried couples, the word 'cohabitation', thought at the time to have a "pejorative" meaning, was replaced with the phrase 'living together as husband and wife'. The second change was that investigating officers were told not to ask couples questions about the sexual nature of their relationship (DHSS, 1976, section 55 (4), p. 17). Lewis has suggested that the cohabitation rule became less of an issue precisely because of changes which supposedly made the rule less intrusive, that is that fraud officers were no longer able to ask about a couple's sex life although it remained one of the six issues that decision makers were supposed to look at if information was volunteered, in determining cases of LTAHAW (Lewis, 1997, p. 65). It will be seen that despite these changes to the operational rules, the LTAHAW rule can still be viewed as an inappropriate intrusion into the sexual behaviour of claimants (Chapter 6).

Because of its relationship with the labour market, payment of a family's I-JSA is always paid to the one who is capable of, available for and actively seeking work,

usually the man. There is no guarantee that this payment will reach the family at all, let alone that it will be distributed equitably within the household. This issue has been raised in relation to the payment of in-work family benefits. Family Income Supplement (FIS), abolished in 1988, was always paid to the mother unless the mother agreed to it being paid to her male partner. When introducing Family Credit (FC) to replace FIS, the government planned initially to pay it through the pay packet “as an offset to tax and national insurance so that people...are more aware of the extra help they are getting alongside their earning” (from DHSS Green paper, 1985, quoted in Smart, p. 163). There was also talk at the time of paying Child Benefit through the pay packet for similar reasons. It treated as self-evident the appropriateness of handing all control over the household finances to the usually male breadwinner, treating the distribution of resources as a completely private matter (Smart, 1991, p. 164). In a House of Lords Debate in 1999, Baroness Hollis of Heigham insisted that the *choice* of whom Working Tax Credit (WTC) should be paid to, should lie with the main wage earner because WTC was primarily a work incentive and only secondarily a family benefit.

The tax credit is not about support for children as such..this is about a credit paid essentially through a wage packet to the main earner, if that is his choice, such that we increase work incentives while, at the same time, because it reflects family shape, size and necessities, supporting families. In other words, it is not a benefit in the traditional sense, whether income support or whatever, which is automatically paid to the carer for the support of children. That is not the purpose of this tax credit. Its purpose is to produce an incentive to work..and to top up an entry wage to make it a more attractive return for moving into work; a more attractive return for working longer hours and higher pay. That is its purpose (Hansard, 29th April 1999, column 108)

In their study of the way benefit income is distributed in the home, Goode, Callender and Lister (1998) welcomed the decision to give couples the choice of whom the tax credits should be paid to, but pointed out that earner status and/or power imbalance within the home could make it difficult for some women to press their claim for tax credits to be paid to them. It could be argued that it makes sense to give benefits aimed at subsidising a low ‘household’ wage to the one who actually manages the household budget. As women are the ones *most* likely to manage the household budget in low income households (Vogler, 1998), that would be them.

Brothers and sisters, parents and grown-up children and friends might also pool resources and live in what in ordinary parlance would be thought of as a single household but the state makes no financial support assumption in these cases. This was not always so. In their review of the Supplementary Benefit Scheme (DHSS,1978), the DHSS talk of a reluctance to return to the “household means-test” which was introduced in 1931 and involved an assessment of the resources of all living under one roof. Their reluctance was based on the “unacceptable social consequences in the splitting up of families” which the means-test of that time entailed. Ian MacDougal, a Scottish social historian explains the effects of the test.

In short any member of the family in employment had to support those at home who were unemployed. Consequently families broke up as employed or unemployed members left home to avoid being means-tested. Against the Means-Test bitter resentment was felt by masses of working people as well as the unemployed (MacDougall, 2000, p. 552)

What effect does the definition of the ‘household’ which establishes the parameters of the means-test in 2006, have on personal relationships? This thesis provides evidence relevant to answering that question.

To date no government has been prepared to tamper with the rule despite inconsistencies in the way cohabitants are treated in law, despite the clearly and well-documented gendered nature of the rule and despite increasing emphasis on individual rights and choices in both public and private domains. Instead as a result of the passing of the Civil Partnership Act (2004), the rule is to be extended to same-sex couples.

LTAHAW Fraud

A report in 1998 on fraud and error in claims for income maintenance benefits (DSS, 1998) claimed that lone parents on IS were more likely than any other group to commit benefit fraud and that an estimated 34% of IS fraud committed by lone parents involved “living with a partner” (DSS, 1998, 2.4). A more recent document

(DWP, 2003) suggested that lone parents were still more likely than other groups to make fraudulent claims (1 in 11 cases) ahead of jobseekers (1 in 12 cases) (*ibid*, p. 16). In addition, the percentage of cases of lone-parent benefit fraud which involved the cohabitation rule were up from 34% to 42%, compared to 26% failure to disclose earnings from work and 8% failure to disclose other sources of income) (*ibid*).

'Customer error' is defined as:

Cases where the review officers unearth reportable changes that have not been reported but are satisfied that there is no suspicion of fraud or any fraudulent intent on the customer's part **and benefit changes as a result** (DSS, 1998, 7.4, p 12)

Fraud is defined as:

All cases where the basic conditions for receipt of benefit are not being met and the customer can reasonably be expected to be aware of the effect on entitlement **and benefit stops or reduces as a result of the review**. It comprises cases where customers deliberately misrepresent their circumstances, or fail to notify changes in their circumstances, with the intent of obtaining benefit to which they are not entitled. It includes cases where fraudulent activity is substantiated through third party verification or an admission is obtained from the customer (*ibid*, 7.12, p. 13)

However, this definition of fraud is extended to include cases where no decision had been made but where benefit had changed following an LTAHAW interview.

Cases where there is a suspicion of fraud that cannot be proved, but **where benefit changes as a result of the review action**. In these cases review officers must establish a causal link between their activity and the change of benefit (7.14)

This type of 'suspicion' is distinguished from 'high' or 'low' suspicions which do *not* result in a benefit change. The emphasis on the 'benefit change' is important because it is that change which converts suspicion into a fraud statistic. It is significant that the illustrative example is an LTAHAW case.

A lone parent admits she has a boyfriend in full-time employment who stays several nights a week; she adamantly denies living together at the visit but the next day calls at the office to report that he is moving in from that day and benefit ceases (7.15)

In my MSc dissertation (Kelly, 1999) I argued that conversion of a suspicion into recorded fraud is unsafe, based on the fact that claimants do not always know their rights and may have been intimidated into giving up their benefit book simply because a fraud investigator turned up on their doorstep unannounced. One fraud investigator, told me that he rarely sent cases to adjudication *because* of the difficulty making LTAHAW cases “stick”.

The vast majority are done at interview, talking about the situation to the people involved. More often than not I try and get both together to talk about the allegations made. I try to find a solution without referring to laws or rules or whatever. I treat them as living together from that point onwards. I wouldn't go for prosecution. If they are together I wouldn't look at back periods unless something had to be specifically dealt with. If they are starting to live together the last thing they want is an overpayment hanging over their heads. I say that to them (Jim, Kelly, 1999, p. 40)

Another fraud investigator told me that she might allow claimants who admitted they were living together to collect their next payment before handing in their book because “they might have to pay school dinners or something” (Gemma, *ibid*, p. 41)

The fraud investigators I spoke to talked about themselves as sort of relationship counsellors, helping couples to make that commitment at last. There was sympathy towards lone parents, but knowledge that LTAHAW claims were difficult to substantiate, seemed to be influencing their behaviour. Only one investigator I spoke to had even heard of the leaflet informing people of their rights which was supposed to be handed out at fraud interviews. A lack of knowledge of the law about LTAHAW combined with the threat of further investigation or further action such as suspension of benefit or even prosecution might well deter the claimant from continuing to claim as a lone parent.

As recently as January 2005, Malcolm Wicks, at the time a minister at the DWP, provided a statement, reassuring the House of his confidence in adjudication procedures in LTAHAW cases.

Where there is a dispute as to whether unmarried persons who share accommodation can be treated as living together as husband and wife, for income support purposes, a

decision will be made by a decision maker. This decision is based on a careful consideration of all the relevant circumstances. No unmarried person would be assessed as living together as husband and wife merely because they shared accommodation. The decision maker will refer to a number of key criteria in deciding whether or not two people are treated as a single unit for income support purposes, but the decision is made on the relationship as a whole. When the decision letter is sent to the customer advising that their income support is no longer payable, they are advised what they can do if they disagree with the decision, including details of the appeals process (Commons Written Answers, 31 January 2005, Income Support (Disabled Claimants), House of Commons, Hansard)

My MSc research suggested that there are an unspecified number of LTAHAW cases which adjudicators never see. There is also evidence that claimants for whom English is a second language can be even more vulnerable in determining cases of LTAHAW. A memorandum sent to the select committee by Greenwich Community Law Centre earlier this year told just such a story.

One of our clients who is a single parent with a severely disabled son, allowed his cousin to stay with him, as she was homeless. When questioned as to whether they were living together the claimant truthfully answered that they were living in the same house. The DWP interpreted this as living together as “husband and wife” and abruptly cancelled the client's Income Support. Housing Benefit and Council Tax Benefit were also stopped. Both the claimant and the cousin spoke limited English and they were not able to communicate effectively with the DWP and certainly did not understand the distinction between living together in the same house and living together as husband and wife. Both were horrified when we managed to provide our own interpreters to take instructions. It took several weeks before the matter was resolved and in the interim our client experienced severe hardship.

(Select Committee on Work and Pensions, Written Evidence, 2005)

In 2003, the Select Committee on Public Accounts published their *Thirty First Report* in which they addressed the issue of LTAHAW fraud as part of a wider examination of benefit fraud. They were looking at progress in reducing an estimated £2 billion worth of benefit fraud, roughly 2% of the total amount spent on benefits. IS, I-JSA and Housing Benefit were the benefits reported to be the “most vulnerable” to unlawful claims, accounting for well over half (60%) of all benefit fraud.

In the 2003 Report, they note that “one in 13 claims for Income Support by lone parents was fraudulent and 40% of benefit overpaid to this group was due to failure to disclose “living together as husband and wife”. They put the cost of “abuse of this

rule” alone at £190 million in 2001-2 (Section 12). They explain the motivation for this type of benefit fraud as being that two people are entitled to more benefit claiming separately than they are if they claim as a couple. They describe this as a “strong incentive” but make no attempt to look at other reasons why a lone parent might hide the existence of a partner. This thesis does.

The other problem identified with the rule in this report is the difficulty in gathering evidence in the absence of a definition of cohabitation, due to the “considerable scope for subjectivity in what constituted evidence to prove that a couple were ‘Living together as Husband and Wife’” This meant that “the Department had to make difficult judgments based on criteria embodied in case law” (section 12). This is raised as an administrative problem not a claimant rights issue.

The Report goes on to say that the Department had used evidence from Australia to increase detection of LTAHAW by better coordinating visits to claimants’ homes.

There was evidence from Australia, that when a lone parent made an entirely legitimate claim for benefit after separating from the partner, the likelihood was that after a period of weeks the couple would have got back together or the customer would have found another partner. So the Department were trying to target home visits at the point when this was most likely to happen, either to find such cases or to discourage concealment of the relationships (Section 12)

They also consider whether a change in the law would help reduce cases of LTAHAW fraud (section 14). However, they only consider increasing the couple rate so that it is equivalent to two single person’s rates. They reject this on the grounds that it will not only be costly but also ineffective because couples will still be assessed on the basis of their joint income. The estimated cost of such a change would be £2.2 billion in 2003-4. As a result it would cost far more to change the rule in this way than the cost of LTAHAW fraud. They also suggest it would deter people from finding paid work. The report says nothing about the gendered nature of the rule or the significance of women’s unpaid work. They do not consider individualisation of benefit *assessment* as well as payment, no doubt because it would cost even more to the public purse.

One of the report's conclusions is that fraud could be reduced if the system was less complicated.

Reducing complexity would help in restricting the opportunities for fraudsters to exploit the confusion faced by many claimants about their obligations and entitlement, and also in reducing the propensity of errors by Departmental staff in paying benefits. Simpler benefits may be less well targeted and perhaps more expensive, but the Department should seek to identify areas in which the costs might be mitigated by administrative savings and reductions in fraud

The main focus is on easier fraud detection for administrators but systemic problems also suggest doubts over what *is* a 'fraudster'.

The report also concludes that there should be (a) more efficient use of technology in terms of surveillance and (b) harsher penalties for benefit fraud. These measures might serve to exacerbate existing injustices and poor adjudication. There is no governmental interest in the disproportionate effects of this benefit rule on women and the recent extension of the rule to same-sex couples, means that a review of the principles underlying the LTAHAW rule is not on the policy agenda. This thesis examines the theory behind LTAHAW fraud.

Establishing Cohabitation

The cohabitation rule rests on a specific view of what a marriage-like relationship is and there is no scope for couples to *cohabit* but refuse to be financially dependent on each other.

The rule equates 'cohabitation' with 'living together as husband and wife'. As such it is not possible for cohabiting couples on benefit to reject a marriage-like relationship on conscientious grounds, for example, because of its association with state regulation of relationships or because of the institutionalisation of women's dependence on men which it perpetuates although even a married couple can make a case to show that they should no longer be treated as a married couple for social security purposes if, for example, they have separated (Commissioners Decision: CIS/317/1994).

The lack of a clear definition of cohabitation, to which Lister referred in her 1973 study, remains a major problem in the determination of cohabitation rule cases. In place of a definition, there are guidelines informed by a substantial body of case law on the subject. Because there is no legal contract, LTAHAW cases are established empirically. However, Commissioners have acknowledged the difficulty in establishing clear cut cases of cohabitation because of the vagueness of the concept and because of the complex and deeply personal nature of human relationships. This has led to ‘it all depends’ or ‘you know it when you see it’ approaches to explaining decisions.

It all depends on the facts of the individual case and a true relationship of cohabitation is probably easier to recognise when one comes across it than to define exhaustively in the abstract (Commissioner’s Decision: CP800/95:17)

The Decision Makers’ Guide (DMG) sets out the issues which should be looked at in making an LTAHAW decision. Decision-makers are instructed to look at six points.

- Financial Support
- Sexual Relationship
- Members of the same household
- Stability
- Children
- Public acknowledgement

(DMG, Vol. 3 Chapter 11, Amended 2002)

In CP8001/95 the ‘check list’ approach was criticised. Commissioner Howell insisted on the importance of the words “husband and wife” in the legislation which were to be understood as an extra condition on top of the words “living together”, thus excluding other types of relationship which cannot be marriage-like, e.g. brothers and sisters, parents and grown up children and friends but also potentially many other relationships which could, conceivably involve all six of the issues and still not constitute LTAHAW.

In Chapter 7, I present a fuller critique of the six issues using empirical evidence from my field work. Here, I want to identify some of the theoretical problems involved in DWP guidance on identifying LTAHAW cases.

Financial Support

Actual financial support is only one issue looked at and its absence is not conclusive proof that a couple are *not* LTAHAW. It is paradoxical that a rule which is based on an assumption of financial support can be used even when that financial support does not exist. Guidance on financial support is short. Where significant financial support is provided, couples ‘pool’ their income, or have a joint mortgage that will “usually be an indication of LTAHAW”. Nevertheless, any personal financial arrangements the couple may have agreed upon cannot be considered proof that they are not LTAHAW.

..a couple may be LTAHAW even if they keep their finances completely separate
(*ibid*)

The stated justification for the inclusion of financial support as one of the six issues is as follows.

In most husband and wife relationships it would be reasonable to expect financial support of one partner by the other or the sharing of household cost (DMG, Section 11043)

This is two statements: one is about financial support and the other is about sharing costs. I will deal with each separately.

When couples get married, they accept a legal duty to provide financial support to each other. This could be seen as the basis for a reasonable expectation that they will fulfil their financial obligations to each other. But is it *reasonable* to expect a financial support obligation from *unmarried* couples? There could be a number of reasons why such an expectation is *unreasonable*, for example, the relationship is too

new. Another argument could be based on evidence of women's unequal access to financial decision-making and resources within couple households (e.g. Brannen and Wilson, 1987; Vogler, 1989). *Reason* might prescribe some measure of financial independence to avoid the risk of an emergent power imbalance.

It may well be reasonable to expect adults living under one roof to *share* costs but a cohabitation rule determination means that one partner no longer has the right of individual benefit entitlement and so is no longer able to *share* household costs. This raises obvious questions about the possibility of being able to maintain an *equal* partnership in the face of unequal access to resources.

Sexual Relationship

Although arguably the central issue in identifying cohabitation rule cases, the DMG has very little to say on the subject of sex and what is said is short and non-committal. Having acknowledged the importance of sex in a marriage and thus relevant to LTAHAW, it then goes on to say that the existence of a sexual relationship is neither here nor there in terms of LTAHAW identification.

Evidence of a sexual relationship does not in its own mean that a couple should be thought of as LTAHAW. Similarly a couple may be LTAHAW without having a sexual relationship (DMG, Section 11045)

There are clearly difficulties in determining the boundaries of a relationship by sexual activity in a cultural climate characterised increasingly by liberal attitudes to sex. Yet the existence of a sexual relationship of some kind appears to be more important than the guidance suggests. What else could justify the assumption of LTAHAW as opposed to close friends living together?

In this study I examine the way that cohabitants view the connection between sexual relationship and financial support obligation. It is clear that the *sexualisation* of benefits entitlement (McLaughlin, 1999, p. 181) is still a very sensitive issue.

Members of the same household

Determining who is in the household is essential to establishing benefit entitlement and rate. The DMG distinguishes between ‘household’ and ‘home’ (Section 11047). This distinction is aimed at couples who separate but continue to live under the same roof (for example, a divorced couple who continue to live under the same roof whilst financial matters are settled). On the other hand, owning or renting separate homes is *not* enough to prove that a couple are not living together as husband and wife “particularly where the other accommodation is seldom used” (Section 11049). Also where the main reason for two people sharing a household is to provide care or support, they should not be considered to be living together as husband and wife (Section 11048). Within the context of means-tested benefit entitlement, household is the unit for benefit entitlement and thus by definition it excludes everyone other than dependent children and heterosexual partners. The household is effectively synonymous with who counts for a benefit claim. Complications over the definition of ‘household’ emerging in case law illustrate the problems involved in trying to draw distinct boundaries round something which is essentially fuzzy.

It is suggested that the “cause” of a couple living together might suggest that the relationship is not LTAHAW but decision-makers are urged to look also at “facts and circumstances” of the on-going relationship. This highlights the difficulty in pinning down the exact time that a relationship becomes or stops being a case of LTAHAW.

Stability

Governments have promoted marriage as a more stable relationship than cohabitation, especially within the context of raising children (e.g. Home Office, 1988). On that basis, it could be argued that it is the very fact that marriage *is* a more stable relationship that suggests that cohabiting couples should *not* be treated as if they are married. On the other hand if, as has been shown to be the case (Barlow and James, 2004), increasing numbers of cohabitations are resembling marriages in terms

of stability, that might be an argument for treating *some* cohabitations as if they are marriage?

The DMG has more to say on the question of stability than on any of the other six issues but again the guidance is inconclusive. It starts with the following statement.

Because marriage is entered into as a stable relationship, the decision maker should consider the stability of the relationship when deciding whether a couple are living together as husband and wife (Section 11060)

Given the number of marriages which end in divorce or separation, stability seems to be more of an ideal than a reality in many married people's lives. This is reflected in the guidance. It is made clear that stability is relevant to cases of LTAHAW not because marriage *is* a stable relationship but because it is "entered into as a stable relationship". It is therefore based on the *ideal* of marriage rather than the reality. If a couple volunteer the information that they intend to marry that is treated as proof that the relationship is stable (section 11213)². On the other hand a couple cannot avoid the rule simply by saying that they do not intend to marry. The DMG is specific about this. A denial of any intention to marry is no proof that the relationship is *unstable*.

The stability of marriage is often referred to in family-related policy documents but what a stable relationship is, is never properly spelt out. As a concept it is arguably as difficult to define as 'living together as husband and wife'? The DMG makes no attempt at a definition but they do lay down measurement criteria. Decision-makers are instructed to look at what couples do for and with each other. The former measure is gendered. In Figure 3, it can be seen that men take substantially less *responsibility* for chores in the home than women although they are more likely to *say* they share the tasks than are women.

² It is unlikely that a couple trying to avoid the LTAHAW rule would state that they intend to marry.

Figure 3

Division of household tasks between couples in Scotland, 1999
Row percentages

Household Task	percentage of each gender with responsibility for particular household tasks (couples only)									
	Mostly Self		Mostly partner		Shared		Other		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Who does the grocery shopping?	14	53	43	11	42	35	1	1	100	100
Who does the cooking?	20	63	55	14	25	22	1	1	101	100
Who does the cleaning?	9	64	57	8	29	24	5	4	100	100
Who does the washing/ironing?	9	77	71	5	19	15	2	2	101	99
Who is responsible for childcare?	2	64	63	2	33	34	1	1	99	101

Source: British Household Panel Survey 1999

Notes: Data was collected between September 1998 and March 1999. Data is un-weighted.

(Scottish Executive, 2002, Table 8.4).

If women are doing all the work, is that a measure of the stability of a relationship? In a recent study by Rowlingson and McKay (2005), a reluctance on the man's part to help with housework because of traditional attitudes to gender roles was one of the factors that could contribute to relationship breakdown (p. 40). Measuring stability by looking at the things couples do for each other is likely to be difficult to establish if there is disagreement and in cases where the woman is doing a disproportionate amount of the housework, it might be a measure of *instability*.

What people do *with* each other is bound to be affected by the availability of personal and local resources and a lack of these might *destabilise* a relationship. Research has suggested that isolation and the lack of a social life caused by living on a low income can adversely affect relationships (Beresford et al, 1999) and so, ironically, might be an appropriate measure. However, it is possible that doing things together might be something you do at the beginning of a relationship when there has been arguably

little time to determine the stability or otherwise of a relationship. This raises another important issue in relation to the stability of a relationship and that is *time*.

Whether or not a relationship is stable is often associated with the longevity of a relationship. A stable relationship is one that lasts. In the sense that longevity is a strong indicator of stability, it could be argued that stability can only ever be accurately measured at the end of a relationship. The DMG is not quite as interested in the longevity of relationships as might be expected. It is possible for an LTAHAW determination to be made at the very start of a living-together arrangement, at a point when there has often been no time to establish whether or not a living-together relationship is stable or not.

It is for the DM to decide at what point a relationship should be regarded as LTAHAW. The length of time a couple have been together is not proof of the stability of a relationship. There is no specified time limit in deciding the stability of the relationship (Section 11063)

Although staying power *may* indicate a stable relationship, it might not. There are all sorts of reasons why a couple might decide to stay together. The marriage might last but the relationship could remain *unstable* throughout if instability is measured by something other than time, say by looking at consistency/inconsistency of behaviour, happiness/unhappiness or whether or not a couple live with the constant threat of separation. They might even be effectively separated but still stay together. There might be an absence of sex in the relationship or an absence of companionship. The couples themselves might agree or disagree that the marriage is over but either way stay together because of the children or for economic reasons. They might stay friends but decide that the marriage or marriage-like relationship, *per se*, is over. They may stay together but take lovers either openly or in secret. Whether any of these marriages could still be considered *as* marriage or as stable relationships will depend largely on what marriage means to the couple themselves and their relationship aspirations. It cannot be measured in the same way in every case. Where one couple are unhappy living as strangers under the one roof, another couple may be perfectly happy with that arrangement.

These different scenarios suggest that whether or not a relationship is stable is a largely subjective issue. In addition, whether a couple *believe* their relationship to be stable or not is unlikely to be static. A sudden change of circumstances could change the perception of the stability of a relationship over night as could a gradual change of heart. In both cases a couple might disagree about the stability of their relationships. Whose view should count?

Although *time* is not used by decision-makers to measure stability, *change* is. Decision makers are instructed to review cases where there is doubt about stability after four to six months to see if there has been any *change*. They are told that if there has been *no* change, then “the DM should normally decide that a stable relationship exists” (Section 11066). On the other hand it is conceded that this does not automatically indicate a LTAHAW relationship. But change is also not necessarily an indication of stability if what has remained unchanged is *instability*. What counts as a significant change? The use of what couples do for and with each other might be less significant than falling out of love, for example or a change in financial circumstances. Furthermore, what effect might a cohabitation rule determination have on the stability of a relationship?

Children

The DMG emphasises care of one’s own children as being “strong evidence that [a couple] are living together as husband and wife” and in this sense the guidance is less vague than in other sections. However, the decision-maker is also instructed to treat men and women who are “acting” parents to their partner’s child as evidence of LTAHAW (section 11218) without any indication of what *acting parent* actually means. A new partner may take on some of the roles associated with parenthood but then so might a friend of the family. Is it practical responsibility or financial responsibility? A new partner may offer to lend a hand, perhaps with baby sitting or even changing nappies and even this might be seen as above and beyond a new partner’s natural responsibility. Financial responsibility which is the consequence of a cohabitation rule determination is a different matter entirely. Furthermore, it is

likely that even where parenthood *is* biological, care of children will once again be a highly gendered activity. Only 2% of men in Scotland have the “main responsibility for child care”, compared to 64% of women (Scottish Executive, 2002). This is likely to be true whether or not a couple are married or cohabiting and is thus a poor indicator of LTAHAW.

Public acknowledgement

The DMG makes several points about this issue. It begins with the following statement.

If a couple have represented themselves to others as husband and wife, this is an indication that they are living together as husband and wife (section 11219)

Decision-makers are given a list of examples of places where they should look for such a representation: the electoral register, benefits claims, accommodation applications, whether or not “friends and neighbours accept them as a married couple” and whether they share the same surname. This gives benefits officers and fraud investigators authority to sift through claimants’ private lives. The right to privacy is something that is sacrificed every time someone makes a claim for a means-tested benefit.

Research suggests that most people nowadays have no moral objection to unmarried couples living together (Harvie-Clark, 2005). The DMG acknowledges this. A couple can still be treated as LTAHAW even though they do not *pretend* to be married and “couples who retain their separate identities as unmarried people can be considered as living together as husband and wife” (section 11220). Anyone who is attempting to avoid the cohabitation rule is unlikely to pretend that they are married. Decision-makers are instructed to ignore “separate identities” in their deliberations which is to treat as irrelevant the effects on a sense of self that having an independent income might have.

The 'facts' of the case

The 'truth' of LTAHAW cases is deemed to be an empirical matter. But whether a determination can ever really be said to depend on "objective facts" has been questioned because of the capricious ways in which the so-called 'facts' of cases have been interpreted. Thus Mesher and Wood (1998) show how the issue of financial support has been used to support very different conclusions relevant to cases where board and lodging or friendship may better describe a living-together arrangement.

The approach to financial support seems to make almost any arrangement point the same way, except a very clearly fixed commercial rate. If the man pays a lot, he is supporting the woman. If he pays very little, this shows that the relationship is more than a commercial one. This makes it very difficult for parties who are friends, or where the man pays what he can afford, where the proper conclusion may merely be that the two people share a household (p. 27)

This is a serious matter in relation to fraud or overpayment. In order to incur an overpayment, a claimant must have failed to disclose or misrepresented a *material fact*. An innocent failure to disclose can result in the recovery of an overpayment but only where it is "reasonably to be expected" that the claimant should have known to disclose that fact (RSB21/82).

The issue of intention has been controversial in LTAHAW case law. The following cases illustrate the problem faced by decision-makers.

..... usually the intention of the parties is unascertainable, or if ascertainable, is not to be regarded as reliable. But if it is established to the satisfaction of the tribunal that the two persons concerned did not intend to live together as husband and wife and still do not intend to do so, in my judgement it would be a very strong case indeed sufficient to justify a decision that they are, or ought to be treated as if they are husband and wife (Webster, *Robson v Secretary of State for Social Services*, 1982, 3FLR 232).

"A joint household is shown by the way people actually live, coupled with the necessary attitude of mind" (*Santos v Santos*, 1972, Fam. 247). It is therefore plain that the facts of people's daily living arrangements are at least as important as their "attitude of mind" (CIS/2900/1998)

In an influential case (Mesher and Woods, 1998, p. 28) Webster's direction (above) is questioned on the basis that intention can also only be ascertained empirically. However, in making his point the Commissioner refers to another issue *in passing* which is important as far as this critique of the cohabitation rule is concerned and that is the fact that two people may have different motivations for living together.

I am afraid that I do not think it will be of any real assistance to them, in that, apart from the fact it presupposes that the two persons concerned have the same intention – and often they do not - I do not see how a person's intention can be ascertained otherwise than by what he or she does and says at the relevant time. It is the conduct of the person concerned to which regard has to be paid. In my judgement, an intention cannot be ascertained without regard to such conduct ((SB) 17/81)

There is no clear indication anywhere in the DMG how cases where couple are in a relationship for different reasons should be handled and yet it is surely relevant to how a couple should be treated for social security purposes.

An important distinction is made in the DMG between 'polygamous marriages' and 'multiple relationships'. Polygamous marriages which are legal in other countries are recognized by the state and there is provision for a claimant to have more than one dependent spouse in these cases (e.g. IS Regs 18 and 23 IS Regs; Regs 84 and 88(4) and 95) JSA Regs). However, because "exclusivity, i.e. monogamy" is deemed to be an essential feature of marriage, a claimant who has 'multiple relationships', cannot be treated as if they are LTAHAW (DMG, section 11042). This is an intriguing aspect of the rule. It means that a rule that is designed to make sure that social security payments to cohabiting couples do not undermine marriage as a stable monogamous relationship, can be circumvented by establishing promiscuous behaviour.

Conclusion

Despite moves to give some marriage-style rights to cohabitants, the distinction between marriage and cohabitation has been retained in private law in order to protect the special status of marriage and respect the decisions of those who choose *not* to marry. The cohabitation rule in public law treats married and unmarried

couples the same for means-tested benefit purposes and this has significant implications for claimants, particularly lone parents. In this chapter I highlighted problems of definition which are also relevant to any private law regulation of cohabitation. Determinations of cohabitation rule cases are deemed to be an empirical matter, despite official acknowledgement that much of what counts as evidence is 'subjective'. The six issues which are supposed to guide decision-making are shown to be inconclusive and serious questions are asked about the identification of LTAHAW fraud. Also highlighted are important gender issues which have been consistently ignored by policy makers. In Chapter 6, I return to the six issues, and try to apply them to what couples said to me about their own relationships. Governmental interest in the cohabitation rule is restricted to preventing LTAHAW fraud. There is no interest in revisiting the theory behind it. This thesis has identified three arguments used historically to justify the rule. Firstly, it is assumed that it is *reasonable* to expect couples who cohabit to provide financial support to each other. It is argued that where economic advantage is at stake, couples cannot be trusted to tell the truth about their relationships and so abolishing the rule or, what probably amounts to the same thing, giving people the choice to claim as a couple, would be to encourage irresponsible behaviour. Secondly, cohabitation is understood as 'living together as husband and wife'. It is argued that the special status of marriage in UK 'family law' might be undermined if cohabiting couples were treated more favourably than married couples for benefit purposes. The third argument for keeping the rule is that the cost of abolishing it would be prohibitive. These arguments are examined empirically in this study. They led to the formulation of three research questions: How can cohabitants' attitudes and behaviour in relation to money, be understood? How should 'cohabitation' be understood? Does the retention of the cohabitation rule in UK social security law have any social costs which could counterbalance the costs of removing it?

However, there are political reasons why the theory behind the cohabitation rule is neglected as a policy issue. This is the subject of the following chapter.



3 GOVERNED BY DEPENDENCY

This chapter is about the politics of welfare and the role of the state which constructs citizenship status in such a way that it maintains rather than challenges the status quo. Government promotion of the idea of dependency as personal malfunction masks structural and systemic constraints and failure and the political decision-making involved in the construction of welfare recipients, for example, the 'welfare mother' and the benefit cheat. It also ignores the personal issues which women and men who are poor have to deal with in their public as well as private worlds. Importantly for this study, it is gendered, focusing on financial dependency and ignoring dependence on mainly women's often unpaid care work. It is impossible to make sense of the continued use of the cohabitation rule in the administration of means-tested benefits, themselves the result of political decision-making, outside the politics of welfare and its inherent contradictions. I begin by taking a critical look at household-based welfare as a gendered policy preference and its continuing gendered effects.

Household Welfare - the Beveridge Legacy

The significance of household or family based welfare provision has been seen as crucial in debates about the gendered nature of welfare provision and citizenship rights (Lister, 1992; Walby, 1994; Sainsbury, 1996).

When producing his blueprint for the welfare state in 1942, Beveridge drew upon assumptions about the family and gender roles he had already used in constructing his 1911 National Insurance Scheme. In that scheme, women were not to be insured against ill health because

...where the unit is a family, it is the husband's not the wife's health which it is important to insure. So long as the husband is in good health and able to work adequate provision will be made for the needs of the family, irrespective of the wife's health, whereas when the husband's health fails there is no one to earn wages (Beveridge, quoted in Wicks, 1991, p. 172)

Women's contribution to the welfare of their families was "vital though unpaid without which their husbands could not do their paid work and without which the nation could not continue" (Beveridge, 1942). Because it was secondary to men's work, work in the home formed the basis of a woman's right to her husband's but not the state's *protection*. Protection against the effects that a woman's ill-health would have on the well-being of other family members who were depending on her for care work and the fulfilment of household tasks was not even considered.

The Beveridge Report was published over sixty years ago, yet gendered attitudes to work in the home still inform social security provision. For example, the national insurance scheme remains "geared towards insuring the kinds of risks that mostly affect men, such as unemployment" with no provision for the loss of the main carer or homemaker (Rowlingson, 2003). The Beveridge legacy continues to be felt also in the inadequacy of pension provision for married women whose rights to a pension were always expected to depend on the work their husbands did and not the work *they* did. Furthermore, in order to qualify for a basic state retirement pension a minimum period of *paid* work is required. Where women do not satisfy the national insurance conditions for a pension in their own right (and many do not), it is possible to claim some credit for "home responsibilities" but home responsibilities alone will not entitle a claimant to anything (CPAG, 2003, p.800). The unpaid work mainly done by women continues to have less value placed on it than paid work.

The basis of the deal which Beveridge saw between the state and its citizens and which provides an ideological foundation for the modern welfare state, (from the Beveridge Report, 1942, in Jones and Lowe, 2002, p. 44) finds its ideal expression in the contribution principle (Ferrazi, 1995). Non-contributory benefits were to have less status than contributory benefits because generous benefit entitlement without labour market conditions were seen as a threat to the work ethic. Thus, the fulfilment of their duties as wives and mothers, would not afford women the privileges of paid work.

In Beveridge's welfare design a clear distinction was made between the unmarried and married woman. Through marriage a woman's *identity* would change and with it

her right to financial support from the state. Single women were “honorary men” (McLaughlin, 1999, p. 179) who could claim benefits in their own right but on marriage, they would “become a new person, acquiring new rights and not carrying on into marriage claims to unemployment and disability benefits in respect of contributions made before marriage” (Beveridge, 1942, para. 339). Abbott and Bompas (1943) argued at the time that the Beveridge plans gave no recognition of a married woman’s status “as citizen and worker”

It is with the denial of any personal status to a woman because she is married, the denial of their independent personality within marriage, that everything goes wrong and becomes unjust and ungenerous (p. 447)

In Chapter Two I showed how decision-makers are told to ignore the question of “separate identities” when they are trying to decide if a couple are living together as husband and wife. This can be traced back to Beveridge’s original plans for women.

Because poverty is usually measured at the level of the household, women’s relative poverty *within* the household can be ignored more easily. This point had already been made by the time Beveridge drew up his famous plans. Rowntree identified the difference between *primary* poverty and *secondary* poverty, the former concerning the inadequacy of the income coming *into* the household and the latter concerning the inadequacy of the distribution *within* the household. This was an unheeded warning that the use of the family as a single unit for the measurement and treatment of poverty was unsafe (Smart, 1991). More recently there have been a number of studies which point to the dangers of making *any* assumptions about what happens to money within the household (Pahl, 1990; Vogler and Pahl, 1994). These studies have been found to be significant in analyses of gendered power relations in the home. The studies show that where income comes from often has a powerful effect on the level of control exercised over its use (Burgoyne, 1990) and on the balance of power within relationships (Vogler, 1998).

Pahl (1989) and Vogler and Pahl (1994) identified a number of different money management systems amongst married couples. These included ones where either

the man or the woman had control over how money was spent and other in which couples managed their money jointly. In other cases, couples used a housekeeping system in which the man would hand over a set amount of money with which the woman was expected to run the household. Vogler and Pahl concluded that the “joint pooling had the most egalitarian outcomes”. However, the lack of earner status can disempower women in relationships.

Wives who have paid employment are likely to have greater power than those who work at home (Vogler and Pahl, 1994)

Similarly, Burgoyne notes how the discourse of ownership of earned income could affect the way couples treated money even in what were nominally pooled systems of money management.

Pooling money in a joint account may remove the overt labels of ownership, but the source of that money may retain a powerful influence on the mind of both partners, an influence which is not consciously admitted, yet which may be reflected in the way both partners treat what is, in theory, a joint resource (Burgoyne, 1990)

More recently, there have been studies which explore unmarried couples’ systems of money management for signs of more egalitarian outcomes. However, these studies point to similar conclusions about the importance of earner control. Elizabeth (2001) carried out a small scale research project with cohabitants in New Zealand. She concentrated mainly on couples who had adopted what she described as “an independent money management (IMM) system as a form of resistance to “assumptions about women’s financial dependence and powerless within heterosexual relationships” with a sideways glance at joint money management (JMM). She argues that even here where the emphasis is on equality, the dominant discourse of earner control undermines the discourse of equality that both of these schemes are meant to reflect. On the other hand even when women do earn, their income is often treated as of less importance. Vogel (1998) uses the work of Zelizer to show the historic link between the idea of the breadwinner as always male and the lack of respect given to women’s earnings, regardless of the part that they play in “keeping the family out of poverty”. Despite so much evidence to the contrary, that other discourse, the one about couples *sharing*, continues to dampen challenges to a

rule which *might* rob women of their means of support and their best chance of sustaining equal status within a relationship.

An important study of the way couples who are dependent on state benefits manage their money, discovered that claimant control could have similar effects to earner control.

Perceptions of entitlement to benefit income are affected by the administration of social security benefits. For example, among JSA claimants, the fact that only the named claimant (in over nine out of ten cases, the male partner) was identified on the giro cheques was thought to confer enhanced individual entitlement to the income (Snape, Molloy and Kumar, 1999)

The report highlighted the fact that the wide variety of systems couples used to manage their money was not reflected in the administration of benefits. However, the researchers reported that “the ethos of sharing” was strong amongst claimants, making most favour a single payment to the family. Nevertheless there were some who did favour individual payments to each partner on the basis of “eliminating the symbolic dependency of one partner on another” (*ibid*).

Leonard argues that “access to an independent income increases women’s negotiating power” (Leonard, 2001) within the home in relation to care work and that women who have an independent income are much less vulnerable in abusive relationships.

The implication of these studies is that a rule which forces women into financial dependence on men may undermine women’s status as equals and do them harm.

Nowadays with the achievement of ‘formal equality’, couples can choose which of them makes a claim for benefit, that is “the woman has the right to claim and make him [her male partner] her dependant” (Williams, 1989, p. 185) but women are still more likely to find themselves in a dependent position than are men (Daly and Rake, 2003; Bennett, 2005). Some of the people that Snape *et al* spoke to had no idea that they had claimant choice.

In a recent report carried out for the Equal Opportunities Commission, Fran Bennett (2005) provided evidence to show that women's income still lags behind men's, especially when they have children and women are more likely to be poor than men. Women were more likely than men to have no income at all. However, whereas the men in this position tended to be young and single, "almost 2 in 3 of the women were married and just under half were aged 45-64 [and] just under 1 in 4 looked after the family or home" and "if there had been no sharing at all in 1986, about half of all wives – but only about a tenth of all husbands – would have been below the poverty line...compared to one in seven of each if it was assumed that they pooled all income" (Bennett, 2005, p. 14).

The gendered consequences of continuing to treat the household or family as if "it has a unitary set of interests" (Walby, 1994, p. 383) illustrates the inadequacy of changes that simply address directly discriminatory practices within the system without addressing much deeper structural issues. This is the continuing significance of Ginsburg's (1979) claim that the cohabitation rule was "the implicit reinforcement of patriarchy within the social security system". As Alcock wrote

It is the ideological structures, rather than the issue of equal treatment in claiming benefits which is the root cause of gender inequality in social security. And in spite of moves towards more formal equal treatment in the 1980s, the fundamental structuring role of this ideology has not been undermined (Alcock, 1987)

Not only are the discriminatory effects of the cohabitation rule concealed behind a veneer of equality, but any complaints about its effects are quickly dismissed because anyone who does not have the special status which paid work confers is not expected to complain about the rules.

Dependency and Private Matters

In terms of welfare provision, the emphasis of successive governments has been on "cutting the supply routes to dependency" (Webster, 2000). This has been channelled into a number of welfare-to-work initiatives, putting the emphasis on paid work as a

route out of poverty where poverty is defined very narrowly as dependence on benefits.

The issue of dependency has been critical in feminist analyses of the gendering of welfare states and the “relationship between state, market and family” (O’Connor, 1993). Feminist writers have seen the dependency issue in the context of a gendered separation between the public world of government, civil institutions and the market and the private world of the family.

Historically, it is men who have acted within the public realm and have moved freely between it and the private realm, while women and children have been mostly restricted to the private realm, and subjected to the authority of men within it (Pilcher and Whelehan, 2004, p. 125)

The private world of the family has been traditionally out of bounds as far as state (or public) intervention is concerned. Partly this reflects the authority of ‘the male head of the household’. This construction of the impenetrable home as castle meant that it was only relatively recently that abuses committed within the home were considered to be of public concern (Dobash and Dobash, 1979; Nazroo, 1999). But letting the agencies of the state or public institutions step over the threshold is not automatically in the best of interests of women if interventions are based on a denial of women’s self-determination and identity. The apparent gender neutrality of the state has been called into question by feminists fighting the gender blindness of its institutions (Brown, 1995)

The separation of the public and private worlds reflects the belief that the state should only be called upon to intervene in the domain of the family as a last resort. This principle of *subsidiarity* “the state will only interfere when the family’s capacity to service its members is exhausted” (Esping Anderson, 1990) is a characteristic of both liberal and conservative welfare ideologies. Williams (1989) has pointed out that conceptualisations of the freedom of the individual by neo-liberals like Hayek and Friedman find their perfect expression in accounts of the family as a natural unit which “should be preserved from state interference particularly in the form of welfare provision”. She also describes Mount’s “insistence on privacy [as] an

important guarantor of liberty” (p. 119). In all these cases, there is a basic contradiction which is never voiced in welfare policy and that is that “while women are subsumed in the private sphere of the family, then its promise of liberty can only apply to men” (Williams, 1989, p. 119).

The discouragement of a dependency culture is a contemporary concern with a long heritage. Byrne (2003) suggests that the ‘anti-dependency ideology [has] been part of Anglo-Saxon systems at least since the 1834 New Poor Law’ (p. 198). Of course, once financially dependent on the state, the right to privacy disappears. The state as surrogate patriarch takes over. Because claimants cannot be trusted to tell the truth, their private lives must be sifted through by benefits officers whose authority to do so is legitimised by the *fact* of dependency which diminishes citizenship status.

Zinn (1987) argues that in the US, the concept of *welfare dependency* is part of the language of social control. She argues that a focus on “individualism, independence and self-interest” underpins ideological capitalism. Similarly Hartman (2005) describes how welfare dependency can be used to support the smoother running of the market. One way is by helping to maintain a steady flow of compliant workers, prepared to accept jobs that require minimum levels of training or education and which have poor conditions and pay. Another is to provide subsidised or volunteer workers through workfare type schemes. Women become “an occasional appendage to the world of production” (Pascall, quoted in Williams, 1989, p. 118) and are cast as the *natural* dependants of men.

Although it might be argued that dependency “has a very different meaning for men and women” (Graham, 1983, p. 24) it is important to recognise that as well as maintaining a hierarchical relationship between men and women, the dominant conceptualisation of welfare dependency also serves to control the male workforce. Dependence on welfare or the inability to be the breadwinner (through paid work) is emasculating thus excluding men who *are* dependant on benefit from full citizenship status. The focus on paid work stigmatises those men who for whatever reason are

unable to find paid work, even if paid work means virtual enslavement to a ruthless and bad paying employer.

There are problems with focussing on 'dependency' as a problem or about assuming that the total eradication of dependency is either desirable or possible. The continued negative use of the word dependency has been seen as detrimental to women and other marginalised groups who are already stigmatised and defined by it. Furthermore women's economic dependency, often upon men, can obscure the fact of "men's dependence on women for care and servicing, which facilitates their own independence as workers and citizens" (Lister, 1997, p. 109). Zinn points out the fallacy involved in thinking that anyone can ever be entirely independent.

Dependency is a natural and necessary human condition...none of us is wholly self-sufficient; we all live in circumstances of partial dependence (Zinn, 1987, p. 218)

The concept of 'autonomy' is equally problematic, associated as it is with neo-liberal approaches to individuality, and at its most powerful in the context of the market place, that is the public domain which women have traditionally been excluded from. Donchin (2000) criticises this "individualistic conception of autonomy" arguing that "autonomy has a social component built into its very meaning" (p. 188). She equates the individualistic conception of autonomy as indicating a "separateness" which could never exist in the real world because it involves a denial of the social relations which mould lives and create the conditions under which we learn the ability to decide and act autonomously. 'Autonomy' will be looked at again in the next chapter

Governed by Dependency

Means-testing has become a far more significant part of social security provision than Beveridge ever envisaged (Rowlingson, 2003, p.12) and is thus increasingly important to an understanding of social citizenship rights (Ferrazzi, 1995). In 2003, a sixth of all British households were in receipt of IS (Walker and Wiseman, 2003).

Governments favour explanations of residual benefit claims increases in terms of the individual behaviour of claimants rather than their own political decision-making. Walker argued that the creation of unemployment was a deliberate policy during the Thatcher years but with an uneven effect.

Rather than simply being the by-product of a world recession, the British government has consciously chosen unemployment as a tool of social and economic policy. It has been able to do so because the burden of unemployment is not borne equally. Thus, it is predominantly the same poor people in the benefit and low wage sectors who have experienced the lowest rises in income over the last eight years that have also been hit hardest by unemployment (Walker, 1987, quoted in Johnson, 1990, p. 30)

During the Thatcher years, the tax system was restructured, proportionately shifting the burden of taxation away from the rich and on to poorer members of society (Hills, 1988). Williams (1989) also shows how successive governments' policies increased unemployment for specific groups, widening the gap between the haves and the have-nots, disproportionately affecting women and people from ethnic minority groups. The Equal Opportunities Commission estimated that in the first seven years of the Thatcher governments, female unemployment went up by 189% compared to male unemployment which went up by 143% (Glendinning, 1987).

In addition, policies *rhetorically* aimed at cutting back on the costs of welfare increased the numbers of people claiming means-tested benefits. This meant movement away from benefits paid as of right to a system for assessing need which was inevitably complex and stigmatising. Bennett (2005) makes the point that the

cuts to contributory benefits corresponded to an increase in women going out to work.

The cost of administering means-tested benefits is high (Rowlingson, 2003, p. 25) suggesting that the increase in their use is less to do with cutting expenditure and more to do with changing "the pattern of expenditure", based on ideology (Johnson, 1990). The ideology of the market involves the institution of the individual to

replace collective responsibility or what has been called pejoratively, the “dependency culture” (Deacon, 1991).

In 1999, the Child Poverty Action Group produced a book which documented social security claimants’ own experiences of benefit dependency. The following quotation is from an anti-poverty youth group member.

You’re also social security dependent and I think that’s one thing that really pisses people off is relying on the social security and them being your god. They determine when you get paid, what you get paid, if you’re going to get paid. They can muck you about and hold your book back for days...so many people’s lives are governed by the DSS (Beresford, Green, Lister and Woodard, 1999, p. 110)

Because of their last-resort nature and constant association with worklessness and benefit fraud, out-of-work benefits and particularly, means-tested benefits, such as IS and I-JSA, have become well-known symbols of social unacceptability. Claiming means-tested benefits is likely to be a tiring and demoralising experience (Conway, 1988, p. 76). The claims process can act as a disincentive to claim or to notify the authorities of a change of circumstance. The financial needs assessment is complex and intimidating, checks are becoming more and more rigorous and claimants may find themselves on the receiving end of judgemental attitudes especially if they attempt to challenge any aspect of the claims procedure (Howe, 1985). To quote Hilary Rose writing twenty two years ago “the ‘gift relationship’ which exists in Supplementary Benefit [replace with IS] is one of exchange of public cash for personal humiliation” (1973, p. 152). Among the factors that negatively affect take-up of benefits are rules which are difficult to understand and multiple, an income test and high levels of associated stigma (Cordon, 1995).

Inadequate benefit levels have been highlighted by those worse affected as being a major cause of their poverty (Beresford et al, 1999). Poverty puts a strain on family relationships (Webster, 2000) and wider social relationships (Conway, 1988; Beresford et al, 1999) and thus can increase the likelihood of relationship breakdown and leave people feeling isolated and excluded. Claimants can be left feeling stressed, lacking in self esteem and powerless.

The level of subjugation and discomfort that claimants of means-tested benefits have to endure, stands in marked contrast to the image of the welfare dependant, who lives the good life at the taxpayer's expense. Welfare as a vehicle for a "free ride" is the guiding metaphor, an image that masks the extent to which welfare humiliates and coerces even as it "helps" (Code, 2000, p. 196)

Because of barriers to paid work, claimants may feel that it is not in their power to do anything about their situation and the effects of poverty can result in a self-fulfilling prophesy about the attitudes and behaviour of the poor. But although people might feel they have no choice but to remain dependent on benefits, this does not mean that they are passive. It is clear that considerable resourcefulness is required to manage on benefit income (Beresford et al, 1999, p. 121; Lister, 2005, p. 2).

Claimants of means-tested benefits have to accept excessive levels of intrusion into their personal lives. This intrusion reaches new levels when it comes to the cohabitation rule which "'sexualised' the administration of social security" (McLaughlin, 1999, p. 181). Intrusive questioning through interviews including cohabitation rule and child support interviews add to the sense which someone in my MSc study had that she was living in a "gold fish bowl" (Kelly, 1999). Brown (1995) sums up the problem.

Whether one is dealing with the state, the Mafia, parents, pimps, police, or husbands, the heavy price of institutionalised protection is always a measure of dependence and agreement to abide by the protector's rules (p. 169)

Increasingly punitive measures against those who were deemed to be voluntarily unemployed, the replacement of single payments with the largely discretionary social fund and the withdrawal of the automatic right to benefit from 16 and 17 year olds all contributed to making the poor poorer and hit families hard. A number of studies have shown that when income is low, women in couples are the ones likely to be left to manage the family budget (e.g. Vogler and Pahl, 1994) and with high levels of lone parents on IS, changes were always likely to have a disproportionate impact on poor women. Furthermore, despite a movement away from the rhetoric of collective

provision to the rhetoric of the independent individual, the male breadwinner model of welfare which institutionalises women's dependence on men, remains in place.

Supporting Lone Parenthood

The condition that solo householders have to meet in exchange for a continuing valid claim for state support is that they do not have a breadwinner. While they are on their own, women with children have a right to IS based on their caring responsibilities. After a cohabitation rule determination, that right is lost and the responsibilities of running a home or caring for children cease to have any relevance. The relationship of the household to the market, usually mediated through the new male partner will be all that matters in the determination of benefit entitlement.

Despite the humiliation and stress associated with being a benefit claimant and the hardship associated with dependency on IS, for many lone parents, dependency on the state is still a lesser evil than dependency on an "arbitrary individual patriarch" (Vogler and Pahl, 1999). Walby (1994) sees this as "important in the transformation of the form of gender relations, even if it does not lift women out of poverty". Brown describes it as a choice between two 'unfreedoms'.

Given a choice between rationalized, procedural unfreedom on the one hand, and arbitrary deprivation, discrimination, and violence on the other, some, perhaps, even most, women might opt to inhabit a bureaucratized order over a "state of nature" suffused with male dominance. So also would most of us choose wage work over slavery, but such choices offer nowhere a vital politics of freedom (Brown, 1995, p. 169)

Vogler and Pahl distinguish between "strategic control over money" and "being responsible for managing money on a day-to-day basis" (Vogler, 1998, p. 691). The day-to-day management of the finances in a household may not bring with it any "real power" over the amount of money coming in to the home and the household manager will have to do the best they can, with what may be insufficient resources. Their study supported the conclusions of others that "wives are more likely to manage money in low income households where there is insufficient money to meet the bills and the task is likely to be a chore or a burden rather than a source of power"

(Vogler, 1998, p. 692). Nevertheless, entitlement to benefit provides lone parents with relative freedom and relative control over financial decision-making. That financial support is conditional on lone parents remaining single. They can continue to make a legitimate claim for benefits only so long as they are *without* a breadwinner and this makes their benefit status precarious. It would be reasonable to assume that the loss of state support involved in re-partnering might affect relationship decisions. It might also lead women to hide their relationships.

A number of commentators have associated lone parents' position with the sexualisation of benefit entitlement (McLaughlin, 1999). Silva suggests that the cohabitation rule is commensurate with the historical link between women's right to financial support and their sexual behaviour.

Sexual 'fidelity' was, and still is, required [for the right to claim benefits]. The assumption is that a sexual relationship with a man would make him responsible for keeping the woman and her child or children, and result in a withdrawal of state support (Silva, 1996, pp 18-19)

Similarly Ferrazzi describes the differential effect of conceptualisations of 'work' on men and women.

Although the distinction between workers and non-workers has been a central category in the construction of the social assistance approach in Britain, it should not be forgotten that it was a category applied only to men. Women's eligibility to social assistance was based on a totally different basis, that is on sexual behaviour, distinguishing "good" women from "bad" women (Ferrazzi, 1995)

The definition of lone parenthood is not universally agreed. There are variations in definitions of childhood in different countries and this affects who is and who is not classed as a lone parent (Hantrais, 2004, p.460). However, there seems to be consistency in treating re-partnering as a sign that lone parenthood has come to an end. But the construction of lone parenthood as being *without a partner* is by no means obvious and is indeed out-of-step with the construction of parenthood as biological which underlies Child Support legislation (Rowlingson and McKay, 2002). It is possible to construct a picture of lone parenthood as continuing beyond the establishment of a relationship if what is given the most weight is the functioning

parenting role and not the existence of a *potential* (rather than actual) breadwinner. Of course, there are no guarantees that a new partner will be prepared to take on the responsibility of parenthood, financial or otherwise or that where the biological father is still part of a child's life, that a new partner will be welcomed as a new parent. Where a non-resident biological parent does continue to play a significant part in a child's life then there is an argument for saying that the resident parent is not actually a lone parent although it makes sense to give consideration to the costs of maintaining a home for a child. But there are no guarantees that a biological parent, resident or non-resident will be willing to share the responsibilities of parenting either. Assumptions about the acceptance or fulfilment of personal obligations are often proved wrong (e.g. Finch and Mason, 1999; Bradshaw and Skinner, 2000; Vogler and Pahl, 1993 and 1994). Therefore, it is important to acknowledge from the outset that lone parenthood is constructed for social security purposes and on the basis of an absence of a breadwinner and is not related to functioning parenthood as such.

Lone parenthood became a central theme in social policy debates in the twentieth century (Millar, 1998) and has remained on the political agenda ever since. Debates have tended to involve, on the one hand the problematisation of lone parenthood (e.g. Murray, 1990, 1996; Dennis and Erdos, 1992; Morgan, 1995) and on the other, challenges to particular constructions of lone parenthood *as* a problem (Smart, 1996, Kiernan et al, 1998; Carabine, 2001).

Lone parents have variously been portrayed as a drain on the taxpayer related to the number who are poor and dependent on social security, a risk to the healthy upbringing of children and thus a threat to society itself. As most lone parents are women, the 'problem' of lone parenthood has largely been one of lone *motherhood*. Thus as Smart points out, "it is the lone mother (whether divorced or never married) who is reconstituted more firmly as a burden on the state, as an inadequate mother to her children and as damaging to the moral fibre of society" (Smart, 1996, p. 54). Ruth Sidel (1996) points out that the language to describe lone parent families in comparison with two parent families tells us a lot about the attitudes of those

speaking. Lone parent families are described as 'broken families' compared to 'intact families'.

In the eighties, debates raged about the 'problem' of lone parents and the so-called 'underclass'. Although not always used pejoratively (Oppenheim and Harker, 1996), the latter term became firmly associated with moral and, it was claimed, consequently social decrepitude through the work of Murray who had wealthy backers both in the United States and in the UK (Webster, 2000). In Murray's hands the 'underclass' became a new word for the undeserving poor, a group of people distinguishable from other poor people because of their espousal of a different set of values.

When I use the term 'underclass', I am indeed focussing on a certain type of poor person defined not by his condition, e.g. long-term unemployed but by his deplorable behaviour in response to that condition (Murray, 1996, p. 83).

In this way, Murray aligns himself with those who for centuries have blamed the poor for their poverty.

The assumption that virtually all poor people are members of the underclass is a shorthand way of saying that their behaviour is the central factor in their poverty, that they are dangerous, do not share mainstream values, are the other who must be brought into line, must be resocialised with the stick rather than the carrot, must be punished for their aberrant behaviour (Sidel, 1996, p. 69)

Murray struggles to find anything but anecdotal evidence to back up his claims and in this vein turns to those who are charged with the delivery of welfare and services to show that the distinction between the 'underclass' and the well-behaved poor is a functioning distinction.

The people who deal most intimately with poor communities in their daily lives use the same distinction among poor people that I use. The managers of council estates, policemen in poor neighbourhoods, social workers, nurses and physicians, may or may not bridle at the term 'underclass'; but if the topic of conversation is not whether the American reactionary is right, but rather a leisurely discussion of how these people go about their work and what life is like in communities where they work, the distinction between the good folks and the underclass shines through after the first five minutes (Murray, 1996, p. 85)

This appeal to the anecdotal evidence of street-level bureaucrats to support the case for the existence of the underclass, contrasts sharply with the findings of Lipsky (1980) who argued that the deserving/undeserving distinction so often made by street-level bureaucrats like benefits officers, is likely to emerge as the only way of coping with unrealistic policy objectives and inadequate resources.

They develop conceptions of their work and of their clients that narrow the gap between their personal and work limitations and the service ideal (Lipsky, 1980)

Similarly in the research I carried out for my MSc dissertation (Kelly, 1999), fraud investigators, not insensitive to the possible consequences of a cohabitation rule determination, nevertheless distinguished between the street-wise lone parent and the unsuspecting widow illustrating what they saw as the difference between fraud and error respectively. Fraud investigators had considerable leeway in terms of which cases went to adjudication and because LTAHAW rule cases are difficult to prove, they often bypassed adjudication proceedings. The actions of street-level bureaucrats are seen by Lipsky as instrumental in maintaining social control - they “structure and delimit people’s lives and opportunities” and “orient and provide the social (and political) contexts in which people act” (Lipsky, 1980, p.4). This also helps to draw attention away from the inequities of dominant social arrangements.

The public service sector plays a critical part in softening the impact of the economic system on those who are not its primary beneficiaries and inducing

people to accept the neglect or inadequacy of primary and social institutions (Lipsky, 1980, p. 4)

Murray’s main focus was on illegitimacy which he described as “the purest form of being without two parents” (1990, p. 27). This is a puzzling construction of illegitimacy, not least because illegitimacy is nothing to do with being without parents in the biological sense and only contingently about being without parents in the social sense. It brings to mind a letter to a newspaper I read some years ago in which a mother quoted her child as saying that single parents should actually be called double parents because they had to fulfil the roles of two parents. Murray’s

construction on the other hand comes much closer to the 18th century meaning of illegitimacy which is “the child of no-one” (Smart, 1996, p. 44). This is relevant because it reflects the lack of status given to the mother’s functioning parental role. Illegitimacy, Murray argued was inextricably linked to welfare dependency.

Webster (2000) expresses his surprise that Murray’s viewpoint had such a strong influence, given “its overtly ideological character, intemperate language and weakness of evidence and logic” but influence it had. Labour minister, Frank Field agreed with the conservative social security minister, Peter Lilley, that state support should be targeted at “the traditional unit, the two parent family” (Roseneil and Mann, 1996, p. 206). Bill Clinton was also influenced by Murray’s approach (Phoenix, 1996). Murray’s beliefs made their way into what had hitherto been seen as the centre-left of political establishment in the US and the UK, increasing the perception that “lone parenthood is primarily an issue of attitudes and incentives” (Webster, 2000).

Others have disputed the terms of the underclass debate and provided evidence that Murray and his followers were painting a misleading picture of lone parenthood. Bradshaw and Holmes (1989), for example, have insisted that the ‘underclass’ as a specific type of poor with different values from the rest of us has no basis in reality. Dean and Taylor Gooby also argued that lone parents do not have a separate value system but that they “adhere to the mainstream values of work and family ethics” (Dean and Taylor Gooby, 1992, p. 5). Phoenix insisted that “those lone mothers who are faring well are not discussed while those who are considered problematic make headlines” (1996, p. 181), referencing studies by Millar (1989); Bradshaw and Millar (1991), Hardey and Crow (1991) and Burghes (1993) which show how hard it is for lone mothers living on benefit.

It has been argued that an uncritical deserving/undeserving welfare discourse works by stigmatising a few to encourage compliance of the many (Hartman, 2005, p. 68). Interestingly, although eager to express his own moral outrage at the behaviour of the underclass, Murray (1996) also insists that blame works as “a useful fiction” (p. 85)

to affect behaviour in ways that are good for society. By doing so, Murray is explicitly subscribing to an ethic of social control, constructing himself as someone who *can be allowed* to know. Paradoxically, agency upon which the explanation and the solution of the underclass problem was predicated by Murray, is severely curtailed for those not in possession of the knowledge.

Recently, there has been an increased emphasis on getting lone parents off benefits and into paid work. This creates problems for lone parents, torn between two unpleasant constructions of them as social security scroungers or “welfare mothers” (Hartman, 2005) on the one hand and bad mothers on the other. They attract less attention to themselves once no longer dependent on Income Support. Research suggesting that working mothers might have an adverse effect on the development of young children (e.g. Ermisch and Francesconi, 2001), may deter mothers from seeking work. However, Webster (2000) provides evidence that suggests that it is not a question of lone parents not wanting to work but a question of availability of jobs. He also refers to studies carried out in 1998 by Pugh and Ihlanfeldt & Sjoquist that show that welfare-to-work measures for lone parents are at best ineffective or cause further destitution for the family and Edin and Lein who in 1997 showed that “in the present labour market, unskilled single mothers who hold jobs are frequently worse off than those on welfare”.

In addition, to the question of lone parent values, Murray and others can be criticised for not paying enough attention to the reasons why women end up on their own with their children and dependent on Income Support. Explanations have been found to be class-related and often include escape from an unhappy or abusive relationship or abandonment by a partner.

Citizenship

Citizenship defines the relationship between the *individual* and the state. Individual *rights* structure that relationship. The modern welfare state was designed on the basis of “co-operation between the State and the individual” (Beveridge, 1942) but

there were and still are gendered assumptions about the nature of that co-operative relationship. Historically, women have been excluded from many of the rights which have been taken for granted by men. Feminist commentators have described ways in which a woman's citizenship status is undermined by subsuming her needs within the needs of the *family*.

Giving benefits to a family does not mean providing the same chances to every individual member of the family. The analysis of the way in which women's condition in the poor family is affected by social assistance is an interesting way to approach the problem of cultural interpretations of gender issues in social citizenship (Ferrazzi, 1995)

Daly (1994) makes the distinction between those benefit contexts in which "claimants [are] constructed as individual bearers of rights on the basis of their status as workers", namely the context of national insurance benefits and those in "household based programmes which are designed to compensate for family failure of some kind, especially the absence of a male breadwinner". Policies which conflate individual need with that of the family effectively "erase women" (Walby, 1994, p. 383).

Marshall identified three different types of rights: civil, political and social. Although women's access to civil, political and social rights may have seen some improvement in the twentieth century, women have never been granted full citizenship rights, as laid down by Marshall. For example, one of the key components of Marshall's construction of civil rights is "liberty of the person" but women's control over their own bodies is determined by statute not by themselves. For example, to this day women do not have the right to decide whether or not they want to terminate an unwanted pregnancy (Walby, 1994 p. 380). Marshall assigns "formative periods" in terms of rights, "civil rights to the eighteenth, political to the nineteenth and social to the twentieth" (Marshall, 1950) but as Walby points out women did not get full voting rights until 1928. Marshall defines social rights as:

.. the whole range from the right to a modicum of economic welfare and security to the right to share in the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society (Marshall, 1950).

Walby takes issue with other critics of Marshall who have identified class and race deficits in Marshall's analysis but have remained blind to the significance of gender. So, for example, she criticises Turner for his complacency in relation to social rights "guaranteed by the 'welfare state'" (p.382) and his conflation of the needs and identity of the individual with those of the family "via the concept of 'private'" (p.383). Private, she suggests, has two meanings: the private individual and protection from state intervention. What many theorists like Turner have done is to assume that these two meanings of private amount to one and the same thing, disregarding the fact that a family consists of more than one individual. This has led them to ignore the needs and the value of individual members of the family. She quotes Turner's myopic view of what goes on in the 'private space of the family' to illustrate the point.

This conflation is further evidenced by Turner's adoption of the male viewpoint on the activities within the household when he asserts that in 'modern societies...the private is seen as the space of personal leisure and enhancement', thereby denying the salience of the household as a site of domestic labour by women (Walby, 1994, p. 383)

Similar arguments have been used to criticise the failure to recognise children's "[rights] to social protection and an adequate standard of living regardless of the income and circumstances of their parents" (Ridge, 2003, p. 174). It is from this perspective that Child Benefit, low in value but ring fenced for all dependent children, has been described as their "badge of citizenship" (Lister, 1990, p. 59).

Some have argued that citizenship is an intrinsically male construction and doubt whether it can ever be universalised to include women. Lister talks about having been at a conference where she met "a feminist academic who clearly regarded current feminist preoccupation with what she perceived as an irretrievably white male and therefore not very helpful, concept as a waste of time" (Lister, 1997, p. 1). Lister disagrees, arguing that, despite its 'problematic' nature, citizenship "dominates the terrain of western political thought" and can be used by groups who challenge Marshall's construction to press for greater civil, political and social recognition.

However, others argue that the pursuit of citizenship rights help to legitimise the very structures which exclude (Brown, 1995).

This is part of a wider debate about appeals to the state or the use of the legal system to press home rights claims, looked at earlier in relation to the state. For example, there is a real tension between claims for increased recognition of the value of 'women's work' in the home and the perpetuation of prescribed gender roles which claims for such rights might affect (Walby, 1994, p. 387). Furthermore, pressing for the *right* to participate equally with men in the public world, could amount to a further denial of the worth of unpaid work and reinforce masculinist values. Already the privileging of paid over unpaid work and an increased emphasis on paid work as the route out of poverty has meant that legislation is being used to increase pressure on lone parents to seek paid work and end dependency on IS. In 1998 lone parent benefits were abolished for new claimants, effectively reducing the worth of out-of-work benefits. Although it is acknowledged that many lone parents want to work, there are still concerns about the cost and adequacy of child care provision. Part-time work fits more easily around the needs of the family but reduces women's ability to compete equally with men in the marketplace.

Prokhovnik (1998) has argued that citizenship rights can only become gender neutral if the distinction between the public and the private world is eradicated and that the acts of citizenship already carried out in both worlds are fully acknowledged.

It is *not* that women need to be liberated from the *private* realm in order to take part in the public realm as equal citizens, but that women – and men – already undertake responsibilities of citizenship in both the public and the private realms (p. 84)

But as citizenship ultimately derives from the state, the approaches of both Prokhovenik and Lister may well be based on a misplaced trust in the state as a potential protector of rights. Others are less sanguine. Code (2000) describes "a long history of propertied white men speaking for, thinking for, voting for, and making decisions for 'their' women and their alleged inferiors, while claiming to know women and other Others better than they know themselves" (p. 197). Brown (1995) argues that while the state is becoming less important within a global context,

nevertheless “male social power and the production of female subjects appears to be increasingly concentrated in the state” (p. 194). Whilst not disputing that women have made some gains “in or near the domain of the state” in terms of greater control over their own bodies and increasing (although still severely restricted) participation in the so-called public world, she urges caution.

From what I have argued about the historical legacies and contemporary re-workings of masculinity in state powers, it is clear there are dangers in surrendering control over the codification of these issues to the state, as well as in looking to the state as provider, equalizer, protector, or liberator (p. 196)

It is not clear what women’s public obligations are if the state cannot be trusted to act in women’s interests and continues to uphold women’s inferior citizenship status.

Constructing Fraud

Hartley Dean (1998) describes how despite shared understandings of the value of paid employment and the obligations of family relationships, rising *insecurity* and increasingly punitive benefit rules are “[undermining] people’s...sense of formal obligation as citizens of a welfare state”.

New Labour’s approach to welfare has been dominated by an emphasis on the responsibilities of welfare recipients, marking a shift away from citizenship based on rights to “the notion of contract and the ‘mutual obligation’ of both parties” (Hartman, 2005). However, mutuality suggests an equal and voluntary partnership. Welfare regimes characterised by increasingly coercive measures suggest that *the contract* may well be null and void (Kinnear, 2000).

In his study of a National Audit Office report which “questions the validity of 30% of cases identified as benefit fraud”, Sainsbury argues that it is the over-emphasis on weekly benefit fraud savings which leads to skewed results and error being wrongly categorised as fraud. He writes

One of the reasons why so much fraud is being detected is that the Benefits Agency and Local Authorities have little incentive to think about whether a claimant had any intent to commit a fraud (Sainsbury, 1998, p. 5)

In the previous chapter I showed how cases of cohabitation fraud were being recorded whenever benefit changed following an LTAHAW rule interview, even though the case had never gone to adjudication. This lends additional support to the claim that fraud levels may be a lot lower than officially recorded. However, by focusing on the distinction between error and fraud, attention is diverted away from (a) the reasons why people might commit benefit fraud and (b) potential problems with the construction of specific types of benefit fraud. Claimant 'error' in terms of LTAHAW does exist (I have an example of it in my UK data). But there are also claimants who *intentionally* misrepresent or fail to disclose relevant information. Understanding why people are prepared to break the law in this way may lead us to question the way the state constructs this particular type of benefit fraud and in so doing lead us to question the state's construction of the *benefit cheat*.

A number of attempts have been made to understand benefit fraud although they have tended to focus on people who work and do not declare it (Sainsbury, 2003, p. 285) Not surprisingly people cite the lack of an adequate income in their explanations (Dean and Melrose, 1996), often citing the inadequacy of the benefits system in justification (Jordon et al, 1992).

Central to the fraud debate is the issue of agency. Are people who commit benefit fraud committing these acts purposefully or rationally or are they responding out of necessity to a set of social circumstances beyond their control, therefore blameless? What are the policy implications of these positions? For example, Dean found that most people did not deliberately set out to commit benefit fraud but instead found themselves in that situation

Most claimants engaged in [benefit fraud] are not necessarily venal, streetwise or even rational; they are not exercising conscious, lifestyle choices so much as muddling through and waiting rather like Mr Micawber, for something better to turn up (Dean, 1998)

On the other hands, Groves and Mann (2000) argue that if we do not acknowledge different types of agency in moral terms, it will leave a gap which is likely to be filled by reactionary attitudes to criminal behaviour and welfare.

In some respects, the way in which social policy as a discipline has approached benefit fraud (and the behaviour of 'poor' people more generally) has created a gap for right-wing ideas about the criminal underclass to gain ground (Groves and Mann, 2000, p. 13)

Previous structural accounts (they give Titmuss as an example) cast the disadvantaged and the perpetrators of crime as *victims* of the ruling order. This simply led to the reproduction of powerlessness. The poor and the recipients of welfare were simply expected to accept experts' definition of them and of their problem and accept state largesse with little or no choice in the form that would take and with no part to play in helping themselves.

Groves and Mann suggest a typology which separates out good, bad and ugly forms of agency, bad agency being "the actions/decisions/choices which, as researchers, we do not want to acknowledge" (p. 13). Ugly action refers to those actions like drug addiction which can lead to criminal behaviour and good agency involves cases where actions are motivated by altruism, for example, a lone parent who steals or commits benefit fraud to feed her family. An alternative view, adopted here is that, people's actions and decision-making are too complex for sustainable judgements on whether agency is good or bad.

Groves and Mann apply the situationist ethics approach of Fletcher to the understanding of benefit fraud. Fletcher recognised that it was possible for actions that at one point in time are considered bad to be considered good at another point in time and that "a good enough end" can turn a wrong act into a right act, *depending on the situation* (Groves and Mann. P. 19). In their own analysis, Groves and Mann discuss 'good' and 'bad' agency as if they are easily separable and identifiable as discreet. But because decisions and actions have a past and always take place in a context, it is difficult to see where a decision or an action begins or ends. In one of the cases Groves and Mann use as an example, a woman leaves her thirteen-year old

son to look after younger children while she goes out to work and he has an accident. They describe her decision as an example of bad agency. Had there not been an accident the decision could have been a good decision since a thirteen-year old could be as capable as any adult. If this woman had left her children with an eighteen-year old who had fallen through a glass window would that have been bad? It might have been a good decision to leave the children with her eldest son than leave them with a childminder without the emotional attachment to or knowledge of the children. This also has to be understood in the context of expensive childcare provision in the UK.

It is perhaps difficult to accept that good and bad are little more than labels which express our disapproval but the problem with attempts to judge fraudulent behaviour is that it risks reproducing the deserving/undeserving distinction through the back door. Code (2000) endorses the importance of autonomy to feminist and other group struggles but insists that there are limits to moral agency which are ignored at the expense of disempowered groups. She rejects the Kantian and later Rawlsian belief that moral responsibility rests entirely with the individual or “a conviction that totally minimises the extent to which the ordinary lives of many ordinary people are lived within circumstances so oppressive and damaging as to block all routes to autonomous agency” (p. 184). She quotes Claudia Card who has argued that Kant was wrong to think the rational self comes entirely from within or that each of us has the same potential for development.

It is not enough to confront the inequities of the “natural lottery” from which we inherit various physical and psychological assets and liabilities. It is important also to reflect on the unnatural lottery created by networks of unjust institutions and histories that bequeath to us further inequities in our starting positions and that violate principles that would have addressed, if not redressed, inequities of nature (p. 184)

Similarly Hoggett (2001) criticises Giddens’s (1989) account of the “active welfare subject” because it is “insufficiently sensitive to the passionate, tragic and contradictory dimensions of human experience” (p. 37).

The state’s current construction of the *benefit* cheat is one-dimensional? In official documentation and in publicity encouraging the public to help expose benefit fraud,

the benefit cheat is constructed as a freeloader. This account of the benefit cheat involves conceptualising benefit fraud in terms of greed, irresponsibility, cheating, theft and bad citizenship. The context within which benefit fraud is committed is treated as irrelevant. Although limited in its explanatory power, it appeals for popular support from the rest of *us* who work, pay taxes or live on benefits *without* 'cheating' as the 'victims' of this crime. The benefit cheat is established as *the other*. Adverts urge people to inform on people who they think might be committing benefit fraud. Although LTAHAW fraud can be found amongst the list of types of fraud, the focus is mainly on those who work and claim. In one advert a man is seen being dropped off by a work mate outside the pub. When he enters the pub, his mates offer to buy him a pint. He accepts, saying "I'd get them in but I'm a bit skint" (www.targetingfraud.gov.uk). The implication is that he's freeloading off his mates, lying to them about the fact that he's working on the side. There is an unspoken suggestion that he's not 'skint' at all. His mates are thus constructed as his 'victims'. The crime is personalised in order to counteract what the government has identified as the popular view that benefit fraud is a "victimless crime" (www.targetingfraud.gov.uk). There is no room in this construction for the man in the advert to be working *and* signing *and* 'skint' or for him to be a good, honest and generous friend who would stand his round *if* he had the money. And there is no room for alternative explanations of his 'crime'.

There is a tradition in the social sciences of associating welfare provision with social control and the reinforcement of existing values and power structures (Raftopoulou, 2004). Dean (1998) quotes Townsend as he explains how means-testing both reflects and helps to maintain traditional social norms.

...the act of making up income without strings would come into open conflict with the other values upon which all societies are built – for example, that incomes are earned by work, that men living as husbands with women should support them, that children living with parents should be supported by them, and so on. For the sake of preserving its order and cohesion, society insists that these values are upheld...The function of [social security] schemes is as much to control behaviour as to meet need (p. 1).

Yvonne Hartman (2005) argues that far from eschewing welfare as the rhetoric of anti-dependency, neo-liberalism which has become “virtually ubiquitous..worldwide” actually supports a certain kind of welfare which constructs “docile bodies rather than active citizens”. By neo-liberalism, Hartman means an ideological fascination with instituting “the supremacy [of] free markets” not only in term of controlling the economy but to control every area of *public* life.

Christina-Effimia Raftopoulou (2004) studied the ‘Targeting Benefit Fraud’ campaign as an example of government use of marketing techniques (‘social marketing’) to create and reinforce ‘social identities’ and social relationships as a mechanism for social control. Using discourse analysis, she shows how anti-fraud advertisements marginalise people who commit benefit fraud, separating them off from the rest of us who pay our taxes or who are in genuine need. By alerting the public to the existence of these *others* in our midst, the government constructs itself as “decisive, effective (we aim, targets, committed, successfully, determined) as well as organised and responsible (long-term government plan, not part of a quick-fix attempt)” (Raftopoulou, 2004, p. 9). A particular conceptualisation of citizenship emerges which is presented as natural rather than socially constructed and reporting suspected benefit fraud becomes an act of social solidarity.

Anti-fraud measures are not necessarily anti-welfare measures but can be perceived as a method of social management.

..even as neo-liberal governments employ anti-welfare rhetoric – claiming to clamp down on welfare cheats’ and ‘dole bludgers’ ...and speaking the language of activity and participation.., there exists nevertheless a comprehensive set of arrangements for the transfer of resources by the state which can be regarded as a fully developed welfare regime (Hartman, 2005, p. 64)

Hartman suggests that those who support so-called free market principles and decry welfare dependency are in fact well aware of the importance of welfare to the smooth running of that market and that the “anti-welfare rhetoric is often employed as a purposeful device” (p. 64). A plethora of “surveillance” techniques including encouraging the general public to inform on their work mates, neighbours and

friends, Foucault's "disciplinary 'gaze'" (p. 69), helps maintain the "docile bodies" that Foucault talks about. Hardly-adequate benefit levels and punitive rules keep expectations low and maintain a compliant workforce who largely discipline themselves, effectively duped into thinking that avoidance of underclass status makes them not only 'responsible' citizens but also free, independent citizens (Hartman, 2005, p. 69).

New Labour's anti-fraud campaign fits in well with their welfare mantra of balancing rights with responsibilities and their emphases on community and "rediscovering a true national purpose" (Tony Blair's Forward and Introduction in Secretary of State for Social Security, 1998). In an attempt to distance themselves from the individualism of the previous eighteen years of Conservative government, they set out their proposals for welfare reform early in their first term of office. Thought to be influenced by the communitarianism of Amitai Etzioni, - "to take and not to give is an amoral, self-centred predisposition that no society can tolerate" (Etzioni, 1995, p. 10), New Labour's approach was to instil a renewed sense of social cohesion compatible with competitiveness in an increasingly globalised market-driven economy. This was the so-called 'third way'. However, not everyone is convinced that Etzioni's or New Labour's approach to the obligations of citizenship is a *real* alternative to neo-liberal individualism (Prideaux, 2005)

New duties and obligations are still predicated on existing inequalities. *Rights* of citizenship continue to be undermined by gender, class, disability and race. An alternative view is that if benefit claimants have obligations to the state, it should be possible to show that on balance, they have *real* choices and that the state is not implicated in their disadvantage.

Is acceptance of unemployment benefits a choice? For people to incur obligations from accepting benefits they must exercise choice in a context of meaningful alternatives. Obligation requirements on unemployed people is based on the belief that they are able to exercise a degree of control over their situation and thus choose to accept welfare benefits. But in a modern economy subject to structural unemployment, for many unemployed people there is no real alternative to accepting welfare benefits. This is especially true for unemployed people with few skills and capacities, with disadvantageous life circumstances, or who suffer discrimination in the labour market (Kinneer, 2000)

In their study of 'fraud and resistance in the social security system', Dean and Melrose (1996) examine people's accounts of their fraudulent behaviour in order to determine whether or not "benefit fraud is intelligible as resistance to social control". They use responses to map benefit 'fiddlers' onto a grid created from the two axes of 'reflexivity' (based on Giddens' conceptualisation of the human ability to reflect on one's condition and actions) and 'anxiety' levels caused by the knowledge that what one is doing is illegal. Fiddlers are categorised as:

- Self-confident philosophers
- Calculative worriers
- Macho survivors
- Unreflexive opportunists

They note a general lack of detailed knowledge of the system, exacerbated by what they call "the deterrent nature of the claiming process" which stops claimants from "bothering" to find out about their rights. Most of the people they spoke to explained their behaviour in terms of financial necessity within complex descriptions of their situation. Their actions were often not thought through, rather they "responded as opportunities presented themselves without a great deal of premeditation", commensurate with the fairly minor amounts of money they were fiddling over and above their actual entitlement. Most of these fiddlers did feel significant levels of "anxiety or conflict" and would have preferred not to be involved in illegal activity although this was balanced by a feeling that their actions were justified and not really 'dishonest'. Furthermore, in terms of feelings of anxiety, "low income was a bigger worry than the prospect of getting caught for fiddling" (p. 105).

Despite a lack of trust in the government, fiddlers were not "especially politically focussed". Most were "calculative worriers" who tended to buy into mainstream values. The researchers conclude that benefit fraud is largely "a rather poorly calculated act of desperation". The researchers interpret this behaviour as "conservative resistance" and draw upon Foucault's analysis of power to support

their conclusion that “benefit fraud allows power to reassert itself” by identifying the poor as bad citizens. As they point out, illegally claiming benefits to supplement inadequate wages does not really damage the economy which thrives on such activity not least because it keeps wages and conditions low and maintains “consumption patterns which keep [the poor] precariously in touch with the dominant value system”.

This analysis could be applied to LTAHAW fraud. Hiding relationships to avoid an LTAHAW rule determination ensures that the system registers large numbers of lone parents, many of whom are counted amongst a well-publicised list of benefit fiddlers.

Conclusion

This study is predicated on a particular understanding of means-testing as a political act, justified by an imaginary and dubious contract between state and citizen and made deliberately unpleasant for claimants in order to maintain a pliant workforce. The politics of welfare is consistently obscured by the depiction of benefit dependency as individual failure. Structural and systemic constraints and malfunctions are rarely addressed and this allows governments to govern the provision of welfare with impunity, no matter how unfair or unjust are its institutions. Meanwhile, governments promote a particular understanding of people who commit benefit fraud as ‘the other’, isolating the ‘crime’ of misrepresentation from the social and political contexts within which it takes place.

The use of the household as a unit for benefit assessment can be traced back to Beveridge’s positioning of the married woman as unpaid welfare provider. Beveridge’s conceptualisation of women’s place seems anachronistic and the problematic, highly gendered effects of household-based welfare assessments and provision are well documented. The cohabitation rule is consistent with policy which has historically protected men’s citizenship status as workers, ignored or undervalued women’s unpaid care work, and subsumed women’s identity under that of their husband’s, thus perpetuating a gendered construction of social rights and

citizenship. Men's citizenship status is also diminished if they do not work. Dominant discourses around dependency construct means-tested benefit claimants as lesser citizens and this makes it more difficult to complain about the rules.

Lone parents (mostly women) only have a legitimate claim for a means-tested benefit if they do not cohabit and are the group most likely to commit LTAHAW fraud.. Despite clear indications that lone parenthood is often the result of problematic relationships rather than an active choice, especially for poor women, lone parents are still expected to pay the price for their lone status and are still constructed as a welfare burden.

The construction of a legitimate benefit claim determines who is and who is not constructed as a benefit cheat. If citizenship rights are undermined by the cohabitation rule and the state is implicated in the creation of the benefit cheat as a means of social control, then this loosens the obligations that claimants have to the state. In this study no attempt is made to judge claimant behaviour on the basis that it is impossible to understand that behaviour in isolation from the social and political contexts in which it takes place.

4 CHANGING FAMILIES AND THE STATE

In this chapter I describe various changes which are relevant to this study because they challenge the traditional family norms upon which the cohabitation rule is based. I explore debates about the meaning of those changes and discuss the significance of different conceptualisations of autonomy to these debates. There have been calls for greater regulation of personal obligation to protect the rights of the vulnerable and to better reflect modern families and relationships. I consider one example of such regulation, the Child Support Act, which is generally considered to have been a policy disaster. I then go on to make a connection between the issues involved in the private law case for extending marriage-style rights to cohabitants, and this study of a public law rule which already regulates cohabitation.

Cohabitation in the UK

Levels of unmarried cohabitation have been estimated to be more than three times as high now as in 1976 (Morrison et al, 2004)³. Nearly a third of women under 50 now cohabit (Barlow and James, 2004, p. 154). In 2001 there were said to be 163,434 unmarried couples cohabiting in Scotland. (Scottish Executive, 2005, para 55). This year, the Scottish Executive reported that 30-40% of adults have cohabited at some point in their lives, (*ibid*, para 58) and there is no sign of a slow down. There are strong indications that cohabitant numbers will double in England and Wales by 2021. Morrison et al (2004) estimate a similar rise in numbers in Scotland⁴.

³ Recent census recognition of same-sex cohabitation means that we now have some indication of numbers which are still relatively low. In 2001 the Scottish Census recorded that one in fifty cohabiting couples were same-sex couples (Morrison et al, 2004). Greater acceptance of same sex relationships perhaps reinforced by legal recognition provided by the Civil Partnership Act, 2004 might result in a rise in this figure although the extension of the cohabitation rule to same sex couples may result in same-sex couples concealing their relationships in the same way that heterosexual couples do now.

⁴ Cohabitation is growing in all age groups but young people cohabit in the greatest numbers. In the UK as a whole, women are more likely to cohabit between the ages of 20 and 29 than women in other age groups (25% of women aged 20 to 24 and 26% of women aged 25 to 29) and a quarter of men between 25 and 29 cohabit (Office for National Statistics, 2004). It has been estimated that by the end of the twentieth century, 70% of

According to the General Household Survey 36% of cohabitants between 1998 and 2000 were divorced men aged between 16 and 59. Women who are divorced account for 30% of cohabitants. So significant numbers of cohabitants have previous experience of marriage (Office for National Statistics, 2004).

Similar changes are happening to a greater or lesser extent across many parts of Europe and other Western countries where cohabitation is now the predominant “marker for first partnership” (Kiernan, 2003).

The rise in cohabitation has led to calls for marriage-style protection of some cohabitants’ rights and the possible treatment of these cohabitations *as* marriages. The cohabitation rule already does this in a public law context. One way of viewing this study is that it could help to determine whether or not private law should be brought into line with public law or public law should be brought into line with private law in terms of the treatment of cohabitation in the context of the rise in cohabitation. The state of marriage is also relevant.

Marriage in decline?

Fewer couples are getting married and marriages are increasingly ending in divorce. Census data indicates that in Scotland the number of married couple households fell by 7% between 1991 and 2001 (Harvie-Clark, 2005). Between 1970 and 1995, the number of first marriages in the UK halved and divorces doubled (Land, 1999, p.132). In Scotland in 2003, 10,928 couples went through the divorce process which was marginally up on the figures for 2002 (Scottish Executive, 2005). In England and Wales more people get divorced than anywhere else in Europe (Barlow and James, 2004, p. 154).

couples who married had previously cohabited. This compares with only 5% in the sixties (Wasoff and Dey, 2000, pp26-7).

As well as an increase in the number of people who are rejecting marriage altogether, people are marrying later. In Scotland in 1981 the average age at which men got married was just under 28 years. By 2001 that had increased to just under 35. Women tend to be younger than men when they marry but the average age at which women married in 1981 was just over 25 compared to just over 32 in 2001. On the other hand, marriage between young people is much more likely to end in divorce and of first cohabitations which end as a result of separation rather than marriage, 70% began before age 25.

People are still getting married and remarrying. In the UK in 2002, 54% of men and 50% of women were married (Office for National Statistics, 2004). After what appeared to be a significant decline in marriage since the fifties, numbers may now be levelling off in Scotland at an annual rate of 30,000 (Morrison et al, 2004). However, a significant number of weddings (29%) involve people who do not live in Scotland but choose Scotland for the location of their wedding, just under 17% in Gretna Green. People are remarrying and then re-divorcing. Of those men and women who divorced in Scotland in 2003, 15% of them had already divorced, roughly double the number in 1981 (Scottish Executive, 2005, p. 5).

Marriage still has symbolic significance but, as a social *institution* seems considerably weakened. On the other hand, the changes could indicate a more cautious approach to commitment which could strengthen marriage in the long run.

Why do couples cohabit?

There have been a number of studies looking at the reasons why couples decide to *live together*⁵. McRae (1999) quotes a 'recent' Social Change and Economic Life Initiative survey that found that "love appears largely unrivalled" as the reason most often given for why a couple moved in together with over 75% of women surveyed giving that reason for either cohabiting or marrying. Having sufficient financial

⁵ It has been noted that reasons for cohabiting are likely to change over time (Harvie-Clark, 2005, p. 9).

resources to move out of the family home and “a suitable point in one’s working life” were also reasons (p. 174).

But for the purposes of this study, it is more important to understand why couples choose to cohabit rather than marry? Harvie-Clark (2005) lists some of the reasons people give.

- People are not free to marry because they are already married to someone else or they are a same-sex couple
- Pregnancy
- ‘Trial’ marriage
- Past experience
- They disagree with marriage either because of an antipathy to state regulation or because of the perceptions of marriage as a patriarchal institution
- They are unwilling to give the commitment that marriage requires.

A quarter of the couples that McRae and her colleagues interviewed in their study of the difference between cohabitation and marriage, said that cost was the reason why they had not got married (McRae, 1999 p. 180). It was also clear from that study that long-term cohabitation does not necessarily have to be an active choice as such but that in some cases couples might just drift into it, accepting “the long-term contours of their lives and not [acting] to change them“(p. 179). The Scottish Executive also noted this explanation of cohabitation which may have started as a response to immediate circumstances, a cohabitation of ‘convenience’ and continued without a long-term plan

Some drift into cohabiting relationships, perhaps moving in together for convenience or to ease financial strains and not with long-term relationships at the forefront of their minds (Scottish Executive, 2004, p. 24)

It has been suggested that because so many couples in Scotland go on to marry after cohabitation, that ‘trial marriage’ is the most obvious explanation for marrying

(Harvie-Clark, 2005, p. 10)⁶. Barlow and James (2004) tell us that despite evidence from their own study that “the reasons that people cohabit are informed by a number of inter-related values, which are not necessarily rational or consistent”, nevertheless “trial marriage is a key reason..and in this regard, for some, cohabitation seems to replace or accompany the role of engagement” (p. 157).

Smart and Stevens (2000) also studied cohabitation. They interviewed forty parents who had previously cohabited but were now separated to see how they perceived their relationship and their parenting within and after cohabitation. Their sample consisted of people who were mostly unconcerned about marriage or who had partners who they felt might be unsuitable as marriage partners. Smart and Stevens found that most of the people they interviewed had been disappointed that their partners had never been more “marriage worthy”. The majority perceived cohabitation to be easier to leave than marriage, more appropriate for a relationship characterised by uncertainty. For those few who rejected marriage altogether, unmarried living together represented the possibility of a more equal relationship.

People’s motivation for living together are multifarious and complex and may or may not involve an antipathy to marriage although there is evidence that the ‘trial marriage’ is the most common explanation for it. However, what a ‘trial marriage’ implies may be different for different people. For some it might be indistinguishable from marriage. For others, the very fact that it is a ‘trial marriage’ and not the real thing might make it significantly different.

Relationships that do not last.

That marriage has staying-power helps give it special status over cohabitation in the policy literature.

⁶ “It is possible to draw some tentative conclusions from the Scottish Social Attitudes Survey, 2000. 44% of respondents were married and of these 22% had cohabited in the past. In addition, just under half (47%) had gone on to marry that partner. These figures tend to indicate that cohabitation is often a prelude to marriage (Harvie-Clark, 2005, p. 10)”

.. recent marriages are expected to last twenty-six years and nearly half of all couples will celebrate their silver wedding (Land, 1999, p. 133)

Although couples are cohabiting in much greater numbers, cohabitations have a tendency to be short-lived. This has been a cause for concern, not least because of the effects of relationship breakdown on children. It has also provided the basis for a critique of policies which are seen to support alternatives to marriage (Morgan, 2002). However, only a third of cohabitations end in separation, mostly within 10 years. The rest end in marriage (Office of National Statistics, 2004) and indications are that the duration of cohabitations is increasing. In 1992, the (mean) average duration of cohabitations in the UK was between two and three years. That has increased in Scotland to just under six years (Harvie-Clark, 2005, p. 7). Kathleen Kiernan (2003) shows how these trends are replicated in other parts of the Western world and provides evidence which suggests that the different lengths of duration still prevalent between marriage and cohabitation are related to the fact that marriage is often chosen precisely *because* the relationship is stronger and more committed. She points out that if the trend to reject marriage continues, then we could see the sort of committed relationship previously associated primarily with marriage also increasingly taking place *outside* marriage. Similar conclusions have been reached by Barlow in her 2002 study of cohabitation in Scotland. It appears that in 2000, 30% of cohabitations lasted more than five years compared to less than 20% in a study published by Ermisch and Francesconi in 1999 (Harvie-Clark, 2005, p. 7). Barlow comments as follows.

This may tend to indicate, given that cohabiting relationships are more common among the younger generation that more cohabiting couples are remaining as they are rather than marrying. This would confirm that we are right to expect not only the incidence of cohabitation to increase as has been predicted but also an increase as time goes on in the average duration of such relationships (Barlow, quoted in Harvie-Clark, 2005, p.8)

The increasing duration of cohabitations appears to narrow the gap between marriage and cohabitation and may assuage concerns about the deleterious effect of an increase in cohabitation on childhood. These figures have also been used to support calls for legal parity between the rights of some cohabitants and those of married couples (e.g. Barlow and James, 2004).

It has been recognised that having children puts additional pressure on families both economic and emotional, regardless of whether the parents are married. In their manifesto, Relate (2005) claim that “the overwhelming majority of couples experience a strain on their relationship after having a baby” and that over three quarters of the couples they see “first found their relationship in difficulty after the birth of their first child” although it may have taken them a number of years to seek relationship counselling. Relate also believe that poverty and inadequate housing impact on the chances of couples staying together and that “poor families are twice as likely to split up”. They urge the government to focus more resources on eradicating “poverty, poor housing and overcrowding” (*ibid*). Other studies confirm that socio-economic conditions and health problems (e.g. Kiernan and Mueller, 1999) and unemployment (Webster, 1999) contribute to relationship breakdown. There is also evidence of a link between relationship breakdown and domestic violence (Brown, 1989; Rowlingson and McKay, 2005) and there is evidence that disagreements over traditional gender roles can contribute to relationship instability (Rowlingson and McKay, 2005). The same reasons why couples break up might affect their re-partnering choices.

Building sustainable relationships which are based on more appropriate values “trust, mutuality, tolerance, fairness” (Scottish Executive, 2005) are not easy to achieve under any circumstances but are likely to be particularly difficult whilst women are still more economically disadvantaged than men and perform a disproportionate share of care work and household chores. Reynolds and Mansfield (1999) point out that changes towards marriage and relationships in general have “contributed to the drive for greater equality for women...a positive outcome in itself” but also that “couples are experiencing difficulties in negotiating new roles and responsibilities where traditional roles have been discarded” (Executive Summary).

Smart and Stevens (2000) examined retrospective perspectives on cohabiting relationships that have since ended. Interviews suggested that cohabitations can involve a range of different levels of commitment which they describe as a

continuum with “contingent commitment” or “suspended commitment until they were sure that it was safe or sensible to become permanently committed or married” at one end and “mutual commitment”, as committed as married couples, at the other. Smart and Stevens concluded that cohabitation is not a single family form but a “broad range of relationships of different qualities and intensities” and so it is doubtful whether promotion of marriage would improve levels of relationship stability (*ibid*). This is an important counter-argument to those who say that marriage should be *favoured* in law and might support arguments in favour of increased cohabitation rights, where resistance to such rights is based on protecting marriage.

Contesting the Cohabitation Count

Census data in relation to cohabitation may be subject to under-reporting. Haskey (2001) describes the problems getting accurate figures in the seventies when it was acknowledged in the report that “women who cohabit with a man to whom they are not legally married usually describe themselves as married” (p. 7). However, Haskey does not question *current* numbers recorded. This is problematic for two reasons. Firstly, there may be a significant number of women and men who are reluctant to admit they are cohabiting even on a census form because of the implications of being found to be cohabiting. The second problem relates to the *meaning* of cohabitation? Census results are based on self-reporting and tend to treat the counting of cohabitations as unproblematic. When someone spends an increasing amount of time staying at a partner’s home, at what point can they be said to be cohabiting? Another case is where someone’s work entails her/him spending large amounts of time travelling. Consistently staying with a partner during leave or vacation periods could be viewed as cohabitation in law but would it be identified as such by the couple themselves? And these are relatively straightforward examples of the difficulties of identifying cases of cohabitation. More complex are those cases where a couple live under the same roof and have or have had a sexual relationship but lead relatively separate lives either through personal choice or through the breakdown of the relationship *or* one partner treats the home like a boarding house while the other runs a family home in it. They live under the same roof but is that the same as

‘cohabitation’? Whether or not cases have been under *or* over-reported depends on the definition of cohabitation but achieving that is far from straightforward. The problem of definition is central in this study.

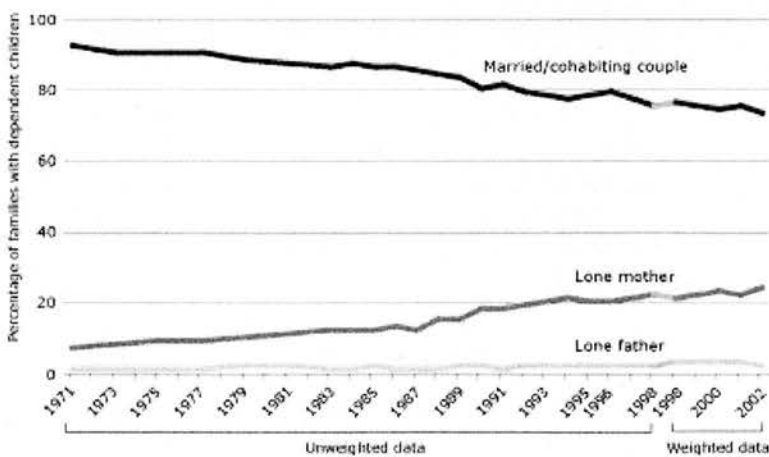
Lone Parents

If government figures are to be believed, many lone parents pretend to be lone parents when they are in fact cohabiting. In this section I look at three issues: counting lone parenthood; becoming a lone parent; living lone parenthood

Counting Lone Parenthood

In 1971, 7% of households with dependent children were lone parent households. By 1996 that figure had risen to 20% (Wasoff and Dey, 2000). In 2001 a quarter of children in Scotland lived in a lone parent family (Scottish Executive, 2005, p. 8). Lone parents are usually lone mothers (Morrison et al, 2004). Women account for 92% of all lone parents in Scotland. Although numbers of lone fathers have doubled since 1971, numbers are still very low. The figure in 2002 was just 2% and it has never risen above 3%, the figure recorded between 1998 and 2001 (Office of National Statistics, 2004, see Fig. 4).

Figure 4



Families with dependent children by family type: Great Britain, 1971 to 2002

General Household study, Office for National Statistics (2004)

However, as with cohabitation, self-definition is no guarantee of accuracy because of the possibility of hidden cohabitations and disputes over what counts as a lone parent.

Becoming a Lone Parent

Most lone parents (in 1996, three fifths) are divorced or separated. Only a third have never been married and 5% are widowed (Webster, 2000, p. 2). Webster points out that misconceptions about the causes of lone parenthood emerge as a result of the increase in cohabitation which has resulted in lone parents being described as “single” or never married” who might otherwise be described as separated (Webster, 2000, p. 2).

Many lone parents require social security following relationship breakdown but poverty itself and/or a lack of educational qualifications are likely to increase the chances of separation (Ermisch, 1991). Webster (2000) draws attention to the connection between relationship breakdown and unemployment resulting in higher levels of lone parenthood in some regions of the country than in others.

Rowlingson and McKay (2005) argue that there has not been enough attention given to social class in relation to lone parenthood. The prospect of lone motherhood is less appalling to a young woman who is likely to end up in a low paid job than it is to young women who are going on to Higher Education and have the prospect of a lucrative career. Although pregnancy is rarely planned in these circumstances, the independence and possibility of starting a new family life may be enough to prevent young women from seeking a termination. Evidence suggests it is much more likely to be middle-class women who *deliberately* get pregnant with the express intention of going it alone, challenging the norm (*ibid*). Poor lone mothers have been found to subscribe to the dream of the traditional family life but find that lone parenthood is preferable to the reality of couple life in their case.

It seems that far from rejecting the “traditional” notion of a two-parent family, these women had very high, traditional standards for prospective partners. They wanted men who could be responsible breadwinners and fathers to their children but their

current boyfriends did not live up to this ideal and so they were prepared to become single mothers rather than compromise (*ibid*, p. 37)

In other cases, the fathers simply refused to live with them.

Brown (1989) notes that most lone mothers have previously been married and highlights the connection between lone parenthood and domestic violence. Rowlingson and McKay (2005) in their study found that “lack of money combined with a lack of control over money and domestic violence” and traditional gender role expectations of male partners could contribute to relationship breakdown.

Living lone parenthood

Lone mothers are a diverse group (Crow and Hardey, 1996). Children whose fathers still have parental input after separation are differently placed to those whose father has no parental input and perhaps never did even before relationship breakdown. But it is the question of or absence of financial support that helps to identify lone parents as a distinct group and that has the greatest impact not just on their lives but also the lives of their children. By 1997, close to 70% of lone parents were in receipt of IS (Land, 1999, p. 129).

Poor lone parents are less likely to see any real improvement in their living standards over time. The middle-class lone parent is likely to have greater existing resources including her own property, and friends and family may be in a better position to provide financial support. Also the fathers of the children of middle-class lone parents are more likely to be better off (Rowlingson and McKay, 2005)

A significant number of lone parents will be “permanently in debt” to companies that tend to feed off the poor like Provident Financial and ‘Crazy George’ (Webster, 1999). These companies which are part of what is known as the ‘sub-prime sector’ supply easy-access credit but at very high interest rates, between 100% - 400% APR. They justify their practices with reference to the high risk of lending in areas of high deprivation (O’Connell, 2005).

Ermisch (1986) showed that even lone mothers who have never been married do not stay lone parents for long, the average period being 35 months, further evidence that lone parenthood is not a lifestyle choice.

Children

In 2001, 38% of cohabiting couples in Scotland had dependent children living with them. (Scottish Executive, 2005, para 55), that means over 100,000 children, 10% of the total number of children in Scotland. That figure includes children who do not live with both parents. Means-tested benefit law constructs children in these families as 'dependent' on the *couple* in all cases but in the real world there may be only one adult in the home who accepts responsibility for them, i.e. the resident *parent*.

Although increasing numbers of children are born outside marriage, it is significant that around 40% of these births are registered by both parents who mostly live at the same address. That compares with 55% of children registered by married parents and 6% registered by one parent (Scottish Executive, 2005, p8). This trend is replicated in other Western countries although the trend is less marked in the UK and the US, due to an increase in the number of children born to "solo mothers" who are "likely to be living in more impoverished circumstances than children born into a couple-family" (Kiernan, 2003, p. 9). In most cases, children live with both parents who are married (Wasoff and Dey, 2000, p. 61) and there are significantly more cohabitations where there are *no* children than there are *with* children⁷. Nevertheless, the numbers of unmarried couples having children is a *growing* trend. In 1999, UK numbers had grown to just under 40% of all live births, whereas in 1975 there were less than 10% (Kiernan, 2003, p. 8).

It is estimated that 8% of households in the UK involve stepparents. In these families the children are much more likely to live with their birth mother than father (Scottish

⁷ Haskey (2001) suggests that this can only partially be explained in terms of age (married couples tend to be older than cohabiting couples). Even taking that into account, cohabitations are less likely to involve children.

Executive, 2004, Section 1). Currently in Britain there are over 2.5 million children who are part of stepfamilies, one million of whom live with the stepfamily (website www.childline.org.uk/WhatchildrenhavetoldChildLinecounsellors.asp). On their website ChildLine reports receiving calls from children who are concerned about the changes which becoming a stepfamily can bring.

Ferri and Smith (1998) carried out one of the very few studies on the experiences of stepfamilies. They point out the varied range of relationships that come under the category 'stepfamily' and emphasise that this study involved people who were *living in* stepfamilies, recognising that in some cases step-relationships exist spread over different households. They found that families which involve step-relationships are not so very different from what they term "first families" but that there were some important differences. One important difference was that stepfamilies tended to be poorer than first families and that the gap between "work rich and "work poor" families was wider in stepfamilies. They found that stepfathers were *more* involved in the upbringing of stepchildren than birth fathers although stepfathers expected stepchildren to do more for themselves. However, it was much more likely that there would be problems related to how children *should* be brought up amongst stepfamilies than in first families, especially where additional children were born into the family thus "far from cementing the new family unit, there are stresses associated with the more complex relationships created by its expansion". Although childcare is often shared in stepfamilies, women are still doing most of the domestic work as well as paid work and taking their share in looking after what were often large families.

A quarter of Scottish children live in lone parent families, 92% of which live with their mothers (Morrison et al, 2004). However, this figure may be misleading. Children can only be registered at one address at a time so a couple who share parenting of their children after separation must choose who is to be the parent with care and thus who is to be the 'lone parent'.

Parental divorce and separation touch many children's lives and many children will experience living in several different families and family types in their lifetime

(Wasoff and Dey, 2000, p. 61). There have been concerns that such changes have adverse effects on children's behaviour, education and emotional and physical well being and that these outcomes have a detrimental effect on society at large. There is evidence to support that conclusion but there is also evidence that poverty, a lack of appropriate support and inadequate policy responses have exacerbated the problems that families face when things go wrong (e.g. Rodgers and Pryor, 1998). Furthermore, children from poorer families are more likely to aim low because of patterns of expectations in areas of high deprivation (Ermisch, Franchesconi and Pevalin quoted in Flaherty, Veit-Wilson and Dornan, 2004).

In a recent memorandum to the Family Law (Scotland) Bill, it was admitted that the effects of their parent's divorce on children's immediate and future lives could be ameliorated if levels of poverty and parental conflict could be reduced.

The impact on children of parental separation is complex, particularly in the long-term. Many children will experience unhappiness, low esteem and other problems during the process of separation. A smaller proportion of these children will continue to have problems in the longer-term. Research evidence suggests that children from separated families where there is financial hardship, high levels of parental distress and conflict, and constantly changing family circumstances may experience poorer outcomes (Scottish Executive, 2005, p. 5).

But because of the numbers of different and changing relationships that exist throughout many young lives and the circumstances in which these take place, there will be no one solution, no one way to ensure well-being. The question for policy makers is what role the state can play in influencing children's welfare (if that is its purpose) in extremely complex emotionally-charged circumstances.

Understanding Family Change

Roseneil and Budgeon describe 'family' as a sociological concept under severe strain (2004, p. 127) because of the challenges to the dominance of its traditional nuclear form. It has been suggested that sociologists should stop talking about *the* family (Oakley, 1987, p. 9) and start talking about 'families' (Stacey, 2002) in order to capture that new diversity in people's experiences of family relationships. Others

have criticised the continuing sociological obsession with the family norm because it excludes the possibility of alternative experiences of intimacy (Roseneil and Budgeon, 2004).

Fiona Williams (2004) suggests there are two approaches to family change. The “pessimists’ demoralisation thesis” is about the problems rather than the gains of the abandonment of traditional family norms. This involves a focus on the effects on children of family disruption and being brought up in a lone parent family and speculation about causes. This group can further be subdivided between “right wing neo-conservative traditionalists” on the one hand and anti-capitalist or communitarian critics of individualism on the other. The right wing traditionalists tend to be moralisers (e.g. Morgan, 1995 and 2002), calling for a return to traditional gender roles and state support for marriage since marriage “calls forth a higher degree of commitment to lifelong union” (Morgan,1995). The increase in the number of unmarried couples who are having children and the corresponding increased incidence of separation and lone parenthood are emphasised for their associated poor outcomes for children (Morgan, 2002). Cohabitation is seen as a *pretend* relationship which is damaging marriage.

[Cohabitation] apes marriage and thus creates the external appearance of a union of lives without creating the internal, moral, legal or emotional reality of such a union. The result is highly destabilising not just for marriage as an institution, but for the young men and women who mistake it for the real thing (Morgan, 2002)

Alternative pessimist theories focus on consumerism and an emphasis on the individual rather than the collective good as the cause of familial and societal dysfunction. Etzioni (1993), for example, talks about the “parenting deficit” which results from couples putting their own careers and accumulation of material goods in front of the needs of their children for parental care and guidance. Elsewhere Etzioni argues that a more appropriate balance between personal autonomy and social responsibility *is* possible (Etzioni, 1995). However, there is a question mark over whether or not autonomy and personal responsibility are oppositional in the way that Etzioni perceives them to be.

The optimists, on the other hand, see family change in terms of resistance to the “darker side of family life” (Gillies, 2003). Dependence on a male breadwinner does not necessarily mean security but subordination, exploitation and often violence for women and for children. Furthermore, the privileging of the ‘traditional’ family has in the past meant the cruel repression of loving relationships which did not measure up to that norm. Despite awareness of the difficulties involved in building and sustaining mutually respectful relationships, optimists insist that negotiated roles and obligations are preferable to enforced ones. The emphasis is on “the way in which individuals, once freed from old constraints and conventions, can begin to shape their own biographies and identities and reflect on the meaning of their relationships” (Williams, p. 20). However, individualisation theories (e.g. Giddens 1992, Beck, 1992) have been criticised for paying too little attention to the impact that continuing structural inequalities and relationships with others have on self-fulfilment projects (Jamieson, 1988) and the extent to which cultural influences still shape people’s family aspirations (Duncan, 2006). Since the cohabitation rule has been justified in terms of protecting marriage rights and beliefs about responsible couple behaviour, these debates are important to this study and likewise this study might influence these debates.

New Ways of Being Together

A number of recent qualitative studies have been carried out into the different ways in which people “connect” with one another and the significance of these new relationships to individual well-being.

Bawin Legros (2004) describes the “paradoxes and contradictions” (p. 249) and consequent fragility of modern relationships. She argues that in the current discourse of romantic love, autonomy and the pursuit of personal fulfilment sit uneasily with a longing for stable family relationships and “the place par excellence” (p. 242) which coupledness holds in people’s aspirations. Because of what she describes as “the endless and obsessive preoccupation with personal identity”, there are no longer any fixed points of reference to guide couples in the making and sustaining of the stable

relationships that most people crave (p. 243). Meanwhile individual identity projects are characterised by “[the temptations] of new beginnings and spontaneous bonds” (p. 242) which naturally disrupt the development of stable relationships. She conceptualises the problem of “modern love” as “a difficult synthesis of the irreconcilable dimensions of transparency and secrets, of fusion with another and commitment to self-development” (p. 250). However, this is not necessarily a historically specific problem (Evans, 2004) and the tension within relationships between commitment to self and commitment to others is not necessarily problematic in the way that Bawin- Legros describes it.

It is surely not an aspect of fragility to be able to understand more about the ways we relate to one another; indeed it could be argued that romantic love was always a form of escape from ourselves and that far from deploring its demise we should rejoice in the new possibilities of knowing how and why we love (Evans, 2004, p. 264).

Furthermore it has been argued that conceptualising individual choice and ‘fusion with another’ as oppositional can detract from the fact that projects of the self are *essentially* relational (Holmes, 2004). The potential for self-fulfilment is not only relative to social and economic positioning (which in women’s case tends to be inferior to men’s) but is also closely bound up with the *quality* of relationships (Jamieson, 1999). The self who wants, cannot be extracted from the many personal relationships from which that self emerges.

There is a growing trend towards “living apart together (LAT)” relationships (Levin, 2004, Haskey, 2005). Levin discovers that there are several reasons why couples choose LAT relationships and in some cases, of course, there will be more than one reason. She makes a distinction between (1) those who would prefer not to have a LAT relationship but circumstances make it the best option for them and (2) those who choose to be a couple but do not want to live together “even if they could”. In the first category, are cases where a partner has already existing family responsibilities, perhaps caring for children from a previous relationship or looking after an elderly relative. In such circumstances moving in together is not an option because the new relationship is “not allowed to threaten or replace” pre-existing

relationships (p. 230). In such cases, the relationship might involve some staying over at each other's homes but sensitivity to the needs and feelings of any respective "significant others" will mean that the new partner cannot be fully integrated into the family or the household, at least not in the early stages.

Other couples who are reluctant to have a LAT relationship but feel they have no choice are those where one of them is working or studying away. Levin understands this in terms of a greater emphasis on "individualization".

There is more acceptance for the idea that couples need to find ways to better accommodate one another's needs for self-realization (p. 232)

She suggests that in these cases, people see their lives "as a process" in which decisions have to be made in the here and now but which are always subject to change (p. 233). However, she also touches upon, although does not develop, the complexities which might enter into these processes and which suggest that too much emphasis on individualisation might be misplaced. Following a partner to where s/he works or studies might conflict with pre-existing responsibilities for children or other relatives thus aligning such cases with Levin's first example of LAT motivation. Furthermore, it may be impossible to entirely separate work for *self-realization* from work for *supporting a family* in the complex decision-making process which leads couples to live apart. Inevitably, these processes are gendered. Women are more likely than men to have the pre-existing responsibilities which lead to choosing LAT. Similarly, women have traditionally been expected to self-exclude from self-realization projects because of their family responsibilities. There are now undoubtedly more opportunities for women but whereas they must either choose career or family or try to reconcile both in an often exhausting alliance, men have traditionally been allowed to fulfil their own ambitions in the name of providing financial support for the family but secure in the knowledge that care for their children would be provided by their children's mother. If you have children, then pursuing your own desires can be perceived as putting your self *before* responsibility to others. If forming a new personal relationship is seen as part of a self-realization

project then LAT decisions may be made in an attempt to reconcile the competing needs of self.

In Levin's second category, she gives two examples. The first involves a refusal to live together with a new partner because previous cohabitations or marriage had ended badly. This type of LAT relationship is *strategic*, an attempt to avoid the mistakes of the past and "another painful separation" (p. 233).

One example is a woman who felt that in her previous relationship, she had been "less interesting as a woman", not least because within that relationship her identity was determined solely in terms of her household tasks. Valuing the freedom and her personal development as "mother..grandmother and..professional woman", which she gradually developed after her husband left her, she still cannot disassociate living with a man from her former identity (p. 234)

The last example is an older couple with already established life patterns and important relationships who have accumulated life possessions which make moving in with a new partner problematic. Levin explains

These [possessions] are *cherished* as symbols of shared experiences. They are reminders of people, and are not just *dead things* as some people may seem to believe – and as such, they are important to them for their own well-being (p. 235)

In this example, the woman's partner is resentful of the relationship she has with her son who is disabled. He "feels that she favours him" (p. 235). The issue is resolved because the woman makes it clear she is prepared to give up her relationship with her partner before she will jeopardise her relationship with her son. This illustrates the complex way in which a sense of self and a sense of responsibility for another become fused in the decision-making process.

In passing, Levin mentions another type of 'living together' arrangement which is related but different from LAT. In France it is called *cohabitation alternée* which is where each has their own home and the couple live together but "alternate between their two dwellings". Although not dealt with in Levin's paper, there might be

similar or different stories to tell about people's reasons for holding onto their own properties or tenancies in this way.

Although Levin observes the gendered nature of LAT relationships – she notes far more women than men “see advantages in LAT relationships” and are usually the agents in this arrangement - she does not really develop this line of thought, largely ignoring the possibility that women's choices are often more complex than men's because of inequitable levels of responsibility.

But what about class? In Levin's study, LAT relationships were found to exist across class boundaries although Levin concedes that distance relationships certainly do involve additional travel and communication costs. This is an area that needs further exploration. It may be that the poorer couples are, the more complex are the financial implications of relationship decision-making. A couple might feel that it is important to maintain separate households or be seen to maintain separate households where being treated as a couple means the withdrawal of state support. This could be another reason for choosing a LAT relationship or maintaining the pretence of a LAT relationship. On the other hand, because two *can* live cheaper than one, they might decide to live together although the relationship might not be *ready* for the type of assumptions about integrated family responsibility that the state makes when couples start to live together.

Levin describes LAT relationships as a “historically new family form” (p. 223) but Roseneil and Budgeon (2004) have a problem with the universal use of the term ‘family’. They reflect on the continuing aspirational significance of the ‘family’ and coupledness in the 21st century but argue that it is no longer appropriate to make the family and living together the central focus of sociological accounts of intimacy and caring. This is because an increasing number of sexual partners do not live together, people are choosing to live with friends rather than lovers and often relationships of friendship are valued above sexual relationship. The authors accept that the word ‘family’ is used “often with a knowing irony” to describe “emotional networks” beyond the family but insist that attempts to squeeze all intimate

relationships into what Stacey has called the “family tent”, means that the family norm is reproduced continuously in ways that neglect other forms of intimacy. Their examples also show that realignments of intimacy networks are perceived by the people themselves as what’s best for them and other people they care about and care for *in the context of* their lives at a particular point in time *and* their past experience. They tend not to be perceived as a political act of resistance.

The news that friends can provide more care and intimacy than partners and that often supports come not from within the household but outside the household undermines the logic of the cohabitation rule which only recognises commitment and obligation between parents and children and adult cohabitants, married and unmarried.

Shaping Relationships: Contested Notions of Autonomy

The ideology of modern capitalism is built upon the special significance given to the satisfaction of individual preferences. There have been some lively debates about whether or not that ideology has seeped into the ways in which people form and dispense with intimate relationships. The satisfaction of individual preferences might be incompatible with that sense of commitment to others which is vital for sustaining relationships and doing what is best for children. However, it is clear from the examples in the previous section that rather than opting out of personal responsibility, people have started to reconfigure it in ways that are more appropriate for them, i.e. ways that are compatible with their sense of self and self-esteem. Similar conclusions are reached by a number of others working in the field. Williams (2004), for example, in summing up the results of a number of studies on family change claims that they found “people to be energetic moral actors, embedded in webs of valued personal relationships, working to sustain the commitments that matter to them” (p. 41). The recognition that a commitment to oneself is not incompatible with taking responsibility for others has led to an exciting rethink of personal autonomy.

The association of the concept of autonomy with “masculinist” conceptualisations of individualism and rationality (Mackenzie and Stoljar, 2000, p. 3) have made many *cautious* of pursuing it as a feminist ideal. Friedman uses Gauguin as an example of the iconic autonomous male who abandoned his wife and family for the sake of his art (Friedman, 2000, p. 35). And in rational choice theory, the agent exists independently and always in *his* own self interest (Stoljar, 2000, p. 97). The autonomous (individual, rational) man makes decisions *by* himself, *for* himself. He is solitary and playing to win and does not let emotional attachments get in the way. Autonomy was not a concept generally extended to women who have historically been constructed as dependents of men, selfless and *attached* to their families (Brown, 1995, p. 148). In Ibsen’s *The Dolls House* (1879), Nora leaves her husband and children in recognition of her “duty to [herself]” after she confronts the truth about her life as her husband’s plaything, and her realisation that whereas she was prepared to sacrifice all for him, his career came above *all* else, including her. Even today, Nora’s actions are shocking because of the expectation that women will always be there for their children, that it is their *natural* duty to support them. Furthermore, the realisation that care and responsibility for others is not naturally gendered cannot entirely destroy the power that the socially learned imperative to care and be responsible has on women’s lives. As Evans (2004) says “the social has always been more powerful than the individual”. Women might not want to be *entirely* autonomous *if* that means cutting free from the personal relationships which have historically seemed to define them (Friedman, 2000, p. 36).

It is increasingly recognised that the indivisible and entirely separate self upon which the dominant Western conceptualisation of personal autonomy is based does not actually exist. Information about the world we inhabit and our behaviour are learned within a social context. The individual who makes sense of his own world, develops preference and makes choices independently from others is a mythical creature. Furthermore, any meaningful definition of autonomy *requires* an awareness of the needs and preferences of others. Very young children, for example, or adults in advanced stages of dementia are considered incapable of independent decision-making precisely *because* of their limited awareness of the ways in which their

behaviour impacts on others as well as themselves. The capability to act autonomously is predicated on a relational self.

...the atomistic approach [to autonomy] neglects the social relationships that are vital for developing the character traits required for mature autonomy competency (Friedman, p. 39)

Feminists at least since Wollstonecraft (1792) have been drawing attention to the ways in which historically a particular construction of autonomy competency excluded women on the basis that they were incapable of making the sort of rational decisions that are needed in the public world. Wollstonecraft berates men for “attempting to keep [women] always in a state of childhood” (1792).

The Kantian phrase “*sapere aude!*” which translates as “have the courage to use your *own* understanding!” (Code, 2000, p. 183) was a call to men, not to women. Kant believed that women’s interests were best articulated by men because women had “no civil personality” (Brown, p. 182). But because women were consigned to the private world, did not mean they were allowed to make decisions for themselves there either. Recognising the ways in which women were oppressed in their own homes and in their own bodies led to the coining of the phrase “the personal is political” (Delmar, 1986).

It is precisely because, despite its association with a male dominated and partial liberal state, autonomy has been critical in conceptualisations of liberation from oppressive practices in the personal, political and civil domains, that many feminists and other activists have refused to discard it.

Appeals to autonomy rights have an emancipatory aim that has often been one of the few defences available to women, particularly marginalised women, to resist pressures to override their own decision-making authority. Rightly understood, the principle of self-determination extended to *all* is imperative to any project which aims to resist domination by an elite few and overcome control by male-dominated institutions...Renouncing autonomy would defeat feminist efforts to achieve justice and foster social change (Donchin, 2000, p. 189).

The conceptualisation of autonomy as relational allows for the recognition of and celebration of individual agency in order to *avoid* oppressive practices, not to support

them. It does not leave the individual agent free to do exactly what they want. On the contrary, what people want might be to assert their power over others and thus arguments for the autonomy of the individual would be defeated. As Arendt said “if men want to be free, it is precisely sovereignty they must renounce” (quoted in Brown, 1995, p. 3).

Donchin (2000) argues that there are two components to what she calls a *strong* version of relational autonomy. It is a) “reciprocal” and b) “collaborative”. It is reciprocal in the sense that no-one can exist or make decisions in isolation. The success of autonomous decision-making depends not just on individual effort but also on what other people do. It requires a level of mutuality and recognition of commonality of interest or “overlapping projects” to avoid disappointment or the thwarting of one’s individual projects. Similarly the autonomous self can only be fully realised in its relations with other.

Such a self is continually involved in redefinition in response to relationships that are seldom static. Patterns through which people construct (and reconstruct) their self-identity, infusing it with meanings, is bound up with meanings constructed in the social world impinging on them

Related to this is the second component which is *collaboration*. This involves the recognition of the *need* that we have for others to give help and support in order to be autonomous. Similarly respect for others’ autonomy involves providing that help and assistance. This recognition is the basis of claims that all of us are dependent in some form or other and that it is inappropriate to treat the concepts of autonomy and dependency as “dichotomous” (Lister, 1997). For example, men have traditionally depended on the support of women at home to allow them the freedom to pursue their individual ambitions. The *absence* of help with childcare has meant that women’s autonomy to do the same has been severely curtailed. A strong version of relational autonomy is *essential* in order to maintain respect for the very idea (or ideal) of autonomy.

In the context of this study of the cohabitation rule it is important to acknowledge the impact of economic disadvantage (class) as well as gender on the shaping and fulfilment of projects of the self

Enforcing Personal Obligation: The 'Awful Case' of Child Support

Despite reliance on particularly questionable conceptualisations of autonomy and choice, anti-dependence rhetoric continues to contaminate political discussion about the family and welfare. In more recent years this has been articulated through the policy language of balancing rights with responsibilities. State financial support remains largely residual. Included in other possible sources of financial support are partners and parents.

Although marriage is seen as providing the best environment for bringing up children, the dominant view is that the interests of the child must be given priority, whatever the family form. However there has been a spectacular failure to enforce a financial obligation on the part of non-resident parents.

Critics said that the Child Support Act (1991) put the Treasury rather than children first (Garnham and Knights, 1994), not least because at that time all maintenance was treated as income for Income Support claimants and thus made no positive difference to children in the poorest families in the country. The introduction by New Labour of a £10 maintenance disregard for claimants of Income Support and Income-based Jobseekers Allowance might have made a difference to the way some resident parents viewed the Child Support Agency. However New Labour were also keen on getting more resident parents to co-operate. Where previously the requirement to co-operate with the CSA was an opt-in procedure which resident parents could refuse to do on the grounds that some harm might come to them or their children (albeit it risking a penalty if they were not believed), under the new system, an application for one of these two benefits is automatically treated as co-operation with the CSA and

resident parents (although the harm principle still stands)⁸. A comparison with Tax Credits for which there is no requirement to co-operate with the CSA and a total maintenance disregard, highlights the differential significance of paid work no matter how poorly paid, to a lone parent's right to state support.

The original Child Support Act received cross-party support. Bradshaw and Skinner (2000) suggest a number of explanations for this. Traditionalists moralised about irresponsible absent fathers and the effect of their absence on children. A demand for minimum maintenance payment from even the poorest absent fathers emphasised the punitive nature of the rule. Then there was the cost of a rise in the number of lone parents, large numbers of whom were claiming Income Support. There was also widespread dissatisfaction with the way that maintenance was dealt with by the courts with claims of the inadequacy of awards, procedures for enforcement and reviews. Bradshaw and Skinner also see a link between an increased interest in children's rights and calls for greater intervention by the state (p. 3).

Bradshaw and Skinner describe the Child Support Act 1992 as "a case study of really awful policy making". The formula was almost impossible for the layperson to understand and inflexible. It also ignored existing court settlements over property. In April, 2004 government figures revealed that even after New Labour's reforms, the Child Support Agency was falling well short of its targets. In the previous year, more than half of claims were still waiting to be processed. Only 28% of claims had resulted in maintenance calculations and under 10% had resulted in payment (Rightsnet, 2004). Politicians have consistently tended to blame the problems on poor management, and faulty systems. Andrew Smith, at that time Secretary for State for Work and Pensions said:

Progress has been slower than anticipated, chiefly due to problems with the new computer and telephone systems (*ibid*)

⁸ On page twelve of the thirty two page application form for Income Support (A1 claim form, 10/04), it asks: "Do you want to opt out of your application for child maintenance?" There is a small box for the claimant to give their reasons if they do.

The *principles* of this type of state intervention remain largely unchallenged.

The underlying justification for the Child Support Act is the assumed responsibilities which go with *biological parenthood*. The advantage of this type of assumption is the scope it might have to reduce what governments might perceive as “irresponsible sexual behaviour” (Rowlingson and McKay, 2002). The introduction of techniques which help to establish who the biological father really is, makes it more difficult for biological fathers to wriggle out of their obligations (Bradshaw and Skinner, 2000). However, the assumption that biological parents *have* such an obligation is open to question in some cases. For example, where the biological parent is a sperm donor or where another adult has taken on the parenting responsibilities of a partner’s child. Rowlingson and McKay list three other distinct models for the establishment of a child support obligation.

The first is *marital parenthood*. This might be favoured where there is an association between marriage and good outcomes for children. Rowlingson and McKay suggest that the financial support obligation could continue to exist even after the relationship was over. However, it might act as a disincentive to get married in the first place and the state would still have to pay the bill for those children whose parents never married. The second alternative model is based on *social parenthood*. Rowlingson and McKay describe this as involving “parents currently living with children”, giving more recognition to functioning parenthood. But this would also act as a disincentive for couples to live together or be seen to live together. Furthermore it assumes that the parenting role is accepted by someone who is not the biological parent. It could be said that the social parenthood model underlies the cohabitation rule except that the state has no interest in whether new partners see themselves or behave as parents or not.

The final model that Rowlingson and McKay suggest is *state support* and what they have in mind here is that the state takes on “full financial responsibility for children...regardless of whether or not they were in a rich or poor family”. This use

of ring-fenced universal child benefits has the advantage of encouraging parenthood but not necessarily responsible parenthood.

Which of these models seems the most attractive will depend on the way in which governments perceive maintenance. Is it about the provision of support for children or about affecting the behaviour of their parents? Attempts to influence behaviour can backfire, for example research suggests that child support legislation deters mothers and fathers from jointly registering the birth of their babies (Smart and Stevens, 2000).

New Labour have taken a reformist approach to child support legislation but as Bradshaw and Skinner (2000) point out they have made no attempt to carry out research with the people who are affected by it. Their own research with non-resident fathers raised questions about just how realistic expectations were in terms of fathers' ability to pay and their acceptance of a responsibility or willingness to pay. It is significant that absent fathers are poorer than resident fathers (Barnes, 2000) and sometimes feel unable to pay. Other reasons why fathers were reluctant to pay were to do with their perception of the mother's resources, children's needs, the relationship with the mother, parental access and perceptions of what the mother and any new partner would spend the money on. The relationship between the resident mother and the non-resident father was found to be crucial in negotiating post-separation obligations.

Ultimately the legitimacy of the obligation, based upon children's entitlement, was dependent upon a trusting relationship between the parents (p. 11)

The research suggested that non-payment or a reluctance to pay could not be assumed to be a sign of disinterested or irresponsible parenthood or a refusal to accept any obligation to their children. Instead it suggested that the issue of financial obligation was part of the complex negotiations which go on both before and after relationship break-up. Where the government tries to "impose" a formulaic obligation, then this could affect the chances of resolving conflict. There is evidence that parental conflict has adverse effects on children (Slater and Haber, 1984).

Bradshaw and Skinner's research tends to support the conclusions arrived at by Maclean and Eeklar (1997) that where mothers are likely to emphasise the responsibilities of *biological* parenthood, fathers are more interested in *social* parenthood. Jane Lewis has suggested that this might be related to the male breadwinner model of the family.

If we accept the importance of the tie between masculinity, breadwinning and fatherhood, then non-resident fathers will in all likelihood resent payment to a household in which they can exercise no control and receive no recognition as the provider (Lewis, 2000, p. 20)

In some cases, lone parents have been reluctant to claim maintenance from non-resident parents. In research carried out by Marsh et al (reported in Rowlingson and McKay, 2002), most (31%) explained their reluctance in terms of their ex-partner's inability to pay. A lesser number (27%) said it was because they did not want contact with their ex-partner and in a further 16% of cases, lone parents "did not know where their ex-partner was".

The punitive nature of the legislation with regard to poor parents, both absent and resident might explain why "non-compliance and collusion [have been] thought to be epidemic" (Bradshaw and Skinner, 2000). Another study found that 25% of the "low income lone parents" they interviewed reported a negative experience of child support involvement. Worse cases were "where former partners had already managed to work out together a complex set of arrangements involving regular maintenance payments and contact between fathers and children" (Clarke et al, 1996).

The legislation can be criticised for not paying enough attention to the needs of second families despite the fact that it has been found that "the incomes of many absent parents cannot support two households and even less two families" (OECD quoted in Gray, 2001, p. 190). In a policy culture which increasingly downplays blame in the dissolution of relationships, it might be expected that there would be more sensitivity to the conflicts that result from trying to support the new family as

well as children from a previous relationship. Bradshaw and Skinner conclude that the problem with child support provision is that it is “formula driven and..imposed and enforced completely independently of negotiations between the parents about their arrangements for financial support, contact and other related matters”.

The one group who is rarely consulted on issues of policy and poverty are the ones who are so often at the receiving end of it: children. Clarke et al (1996) interviewed young people between 10 and 17 who lived in lone parent households. These young people were almost unanimous that biological fathers had an unqualified responsibility to support their children financially. This was not consistent with what the mothers of the children (also interviewed) thought about it. They felt there was less certainty about obligation where the pregnancy was not part of a loving relationship. Clarke *et al* also note that children thought that fathers had other obligations to them not just financial. They wanted their fathers to be involved with them as social parents. As Rowlingson and McKay (2002) point out, “the state is neutral about this role – little is done to encourage non-resident parents to have more access or provide more care for their children” (p. 175).

The problems of negotiating finance at the end of a relationship is complicated by the fact that that one partner no longer lives in the family home, the practical and emotional issues related to relationship breakdown and the potential for conflict over care of and contact with children. Conflicts are likely to be exacerbated by the complex relationship matrixes which people often find themselves in after re-partnering.

Regulating Living Together

Historically, the dominant view has been that state intervention into personal relationships can only be justified by appeals to public interest or as a last resort measure. More recently, there has been far more support for intervention to protect the interests of the vulnerable, e.g. against domestic violence. This raises questions about the limits of state intervention into personal lives.

When a couple sign a marriage contract, they are giving the state authority to intervene in certain circumstances laid down by statute. Ultimately how couples' property is to be treated at the end of a marriage is a matter of policy, not personal negotiation although clearly personal negotiation could make the process a lot less painful. Recently there has been much speculation about the extent to which what happens at the end of a cohabitation should be a matter of policy or personal choice?

A recent Guardian article, for instance, described heterosexual couples as having been "left out in the cold" after same-sex couples achieved the right to register a civil partnership agreement. Similarly, Ann Barlow and Grace Jones (2004) write about the *irony* that same-sex couples, a "less socially accepted [group]" now have greater rights than heterosexual couples (p. 144). However, the right to register a civil partnership was a concession to gay and lesbian couples who want to marry. Heterosexual couples already have marriage so in a very important sense, heterosexual couples have not been left out in the cold nor is there any irony in the fact that same-sex couples have better rights than they once had, rights which still fall short of the right to get married which heterosexual couples enjoy.

However, it is argued here that cohabitation is already regulated although targeted only at those cohabitants who seek state support, i.e. those who tend to be the poorest, most marginalized members of our society. One way of challenging the cohabitation rule intellectually is by pointing out contradictions in the existing law. The system places a financial obligation usually associated with marriage on unmarried claimant couples but gives them none of the perks. It seems reasonable to ask for consistency in law. This has been used as an argument to support the extension of some marriage-style rights to those couples who are *as good as* married (Barlow and James, 2004, p. 146).

Barlow and James rehearse a number of seductive arguments in favour of regulation. Firstly, if cohabitation was properly regulated then it might be possible to "seek legal redress" where a partner refused to "share [his/her] income". However, fair shares in complex modern relationships, is a highly contested subject. Difficult to negotiate in

particular relationships, it would be much more difficult to come up with anything other than broad guidelines in law. Every case would have to be considered on its merit and even then there would be enormous scope for individuals to come out of the process feeling that they had been unfairly treated. In English divorce law there is now a direction to use a “yardstick of equality” in the division of property (Barlow and James, 2004, p. 149). However, it could be argued that division of property has a different meaning when it is preceded by a marriage contract than it does when there is no contract.

Secondly, the increasing number of people who cohabit instead of marrying means that the ‘protection’ that married people have in law is not available to a rapidly growing part of the population. The case for parity seems to be even stronger when there are children involved.

As the centre of gravity of partnering and parenting moves away from marriage, the fewer the number of couples protected by legal principles which are designed and developed to protect them and thus, arguably, the less appropriate the family law protection and regulation only of married couples becomes (Barlow and James, 2004, p. 155)

Burns v Burns, a famous case which still has legal authority, is used to illustrate the point. In this case a woman cohabited for 19 years. The house was in her partner’s name only and despite the fact that she had worked part-time, contributed to some of the bills and raised their two children, she was not entitled to anything at the end of the relationship. If she had been married she would have had an entitlement to a share of the assets even if there had been no children involved. Since Valerie Burns appears to have been married in all but contract, it seems unfair that she was not treated *as if she was married*. Her former partner appears to have got away with something. He has “gained advantage from [any] domestic and/or child services” that Valerie has provided. He may have worked to pay a greater share of the bills but she has contributed her unpaid care work and has nothing to show for it.

Barlow and James suggest that the law should look at the *function* rather than the *form* of relationships to avoid this type of injustice from occurring. However, one of

the problems with using this type of argument is that with the increase in the number of women who are setting up home alone *before* re-partnering, there is a corresponding increase in the number of women who will be the *original householder* when a couple decide to live together. Since women tend to do the bulk of the care work and other unpaid chores around the home, a male partner in these circumstances is less likely to be able to use his unpaid contribution as an argument for a share. Women also spend more of their own money on the home than men (Pahl, 2005) and there may be disagreement about relative contributions. It soon becomes clear that trying to work out fair shares in a relationship is problematic. The chances are that if the boot was on the other foot, and Valerie Burns was the homeowner, she might still have felt that her partner had *got away with something* if the relationship had been regulated.

If the type of argument we see here is extended beyond the couple, it is clear that property law is by its very nature unfair. If you own something then the state protects your right to dispose of it as you will. People who live in rented property will not be entitled to a share in that property just because they have contributed to its upkeep (by paying rent) over a number of years. A person who is not a partner but a friend, relative or paid nurse, might live with a person to provide care and support to them and still not expect to inherit the property when the person they were caring for has died. Once again, marriage is different from other relationships because it involves a contract and that makes the consequences of living together much clearer.

A third argument which Barlow and Grace give for regulating cohabitation is that people already think they have rights in law and this increases their vulnerability.

..it is a legal lottery which an alarmingly high number of cohabitants are unaware of entering and participating in. Indeed (and it is here that we begin to see that people superimpose social norms on their uninformed expectations of legal norms) many..believe, incorrectly, that cohabitants have a 'common law marriage' giving them the same legal rights as married couples (ibid, p. 156)

They suggest an *opt-out* instead of an *opt-in* form of regulation, believing that will be enough to protect the rights of couples who do not want their relationship to be regulated by the state. The Solicitors Family Law Association have also argued

against regulation based on partnership registration. They use figures to support their argument and the well-documented imbalance of power (which we know is gendered) that has tended to be a feature of heterosexual relationships.

The most recent British Social Attitude Survey confirmed that 56% of people living in this country believe that cohabiting couples have the same legal rights as married couples. This ignorance, combined with an inequality in bargaining power in some relationships, leads the Committee to conclude that a scheme which requires a conscious decision and an agreement to register will not protect vulnerable cohabitants. Many people would be unaware of the need for registration. Unregistered partners would be left in exactly the same state of vulnerability as all cohabiting couples are now.

But why should people be any the wiser about their right to opt out than they are now about their lack of rights if they do not *opt in* to marriage?⁹ Also, if the couple decide at a later stage to opt out of opting out, how will the courts decide if they can? There are a number of potential problems that flow from “an inequality of bargaining power” and the many changes that can take place between the start of a cohabitation and its ending, whether cohabitations are regulated or not. Whether individual cohabitants will think it is fair or not is likely to be influenced by the extent to which the law sees their point of view.

There is another more pragmatic issue which has already been alluded to: the problem of definition. Barlow and James acknowledge the fact that there is no definition of cohabitation in UK law and call it a ‘problem’. It is a problem because no definition of cohabitation will be able to accurately identify a category of marriage-like relationships in a way that will be ‘fair’ in every case. For all its faults the advantage of a form approach to regulation is that it is straightforward. You are either married or you are not.

Janet Finch once asked the question “why does the state have so much trouble in its attempts to regulate family relationships?” Her answer to the question is specifically rooted in ‘English’ culture. She considers two examples of attempts to regulate

⁹ Furthermore, who will pay for them to opt out? The Solicitors Family Law Association suggest a ‘Cohabitation Contract’ which could be reversed if things changed at a later date. Will they need a solicitor? Avoiding having your relationship regulated by the state could be a very expensive business.

family relationships. The first is divorce legislation and the second is inheritance. In the case of divorce law, the problem has been the number of “different ideological positions on marriage, divorce and child rearing [making it] literally impossible to produce a compromise which could even minimally satisfy all” (Finch, 1997, p. 1). In the case of inheritance, the problem is the distinctively personal nature of relationships and the complexities of modern lives. She uses several examples but one should suffice to explain why regulation of personal relationships can have outcomes which not only fail to reflect the essential experience of intimacy in any one case but which also fail to reflect commonly held perceptions of justice. This is “variant 3” as “the ultimate horror story about money passing out of the family”. I have reproduced the example in its entirety

Figure 5

1. A marries B (A/B marriage)
2. They have children (A/B children)
3. The A/B marriage ends
4. A marries C (A/C marriage)
5. A dies
6. As the surviving spouse, C inherits everything from A
7. C marries D
8. C dies
9. As the surviving spouse, D inherits everything from C (which includes A's estate)
10. D dies
11. D's property is distributed within his/her family

Finch concludes that “not only has A's money ‘passed out of the family’ but it has ended up with people who had no personal knowledge of A”.

Finch argues that there are no rules which can successfully capture the complexities of people's lives in individualistic societies where obligations are not bound by fixed roles or positions. She uses anthropological authority to support a theory that

obligations that people recognise and who counts and does not count as 'family' for that purpose cannot be read off from their position in the kinship network.

The core of the problem is that it is very difficult to regulate relationships which depend on persons, not positions. To legislate for 'positions' is much easier, since one can attach legal obligations to the role of 'father', 'brother' and so on. The relative absence of legal regulation of family relationships in the UK is itself a reflection of the difficulties this presents to governments (p. 6)

The exception is the "core parent-child element" which "remains relatively fixed" (p.12).

She argues that regulation should only ever be used to protect "the vulnerable"¹⁰ because of the dangers inherent in trying to prescribe family obligations and concludes that,

...where the state does get involved in regulating relationships beyond protecting vulnerable people, the aim of policies should be to facilitate flexibility in family life, rather than to shape it into a particular form. It is a proper role for the state to ensure that people have maximum opportunity to work out their own relationships as they wish, to suit the circumstances of their own lives. It is not the proper role of governments to presume that certain outcomes would be more desirable than others (Finch, 1997, p.13).

The assumptions which underlie the cohabitation rule raise exactly the same issues for public law which are being argued over in private law circles.

Conclusion

Family change highlights and calls into question the role of the state in "regulating family affairs" (Wasoff and Dey, 2000, p. 16). The relevance of family change to this study is the extent to which it supports the treatment of cohabitation and marriage as the same sort of relationship.

For some the weakening of the traditional family is to blame for a range of social problems and is the result of anti-family policies. For others, including this writer,

¹⁰ Am aware that deciding who is and who is not vulnerable is also a tricky business and one that might also lead to inappropriate interventions but a discussion of this is beyond the remit of this study.

explanations of family change and the problems families face remain inconclusive *because* of the variety of relationship types and circumstances in which people are cohabiting or raising children on their own. However, gender *is* clearly an issue and class has a significant impact on the chance of becoming a lone parent and on the experience of lone parenthood. What happens in stepfamilies is surprisingly under-researched considering the numbers of people who re-partner although 'reconstituted' families may bring additional pressures. Re-partnering where there are already children living in the household is an important issue in relation to the cohabitation rule.

The issues which make relationships more difficult to sustain these days have been attributed to greater individualism in society as if choice of relationship is like any consumer choice (e.g. Beck-Gernsheim,2002). An alternative view is that choice in relationship formation and dissolution is essential to prevent women from being caught in abusive or unequal relationships. Although it may be true that people are finding new ways of living together and that there is greater acceptance of and respect for personal choice, it is important to recognise the ways in which choices are bounded by cultural norms, personal circumstances *and* relationships with others. *Relative autonomy* is seen to be crucial to building safe and equal relationships distinguishable from an individualist or atomistic approach to autonomy. A subject who never took into account the impact of their actions or decisions on others would be viewed as incapable of autonomy. The irony is that historically, women were expected to put the needs of others before their own yet treated as if they did not have autonomy competence, requiring men to make the important decisions for them. Recent evidence suggests that actions and decisions do not take place in a vacuum but are the result of perceptions of responsibility and complex relationship negotiations.

In this chapter, I draw attention to two problems measuring cohabitation and lone parenthood, both relevant to this study. Firstly, couples may be hiding their true relationship status in order to avoid a cohabitation rule determination, suggesting that there may be more cohabitants and less lone parents than are officially recognised.

Secondly, there is a problem of definition. How cohabitation and lone parenthood are defined is crucial to the regulation of these relationships whether in public or private law. This study examines empirically the consequences of applying a rule without a clear understanding of when or how the rule should apply.

The Child Support Act provides an excellent case study of the problems involved when the state tries to enforce a personal financial support obligation. It is evidence of the difficulty if not impossibility of legislating for fairness in personal relationships which are individual and complex. For similar reasons, Finch argues that the state's role in terms of the family should be one of support and *not* regulation. It is precisely because of the increase in family dissolution and the complexities of modern relationships that caution needs to be taken over calls for the regulation of cohabitation in private law and the reason why this study of the regulation of cohabitation in public law is important.

5 RESEARCH DESIGN AND PRACTICE

Here I describe the design and practice of qualitative research carried out with men and women in the UK and Denmark. I describe the process in terms of the personal, theoretical, ethical and practical issues which shaped it. It is a highly reflexive account based on the belief of this researcher in the importance of locating the self or selves of the researcher in the *construction* of an issue and the *production* of data and knowledge. Thus 'I' is prominent throughout.

I see research design as a seamless process. It is misleading to think about research design as something which predated the research itself. Instead it evolved, bounded by the inevitable exigencies and contradictions which characterise the research experience and the need to adapt to new ideas that emerged from the on-going analytical process. What I now present as a 'design' is actually a collection of meanings I have constructed retrospectively out of my expectations and experiences of *doing* research.

There is no separate paragraph on *ethics* because at every stage of this process ethical/political issues emerge and are paramount. In that respect I agree with Humphries and Martin (1999)

Ethics is not separate from the planning and the choice of methods in social research, a kind of 'bolt on' which is only considered when one is engaged in doing research, and then only at certain points. Ethics is fundamental to making claims about knowledge (Humphries and Martin, 1999, p. 110)

The main focus of this chapter, in this respect, is the relationship between myself, as researcher and a) the people I interviewed whom I call 'participants' and b) anyone affected by the issues raised in this study. In the context of the research process, participation is unlikely to be partnership. The act of *representing* the views or interests of others involves an asymmetrical relationship of power. Minimising the asymmetry in this relationship on ethical-political grounds also makes sense in terms of the production of what I describe as *non-authoritative* knowledge. This leads to an analytical technique which is in line with a "politics of asking" (Holloway, 2005).

A Fresh Look at an Old Problem

The aim of this study was to critically examine assumptions about financial support obligation which underlie the cohabitation rule in UK social security law.

Although this is a qualitative study, its starting point is quantitative: the official fraud statistics which show that lone parents are the benefit group most likely to commit IS fraud and that the IS fraud they are most likely to commit is LTAHAW fraud. A review of the literature suggests that there is an urgent need to reconsider the cohabitation rule because of a) the evidence of its gendered significance; b) the difficulty in determining cases of ‘living together as husband and wife’; (c) the risks involved in making assumptions about the distribution of resources within the household and d) the conflict between public law and private law understandings of cohabitation. In Chapter 2 I explained that despite official acknowledgement of problems with the cohabitation rule, successive governments have refused to part with it. I argued that this was because policy could not be seen to undermine marriage which has privileged status in UK policy, that the government did not want to be seen to encourage *irresponsible* behaviour in partners who *should* be providing financial support to each other and that in any case, the cost of abandoning it would be prohibitive. If the validations of the LTAHAW rule turn out to be inappropriate then that must throw doubt on the construction of LTAHAW rule fraud. By exploring the three main justifications for the cohabitation rule theoretically and empirically, I hoped to gain a better understanding of the meaning and the legitimacy of cohabitation rule fraud. This understanding I conceptualised as being fundamentally qualitative.

Based on my understandings of the continued justification of the rule, I constructed three empirical research questions.

1. How can cohabitants’ attitudes and behaviour in relation to money be understood?
2. How should ‘cohabitation’ be understood?

3. Does the retention of the cohabitation rule have any social costs which might outweigh the costs of scrapping it?

Researching in Denmark

Early on in the planning stage, I became interested in carrying out a small comparative study in Denmark. Initial interest was sparked by reading that Denmark had no cohabitation rule but I started to rethink my original design of the Danish study after finding out that single parents in Denmark *are* financially penalised if they cohabit (Koch-Nielsen, 1996). An exploratory visit to Copenhagen and discussion with a number of policy experts there alerted me to the existence of what Kirsten Ketscher calls *reelt enlig* or what I refer to here as the ‘really single’ rule. This rule works like the cohabitation rule in so far as it determines lone parent status thus acting as a disincentive to partner or be seen to partner.

Initially I had been told that, unlike the cohabitation rule, the *reelt enlig* (really single) rule was not controversial but during my visit to Copenhagen, I discovered that there was an article in a very recent edition of a social work periodical, *Socialradgivern* (Ketscher, 2002) on the measures that municipalities use to enforce the rule. While there, I met a number of policy experts and researchers in social security and visited public sector workers. As a result of this initial visit I learned the following.

- The number and type of benefits lost by lone parents who are deemed to be no longer really single.
- How it is established that a lone parent is no longer *really single*

As a result of my initial visit I decided to carry out a small case-study in Denmark as much for the similarities as the dissimilarities. According to Revauger and Wilson (2001), cross-national similarities have been treated as “non-findings” in the traditional comparative research community. But once it is known that lone parents in Denmark are financially penalised if they take a partner, it considerably alters the

meaning of claims that Denmark has no cohabitation rule. It suggests that the UK and Denmark might not be as different as originally thought. This is hardly a 'non-finding' although clearly more work has to be done to understand its full significance. Other researchers have also recognised the importance of achieving shared understandings *within* difference (e.g. Corden, 2001).

Originally, naivety led me to believe that what I would be doing in Denmark was a straightforward comparison, that by carrying out interviews there I could show that the Danish welfare system was better and that the UK system should be changed. I now see that this was never going to be possible, nor desirable. The strength of this research is that it has allowed me to look at the UK cohabitation rule through a different lens. The experience was unsettling. For example, I had to think very carefully about the significance of benefit fraud in the context of a welfare system which is far more generous than the system in the UK. However, this paid dividends. By forcing me to question my own assumptions about the UK system, the Danish trip considerably strengthened my analysis.

The Production of Non-authoritative Knowledge

I was eager to fill the gap between abstract theorising of 'the problem' and people's own experience. Croft and Beresford (1998) look at the gap between 'expert discourses' around social phenomena such as death and people's actual experiences. 'Authoritative' interpretations can be used to override and hence undermine personal interpretation of experience.

The response of the dominant medical discourse on dying is often unsympathetic at individual level to the concerns and approach of its subjects. For example, the focus of some people who are dying on the life they have, rather than on addressing dying, is interpreted in negative terms of people being 'in denial', and not facing or accepting that they are dying (p. 108)

I was eager to talk to welfare claimants and their partners about *their* experiences of the cohabitation rule and about their relationship behaviour because I wanted to

explore alternative constructions to those which underpin the cohabitation rule and which are ultimately translated into LTAHAW fraud statistics.

Despite locating their research in the struggle against assumed political, scientific and intellectual *authority*, feminist researchers still suggest ways to “make your knowledge claims authoritative” (Ramazanoglu and Holland, 2002, p.163). Partly this is about persuading those in authority that we are fit to join the club. By deciding to do a PhD, I signed up to that and so should not snivel about it. But it is also about the wider significance of the research. The point of this study is not simply to identify or describe alternative accounts of social relationships and behaviour but to say something about the significance of these alternative accounts.

A traditional emphasis on ‘objectivity’ and on reason as the arbiter of truth have been exposed, often by feminists, as convenient devices allowing a predominantly white, male, middle-class elite to ignore their own preconceptions and bias and retain their powerful positions as interpreters of meaning and creators of a reality. This helps to maintain the status quo.

Demonstrating that politically infused assumptions structure most research projects from the bottom up, if often tacitly, feminists expose the elusiveness of value neutrality, even as they show that mainstream epistemology is itself value-laden as the ‘special interest’ projects it denigrates for their explicit commitment to values and interests (Code, 2000, p. 189)

In the introduction, I aligned myself with a post-modern or social constructivist account of meaning and knowledge. That is to say that I believe it is impossible to compare what we understand or *know* with something which exists independently of our understanding of it, in order to make sure we have got it right. There is no “bridgehead..of true and rational beliefs” (Hollis, 1982) connecting a mind with the real world. Science as ‘authority’ (and there is no distinction made between natural and social in this respect) is thus reduced to a series of stories about the world with no way of knowing for sure which stories are the right ones or even if there *is* a right one. This could be seen as a problem for feminism or any other movement which aspires to positive change. In particular it undermines claims to specialist knowledge

based on the shared experience of being a woman or of oppressive relationships more generally. However, this problem largely disappears if authoritative or specialist knowledge is not a research aim. In other words, once it is accepted that “science is a socially embedded activity and [that] the most creative theories are imaginative visions produced within the specific cultural contexts in which scientists work” (Oakley, 1998, p. 718). One dictionary definition of ‘bridgehead’ is a “post held on far side of river giving one access to enemy’s position” (Fowler and Fowler, 1964). The use of the bridgehead metaphor by Hollis suggests to me an attachment to the idea of dominance, a sort of colonialist superiority which is as likely to be seen on the left (vanguardism) as it is on the right of the political spectrum. If knowledge is detached from the idea of domination, then the need for a bridgehead disappears. As a researcher I do not need or want to be an authority or an expert. Instead I see myself as negotiating an accommodation between competing discourses. Two essential aspects of that negotiation are a) that I respect the experiences and understandings of others (even if I do not agree with what they are telling me) and b) that I challenge all attempts to construct a bridgehead, including my own. *Respect* replaces objectivity by accepting the sometimes uncomfortable truth that I might have got it wrong, thus encouraging me to think more carefully about what I am *hearing*. Avoiding the construction of my own ‘bridgeheads’ is achieved by reflexivity, by which I mean being alert to the ways in which my own “personality, moods, interests, experiences and biases” (Rubin and Rubin, 1995, p. 120) are operating on data production and analysis and to the power relationships I enter into when I *do* research.

Feminist and anarchist influences have led me to challenge all attempts to construct “hierarchies of credibility” (Croft and Beresford, 1998, p. 108). In this study I have aimed to achieve a different kind of knowledge, one that is not authoritative but emancipatory. It means opening up dialogue rather than closing it. This is the basis of my decision to adopt a qualitative methodology in this study.

Qualitative Methodology

I begin my explanation of my decision to adopt a qualitative methodology, by referring to the relationship between this study and several *quantitative* data sets. Having previously “[struggled] under the shadow of a [quantitative] orthodoxy” (Blaikie, 200p. 244), qualitative research methods have become more respectable recently, as witnessed by a set of assessment guidelines for qualitative research commissioned by the Cabinet Office in 2003 (Spencer, Ritchie, Lewis and Dillon, 2003). I probably agree with Ann Oakley (1998) that it is “unhelpful” to view a quantitative methodology as nothing but a tool of male domination. Statistics have been used with some success in attempts to draw attention to feminist issues such as the number of women affected by abuse. Oakley warns that treating methodologies as if they are *essentially* gendered “is in itself a social construction informed by a basic requirement of patriarchal societies, which is the rule of a clear opposition between men and women” (p. 724). Nevertheless quantitative data sets are still used in policy documents as if they were an unproblematic way of measuring the social world. Thus statistics are produced which conveniently reinforce positivist assumptions that a) there are discreet social facts distinct from ‘values’ which exist independently of human understanding (ontological assumption) and b) that social scientists can achieve a level of objectivity by the rigorous use of scientific method in their research practice (epistemological assumption) (Hughes, 1990, Robson, 1993). In doing so, they can be used ‘authoritatively’ by undermining minority views or identities and suppressing dissent. In this study my aim is to challenge what I see as the oppressive use of quantitative data by using a qualitative methodology for the following reasons.

Firstly, a qualitative methodology involves an emphasis on **context**. An exploration of context can give us a “deeper understanding” of individual behaviour, attitudes and feelings (Silverman, 2000, p. 8). Removing context can often be used in the condemnation of behaviour and attitudes in order to deflect attention from other explanations which disrupt the status quo. For example, if there is a crowd of angry workers at the gate demanding more money, an emphasis on the aggressive

behaviour of “the mob” can deflect attention away from one rich employer whose workers cannot earn enough to live on. In this study, I start with the fraud statistics: the number of lone parents who are officially categorised as ‘benefit cheats’. The *statement* in a DSS report on benefit fraud, “lone parents on IS were more likely to commit benefit fraud than the average” (DSS, 1998, p. 3) could be treated as if it explains something about lone parents (mainly women) and fits easily within a political trend towards the stigmatisation of lone parents as feckless and irresponsible. However, by looking at the context within which cohabitation rule fraud is taking place, the behaviour of lone parents might be better understood in terms of poverty or contested obligation, thus weakening the association between being a lone parent and being a benefit cheat.

Qualitative methodology involves respecting **personal perspective** and not treating people as though they were objects to be studied “incapable of their own reflections on the social world” (Bryman, 2001, p. 277).

You don't need the detail of qualitative interviews to find out how frequently people wash their hair, watch a television program, or buy a particular product, but if you want to know what people think about personal hygiene, why they watch so much television, or whether people feel that they gain status by buying a particular product, qualitative interviewing is the right approach (Rubin and Rubin, 1995, p. 17)

This is important in terms of challenging interpretations of behaviour or attitudes, e.g. in relation to benefit fraud. Qualitative understandings involve *listening* to people's accounts, not with a view to uncovering hidden meanings or agendas or imposing explanations on behaviour but with a view to achieving a better understanding of people's *own* meanings and *own* ways of explaining behaviour, bearing in mind that the researcher is no less affected by dominant discourses and status than those being interviewed and that this is a part of the context within which the actions and motivations of selves and others are understood.

Qualitative research methodology is based on a recognition of the significance of **complexity** in terms of knowledge production. No one person is the same as any other, and no one experience is the same as any other. Where bureaucratic

constructions of behaviour or identity are at work, a qualitative methodology can expose relevant **differences** which can undermine the generalisations upon which such constructions rely. The LTAHAW fraud statistics rely on generalised assumptions about relationships of cohabitation but relationships are complex. A qualitative methodology can tease these complexities out and may suggest different explanations for behaviour and different constructions of identity. One case would be enough to say something more than a benefit review which derives its credibility from counting the number of lone parents who are recorded as having “committed fraud” without spelling out clearly the implications for claimants of telling the truth.

The overarching reason why I have chosen a qualitative methodology is its **emancipatory** potential through **recognition** and **respect**. There is an *expectation* that no one interview will be the same, precisely because individual experience is complex and cannot be understood in any other context. Quantitative data are powerful tools and have been used to open up debate about issues which dominant groups might choose to ignore, for example violence against women, the distribution of income, levels of harmful chemicals in manufactured food stuffs. But they can also be used to silence. For example, the fraud statistics can be used to silence lone parents because they construct them as a group of people who do not deserve to be listened to. Of crucial importance to a qualitative approach to research is the extent to which individual voices can be heard (Mauthner and Doucet, 1998). A flexible and less structured approach to data production helps to preserve individuality in *defiance* of tyrannical generalisation.

Research Design Issues

I established methodological preferences early on but my design was not fixed for three reasons

1. As a **new researcher** I had a lot to learn about what was possible as well as what made sense and so knew that my plans would probably be amended as I went along. For example, I had intended to carry out interviews with cohabitants but

during the recruitment process realised that the problem of defining ‘cohabitant’ was one of the reasons for exploring the subject.

2. **Resource limitations** had to be confronted and compromises made. For example, initially I had planned to carry out 40 interviews in the UK. This number had to be substantially revised because of problems of access and the eventual inclusion of a small comparative element into the design which put an additional strain on my time.
3. Ideally I would have liked the research to be a collaboration between myself and participants. Trying to reconcile my own political/ethical stance with real world research limitations was probably the most difficult part. At the very least I expected to **review what I was doing in the light of what participants told me**. This involved changes in process and conceptualisation.

Data Production in the UK

I carried out 20 semi-structured in-depth interviews in the UK with women and men for whom the cohabitation rule was relevant. I chose this method of data production because I wanted to concentrate on context and depth, making “a lot out of a little” (Silverman, 2000, p. 102). I had no interest in generating data which when analysed could be said to say something about *all or most* cohabiting couples or *all or most* lone parents although I believed that the analysis should be of potential interest to a wide audience. All interviews were recorded on tape.

Interviews seemed to be the most appropriate because they would provide “richly descriptive reports of individuals’ perceptions, attitudes, beliefs, views and feelings, the meanings and interpretations given to events and things as well as their behaviour” (Hakim, 1987, p. 34). I viewed the fraud statistics as representation claims. They represented individuals as benefit cheats and made collective representations about lone parents. I wanted my representations to be much more grounded in people’s own accounts of their experiences and behaviour.

The Role of 'Participants'

I did not want to construct the people whom I interviewed as passive objects of this study. I also recognised the limitations of sharing control of a PhD project. Early on I focussed on the name I would give to people who helped me with the research. I rejected the name 'conversational partners' (Rubin and Rubin, 1995, p. 101) because it suggested a sharing of control over the interview which I did not believe existed. I did not want to hoodwink the people who helped me into thinking they had more control than they actually did. Initially I settled on 'informants' because it seemed to suggest a more equal relationship without misleading people. After three or four of these letters had gone out, my partner pointed out that 'dear informant' was an inappropriate term to be using with people who might be or think they were committing benefit fraud. As soon as he said it I saw that it was a terrible choice. My concern with the power imbalance within the research process had resulted in insensitivity towards the people who were helping me to carry out the research. In the end I settled on *participant*.

Interviewing Men and Women

Although in official documentation, it is mostly women who commit cohabitation rule fraud, it is self-evident that men are also affected as it is *because* of their relationship with men that so many women appear in the fraud statistics. Stanley and Wise (1993) agree that women should do research on men because it makes no sense for female researchers to ignore the role that men play in "women's oppression" (p. 18). However, this approach would have positioned me in an antagonistic relationship with the men I was interviewing. Later I describe an analytical approach which resolved this issue for me.

Originally I spoke about men/women interviews in terms of comparing male and female perspectives. However, I began to see this as a quantitative approach (calculated by working out what the majority of women think and the majority of men think) and dangerously close to an essentialist account of gender which I had

always denounced. I began to adopt what I believe to be an approach similar to that of Dorothy Smith, that although the knowledge that men and women have is situated in their own experience, that does not mean that women have a different way of knowing or experiencing the world or that all women share the same experiences.

I am not proposing a feminist standpoint at all; taking up women's standpoint as I have developed it is not at all the same thing and has nothing to do with justifying feminist knowledge....Rather, I am arguing that women's standpoint returns us to the actualities of our lives as we live them in the local particularities of the everyday/everynight worlds in which our bodily being anchors us (Smith, quoted in Ramazanoglu and Holland, 2002, pp. 71-72))

As I began to interview men and listened to their own accounts, an understanding of their situation began to emerge, based on things I *recognised* despite having *very different* experience. This also led me to see that although I was a *feminist* who had identified a feminist issue I was not carrying out feminist research or adopting a feminist epistemology.

People to Whom the Cohabitation Rule Was Relevant

I wanted to speak to men and women *to whom the cohabitation rule was relevant*. Initially, I thought that meant *cohabitants* where one or both partners were claiming a means-tested benefit. During my search, I began to find people who did not self-define as cohabitants but whose relationships shared many of the characteristics of those who *did* self-define as cohabitants. There might be a dispute about the nature of a particular relationship and it would be interesting to speak to someone who disagreed with the benefit authorities' classification of their relationship experience. Through my struggle to justify my choices and to specify the population from which I drew my sample I gradually gained the confidence to accept that this part of the research was untidy for a reason, the same reason that establishing a working definition of cohabitation is untidy.

However, it did not suit my purpose to speak to people who were not in a couple relationship at all even though they might also be found to be cohabiting (two friends sharing, for example) because the focus of the research was on the

assumptions about couple relationships which constituted the cohabitation rule. Throughout the period in which I was carrying out the research, the cohabitation rule did not apply to same-sex cohabitants and so they would not have been able to provide the insights which I was looking for. I therefore restricted my search to heterosexual couples. However, with the extension of the cohabitation rule to same-sex couples, it might be interesting to carry out a further study in order to compare the experiences of each group. Gender will still be an issue within this group because lesbian couples are more likely to have children than gay couples and the existence of children appears to be significant in terms of cohabitation rule fraud statistics.

I was interested in talking to people who were both in a relationship now and those who were looking back on a relationship which had since ended. This retrospective examination of a relationship might provide some valuable insights into the course of a relationship which was experienced in the context of the cohabitation rule.

I decided to focus on people who had at some point during the relationship claimed or whose partners had claimed IS and I-JSA *and* on households where there were children. As explained in Chapter 2, government documentation suggests a sustained and significant association between LTAHAW rule fraud and lone parent claimants of IS. Also IS and I-JSA claimants are the only claimants who are *required* to co-operate with the CSA in claiming child maintenance from non-resident parents. The requirement to co-operate with the CSA and the cohabitation rule co-exist in IS/I-JSA regulation despite significant conceptual problems in reconciling different constructions of obligation. It would be interesting to see how people, affected by both, understood them and how that impacted on the ways in which they organised their money.

I recognise the value in looking at the cohabitation rule in the context of housing benefit, especially given the significant resources that have gone into anti-fraud measures in that context. There were clearly resource implications to extending the research in this way and the core issues of assuming a financial support obligation

which may or may not be recognised by a partner are the same for housing benefits as they are for IS and I-JSA. There are particular problems in terms of state assistance with rent for which individualising benefit entitlement is a much less straightforward option. There is a financial advantage to hiding the fact that you have someone living with you whether or not you are a couple because of the impact that has on housing benefits.

In terms of tax credits I suspect that cohabitation rule fraud is less visible because if you leave the house every day to go to work, people are less likely to define you as a benefit claimant. Governments might also be less interested in people who are working, even if they are receiving state support because their stated aim is getting as many people off out-of-work benefits as possible. This might be the subject of a further study but was beyond the remit of this study¹¹.

Access and Recruitment

Access to people affected by the cohabitation rule was a problem because of the sensitive nature of the subject. I had decided early on not to try and gain access through the benefits authorities. I knew from my own experience of living on benefit and from my work as a welfare rights worker that regular communications from the DWP, checking up on people's entitlement, were intimidating. Claimants in undeclared relationships might be particularly anxious about their status. I did not want to add to that anxiety or be associated with the benefits authorities in any way.

My first attempt at access was through community and other organisations in touch with people affected by the cohabitation rule. I targeted advice providers and lone parent groups and other groups who offered support to people on low incomes. With caution, I also approached some statutory providers of services, e.g. local authority welfare rights teams and children's centres. As was the case with my MSc study, it was clear that admitting you were in a relationship was a problem for women who relied upon their lone parent status for much of the help they received from the

¹¹ In fact, some of the people I spoke to were claiming tax credits while their partner was claiming either IS or I-JSA either from the same address or from a different address.

voluntary and statutory sector. Limitations on time which characterise the voluntary sector and difficulties involved in broaching the subject of the cohabitation rule with service users meant that only four participants were recruited through this method.

One voluntary organisation that sent out a publication to a large number of voluntary and statutory organisations agreed to let me use one of the editions, to advertise for people to come forward and help me with the study. I received one direct reply from a worker in the statutory sector but, anxieties about the subject of the research eventually overcame the person concerned and she did not agree to be interviewed. I followed up the advert with calls to the voluntary organisations that received the publication. This resulted in one interview.

In every other case, recruitment was through personal contact. In a few cases I knew the people concerned but in most cases, they were friends of friends and so I had never met them before. I adopted the practice of snowball sampling, where the researcher gains access by asking the person they are interviewing if they know of anyone else who might agree to help. This is recognised as a strategy to get at “hard-to-reach” populations (Groves and Mann, 2000), especially where trust is an issue. Atkinson and Flint (2003) argue that this technique “may imbue the researcher with characteristics associated with being an insider or group member” (p. 2) but there are risks attached. If this type of sample comes from a tight-knit group of friends who share common conceptions about the benefits system and relationships in general, then there might be a limit to the variations in their stories and overall, the data could be rather flat. In my own case, this was compensated for by the fact that none of the initial contacts were close friends of each other and in fact there was considerable variation in the sample. There was more of a problem using friends as gatekeepers. Further down the line, one of these friends asked me if I had interviewed the person they had put me in touch with. Any answer felt like a breach of confidentiality. I felt uncomfortable that I knew personal information about friends of friends. Because it was in some ways ‘closer to home’, it very much accentuated the uneasy feeling that I had after all my interviews, that I was an intruder in the personal space of the people I was interviewing.

In all but three cases, I first spoke to women who then became gatekeepers in terms of accessing their male partners. This was problematic. Not all women wanted me to speak to their partners. In some cases, the relationship was over and resurrecting contact was too painful or considered dangerous. In other cases, where the relationship was in difficulty, women might not want me to hear what their partners said about them and, of course, partners might not agree to being interviewed. Although every time a person agreed to be interviewed, I gave them an information pack, I could not tell what those who had already been interviewed had said about that interview. This would no doubt influence the way people approached an interview, knowing that they would be asked the same sorts of questions as their partner had already been asked and perhaps knowing something about their answers. More importantly, I was concerned about the issues I was raising for the couple and the implications for their relationships if, as a result of the interviews, couples uncovered grievances or significantly different perspectives on their lives together.

These concerns only served to emphasise for me the responsibility involved in asking people to take part in research of this kind. It seemed wrong to ask people to take such risks just so that I could achieve my own personal ambition: a prestigious qualification, and one that might help me to ensure that I was never likely to be put in the situation which the people I spoke to described. The issue of informed consent became crucial which is why I decided to provide participants with as much information as possible before they agreed to be interviewed and made it clear to them that when the interview was over, they were still able to withdraw any statements they regretted having made.

Participant Characteristics

Obtaining a statistically representative sample was not part of this research design. Instead I was looking for a small group of people who, through their stories would help me to understand more about the significance of the cohabitation rule and its underlying assumptions. However, twenty broadly similar stories would have

severely limited what I could come to understand. The more varied the stories, the more I would learn. Within the small number group of people I interviewed, there was a wide range of circumstances. Only six out of the twenty UK interviews were with men. Partly, this was a reflection of access problems, already alluded to, especially where access was through organisations because women with children are probably more likely to rely on these organisations. It is also a reflection of the fact that more women than men are affected by the cohabitation rule *as claimants* and so are more likely to self-define as 'affected by the cohabitation rule'.

In total I interviewed five couples. I had some misgivings about these interviews because of concerns about additional difficulties in maintaining confidentiality. I was not interviewing one partner or ex-partner in order to check up on the other and certainly I did not think that one version of events was any truer than the other. However, I had to be extra vigilant when conducting the second interview, not to ask follow-up questions based on what I had already heard in the first interview. Nevertheless, some interesting comparisons did emerge from these interviews, for instance two sides of the same coin: hiding a relationship and being hidden. It worried me that after the event couples might have had difficulty reconciling their different accounts in an exchange of information about experiences in the interview. If resources had allowed for it, I might have considered doing couple interviews as well as interviewing partners separately. This is the approach that Margaret Hyden (1994) found useful.

..in the process of our conversations, together we tried to make continuing sense of what we were talking about (p. 109)

There were variations in terms of relationship stage as well as quality. These variations were sometimes significant in terms of whether or not the couple recognised a financial support obligation to each other. The sample differed in terms of the number of children living in the household (ranging from one to six) and whether or not a couple had children together or from previous relationships. Participants described a broad range of housing circumstances, including living in local authority, private rented and owner-occupied housing. In some cases, partners

lived, with parents or friends, at least on paper. In other cases couples might live apart for reasons that were not related to avoiding the cohabitation rule, perhaps work or prison. In other cases, I heard stories of homelessness, bed and breakfast or bed-sit accommodation or living in housing which was below the standard usually considered appropriate for bringing up children. I interviewed people in inner city accommodation and edge of city housing schemes. I interviewed people who lived in towns and also those in more remote rural locations. The group also varied in terms of age, ethnicity, educational background and lifestyle choices.

In addition to variations between participants, it has to be said that a significant number of people I spoke to had experienced two or more relationship experiences and many of the variations above were present across a single lifetime. Some of the people I spoke to had claimed as a couple *and* concealed a relationship. In some cases, this represented two different relationships and in others it was the same relationship at different stages. One experience might influence another or it might seem unconnected, relating more to particular circumstances.

'Saturation' is "the point at which you are not learning any more new material" (Rubin and Rubin, 1995, p. 73). I could have listened to other stories and I am sure I would have learned a great deal more about the ways in which people negotiate their relationships. However, in terms of the objectives of this research study, I was satisfied that I had more than enough for my analysis.

Consent

I considered consent to be a key issue, and not just a formality. In the first three UK interviews, I asked participants, all of whom were now 'official', to sign a consent form but I abandoned this as being unnecessary and undesirable. Those who had concealed information from the benefits authorities were unlikely to want to sign their name against interviews in which they discussed their relationships. Furthermore, "a signature or a nod does not necessarily signify understanding" (Humphries and Martin, 1999, p. 122). I wanted to provide as much information as

possible so that people could make *informed* decisions. This is clearly an imperfect procedure because a) “you cannot be sure of what people think they are consenting to” (Ramazanoglu and Holland, 2002, p. 157), b) given the extent to which design changes and analysis evolves, even the researcher cannot be entirely sure what people are consenting to and I had no desire to “define the boundaries of the research topic too tightly” because I did not want to “inhibit respondents from defining it in their own way” (Lee, 1995, p. 103) c) there is no way of being sure what consequences will result from the dissemination of findings. However, I was not prepared to withhold information in case it put people off talking to me (Ramazanoglu and Holland, p. 157). I had no desire to interview people who might, if they knew more about the project, choose to drop out. So bearing in mind these limitations I took the following steps. I provided an information pack including information about the research and confidentiality, a copy of my interview guide with key questions and my contact details (see Appendix 1) and repeated assurances at the beginning and the end of the interview, including an invitation to withdraw consent *after* the interview was over (see ‘Interviews’).

Interviews

The first three interviews were at the time treated as ‘pilot interviews’ but I subsequently began to see each interview as a pilot because I hoped to make improvements at every stage of the process.

Interviews were carried out at venues of the *participants’ choice*. That might be in their own homes, at my office at the University or in a gatekeeper organisation.

I favoured a semi-structured format to allow participants more freedom to talk about the issues which were significant to them. However, my own lack of experience and hence confidence in the interview situation meant that I was over-reliant on the interview guide and interviews were more structured and directed than I had intended. However, I did try to keep individual questions as open as possible and on tape I hear myself stumbling over my words as I quickly convert a closed question

into an open one. I encouraged participants from the outset to give their own account which might challenge views that I held myself. This is what I said to them in the interview pack.

I have my own thoughts and beliefs about the cohabitation rule but I could be wrong. I will listen carefully to what you have to say and try at all times not to put words into your mouth. Sometimes I will ask you to clarify what you have said. Please let me know if you think that I have misunderstood what you are trying to tell me.

I began the interview by repeating the issues which I had raised in the interview pack to further shore up consent. I then switched on the tape recorder and asked an easily answered and light-hearted question like 'what did you have for breakfast this morning'. This first question functioned as a sound check and as a device to help put participants at ease.

Rubin and Rubin (1995) claim that "people are more willing to talk in depth if they conclude that you are familiar with and sympathetic to their world" (p. 76). That was not difficult for me to do. As a former welfare rights worker, benefits claimant and lone parent, I had professional and personal experience of the issues involved. However, there are potential problems with this. Firstly, I had to be extra vigilant not to make assumptions during the interview that participants' experiences resembled my own or others that I had come across through work. Secondly, there is a danger that by building a relationship of trust, an interviewer might represent the interview as a much safer place than it actually is. The more trust, the greater the risk of saying too much, sharing personal information that a person later regrets. I did not want to create an artificial sense of solidarity. I was reminded of Janet Finch's feelings after interviewing that "my interviewees need to know how to protect themselves from people like me" (Finch, 1984, p. 80). In order to address my concerns in this respect I urged participants to contact me if they felt uncomfortable about anything they had said to me and wanted to withdraw it or say it differently. No-one ever did come back but I have not taken that as an invitation to do what I like with the evidence they gave me as I also gave assurances that if I was at all concerned about the sensitivity of a particular issue I would consult them before publication.

After I had carried out the sound check, I asked some closed questions which I hoped would provide background or context, for example, what was their marital status, whether they worked and what kind of work they did or had done in the past; how many and what age their children were and what type of housing they lived in.. One participant challenged my initial question.

First is your marital status. What is your marital status?

See I looked at that question and thought marital status? I don't like that because I never do titles on forms. When they ask for a title, I completely ignore it because I think I'm an individual in a world full of human beings and other species so I don't. I'm unmarried.

Mm, I'll think about that one then. I'll think about that question, find a different way of putting it.

This was an important answer within the context of the research and in future interviews I changed the question to a straightforward 'Are you married?' To some extent, it also vindicated my decision to provide participants with advance information so that they could think about the issues and prepare themselves, if necessary, to challenge questions.

I structured the main part of the interviews round three broad themes which reflect my research questions and empirical research objectives. They were: relationship; money; cohabitation rule.

In Figure 7, I show the way that key interview questions relate back to my initial research questions. These questions were based on the historic justifications for what I have shown in Chapters 2–4 to be a problematic rule. I hoped that qualitative understandings of LTAHAW fraud would emerge from this research.

At the end of the interview, as well as thanking participants for their time, I also

- Asked them if it would be OK to contact them with any follow-up questions and how such contact should be made

- Invited them to contact me if they wanted to add, change or withdraw anything they had said to me
- Asked them how they thought the interview had gone
- Provided them with a leaflet about the cohabitation rule and the addresses of local advice agencies where they could get further information and possible representation

Figure 6 A critical study of the assumptions which underlie the cohabitation rule in UK Social Security Law

LTAHAW Justification	Research Question	Empirical Research Objectives	Key Interview Questions	Qualitative Understanding
Responsible couple behaviour in relation to financial support	How can cohabitants' attitudes/ behaviour in relation to money be understood?	Explore organisation of household finances	Why do you organise your money in the way that you do?	Understanding LTAHAW fraud
Privileged status of marriage	How should <i>cohabitation</i> be understood?	Explore personal understandings of relationships	How would you describe your relationship?	
Cost	Does the retention of the cohabitation rule have any social costs?	Explore effects of cohabitation rule	What is your experience of the cohabitation rule?	

In the very first interview, on being asked how she thought the interview had gone, the woman said that she felt that she had not been much use to me. I quickly reassured her that this was not the case, that her responses would be very useful to me but that my questions had not been very good. When I listened to the tape afterwards I can hear myself laughing nervously at my awful questioning techniques which I now think she might have thought was laughter at her answers. I was shocked at my insensitivity and I hope that she was reassured by what I said at the end and that I learned from that mistake.

Data Production in Denmark

In Denmark, my data came from three key sources. Firstly, I met with policy experts and practitioners who were able to help me to understand the structure of the welfare system in Denmark. Secondly, I had a single interview with two kommune (municipality) officials who had recently carried out a campaign to encourage people to admit that they were no longer single. This interview helped me to understand the ways in which local authorities, who “hold a key role” (Ketscher, 1996) in welfare provision, might decide whether or not a person is really single or not. A translator was present although confidence in speaking English seemed more of an issue than understanding it when spoken.

Thirdly, I carried out eight semi-structured in-depth interviews with people for whom the *reelt enlig* rule was or had been relevant. I interviewed two men and six women. Seven of these interviews were face-to-face and one was a telephone interview. Interviews were held in participants’ own homes which was their choice.

I had been warned that language might be a problem but I was surprised to find how little of a problem it actually was. Only one participant asked for a translator to be present and it was clear that she understood what I was saying because she responded directly to my questions¹².

Finding respondents for these interviews was difficult. I had very limited time to spend in Denmark because of funding constraints and home responsibilities. In total I spent five weeks there and had to try and set up interviews from the UK. Once again I used a snowball sampling technique, originating from a single source. Although small, the sample was varied with people drawn from the city, small town and rural areas. As I explain in Chapter 9, because of a different welfare system, the *reelt enlig* rule can affect people who are in full-time work and relatively well off or

¹² Her responses came through a friend. This friend was also the gatekeeper who had academic experience and whose English was very good.

out of work but on contributory benefits paid by the Union. This was reflected in my sample. It was only during the interviews that I discovered that four of the people were probably not likely to be considered to be *no longer really single* because of the nature of their relationships. In another case, the participant had been open with the authorities when she started living with her partner. These were interesting and informative cases and relevant to the broader picture. I hope to include more detailed comments from them in future articles. However, I made the decision to focus my analysis at this stage on three of the cases because the insights they provided were particularly relevant to my UK study. This was a difficult decision because the other five participants had given up a lot of time to speak to me and I would want them to know that I appreciated their contribution in terms of adding to my knowledge of the Danish social security system and attitudes to cohabitation and financial support obligation.

Although I tried to do a lot of advance preparation from the UK, most of the interviews were not finalised until I got to Denmark. Thus there was not the same opportunity to provide advance information, and understanding written English might have been a problem. I tried to compensate for this by providing information verbally before I switched on the tape. I was unable to provide an information leaflet about the *reelt enlig* rule but otherwise I ended interviews in exactly the same way, including giving contact details¹³ and urging them to let me know if they wanted to add, change or withdraw anything they had told me.

I based my questions on the UK interview schedule although I now think that I could have customised it more carefully to tie in with what I had been told by Kommune officials about whether a claimant was still really single or not. Nevertheless, the questions were broad enough to elicit relevant responses about relationships and the *reelt enlig* rule.

¹³ The Research Institute in Copenhagen who could then pass on any messages to me.

Analysis

Analysis starts before the researcher begins the process of identifying a topic for study because it is a product of the researcher's thought processes, life experiences and beliefs. However, as soon as I begin to make claims about the world based on the knowledge freely given to me by *others or claims* which may affect others whom I have never even met, then the project ceases to be simply a *project of the self*. I agree with Glucksman (as quoted in Mauthner and Doucet, 1998) that "the final shift of power between the researcher and the respondent is balanced in favour of the researcher, for it is she who eventually walks away" (p. 119). I was keen to minimise what I saw as an inevitably asymmetrical relationship between myself and my participants and "to keep respondents' voices and perspectives alive, while at the same time recognising the researcher's role in shaping the research process and product" (Mauthner and Doucet, 1998, p. 119).

My approach was initially *informed* by grounded theory (Glaser and Strauss, 1976) by which I mean that I hoped that themes and hence my analysis would emerge if I "immersed" myself in the data, that I would take an *inductive* approach rather than a *deductive* approach. However, I think there is a danger of underestimating the pre-existing theoretical constructions which the researcher brings to her/his research. I agree with Adele Jones (1999) that "theory is not simply waiting to be discovered, or uncovered as if by magic but is created through social construction of meaning" (p.61). The theory behind the 'design' *evolved* as I listened to other voices than my own in the literature, at conferences and in seminars but I like to think most significantly, in the interviews themselves. Throughout the project I aimed to bring together voices in a way that neither drowned out diversity or privileged a single account, most notably my own.

One of the first issues that confronted me was how to reconcile my own feminist principles with what I heard in the interviews. In her study of the "women's mosque movement" in Egypt, Saba Mahmood (2001) criticises the way that feminist analyses, deeply rooted in western liberal discourses about agency and autonomy

serve to silence non-western women's *own account* of their behaviour, substituting them either with "false consciousness" explanations or ways of understanding such behaviour which reflect concerns of western feminists. For example, the wearing of veil "makes it easy for women to avoid sexual harassment on public transport, lowers the cost of attire for working women...or [is] a symbol of resistance to the commodification of women's bodies in the popular media, and to the hegemony of Western values more generally" (Mahmood, 2001). These explanations tell us nothing about what women who wear the veil understand by it.

I was determined not to write over participants' explanations with my own, for epistemological as well as ethical reasons. The point about carrying out interviews is to expand knowledge not to "simply confirm what we know already" (Mauthner and Doucet, 1998, p. 135). The following example from this research illustrates the relationship between an evolving theoretical perspective throughout the life of a study and the analysis of interviews.

In the early stages of this study, my feminism combined with my personal experience of financial dependence on men, led me to conceptualise the cohabitation rule simplistically as the disempowerment of women. This put me in a potentially antagonistic relationship with the men I was going to interview, in what I conceived as a feminist project. How could I give the men I interviewed as much respect as I did the women? I had, of course, considered men's disempowerment within an insensitive social security system but I also conceptualised men in terms of a false consciousness, trapped on the other side of discourses which defined women in terms of subjugated emotional lives. Hardly respect at all. However, as I began to read more, carried out the interviews and reflected on their meaning, I began to hear something very different from both men and women and that affected the way I came to theorise the cohabitation rule, the relationships I was studying and the knowledge I was producing in my analysis. It made me question my own theoretical as well as personal perspective. Firstly, although a few of the women were concerned to avoid *dependency* on a man, others did not mind being dependent on a man they could trust. *Undependable men* were the problem, not dependency *per se*. I could have

interpreted this as false consciousness or as an example of Lukes's (1997), "third dimension of power" (p. 45), operating like an 'invisible hand' in the interests of the powerful (men) but that would have stopped me listening to what people were actually telling me. Instead I had to find new ways of making sense of what women were saying rather than squeezing them into the boxes I already had waiting for them. Similarly as a result of the interviews I began to see the disempowering effects of the cohabitation rule on men as well as women. I began to see that the cohabitation rule might actually make it more difficult for men to *be* responsible.

At the same time I was beginning to read about relational autonomy (Donchin, 2000) which replaced the dichotomous conceptualization of dependency/autonomy as bad/good. This new way of looking at male/female relationships allowed for the possibility that men as well as women were trying to negotiate new ways of living, operating within new discourses of equality but in ways that made sense for them in *their* complex lives and responsibilities. This was not about buying into the individualization thesis which merely allowed women to compete with men in order to fulfil their individual desires but about building relationships of *mutuality*. Neither the men or the women to whom I spoke simply wanted to maximize their own self-interest. Respect for what people told me, meant that I had to *hear* what was being said, including that they perceived the strengths of their relationship not in terms of fulfilling individual desires but in providing mutual support. The cohabitation rule seemed to be making that more not less difficult.

Effort at *Encuentro*

In the later stages of the analysis I came across Manuel Callahan's description of *effort at encuentro*, a model of what John Holloway (2005) calls both "the poetry of Zapatismo" and "the politics of asking", a conceptual challenge to vanguardism in leftist political struggle. The point is to find ways of theorising about emancipation without losing "the agency, the voice, the creativity, the experience [and] unique histories" (Callahan, 2005, p. 11) of the subjects of emancipation. It is about finding non-hierarchical ways of saying something about the world. To describe my own

understanding of what I was trying to achieve in the interview, I did not want to *lead* but to *be led*.

The *effort at encuentro* is an attempt at an encounter, a safe place where different voices can be heard and respected and out of which understandings might emerge. These understandings come through recognition of commonalities whilst respecting difference. Manuel Callahan (2005) asks “how can we listen to one another in our local contexts in such a way as to recognise the diversity that defines our own spaces?” and his answer is the model of *encuentro*.

Encuentros are spaces for a collective analysis and vision to emerge...[which are not] to do with unifying theoretical concepts or standardising conceptions, but with finding, and or building, common points of discussion. Something like constructing theoretical and practical images which are seen and experienced from different places (Callahan, 2005, p. 13)

This ideal image is far from what actually took place in terms of my engagement with participants. For example, I was persuaded that my early plans to return to participants to check initial findings was unrealistic given my limited resources. This meant that it was more important than ever to be vigilant about the way I constructed my own understanding or analysis of what participants were telling me. I conceptualise this as *leading by obeying*, that is the effort to avoid “falling into the trap of defining, representing, and speaking for the struggle(s) of others...[or] inadvertently facilitating an insidious imperialism” (Callahan, 2005, p. 17). However, a stated commitment to lead by obeying *could* be like a commitment to ‘objectivity’, a way of avoiding confronting the subtle ways in which we create relationships of domination. This is where *reflexivity* comes in. It is constant vigilance throughout the whole research process that I am not imposing my own constructions on others’ understandings, that I recognise the difference between my own experience and others’ experiences and that although I take the lead in that process, it does not become simply a project of the self.

Creating Understandings

The advantage of having a small, albeit richly varied sample was that I was able to

get to know my interviews well. Before carrying out a full transcription, I listened to each tape all the way through, making some notes based on first impressions of the data, the way I had handled the interview. I also made notes immediately following each interview, including things that cannot be heard on the tape, for example, feelings it had aroused in me which might have affected my understandings.

I tried to achieve as full a transcription as possible. It was not just about what people said, it was also about the way they said it. So, for example, I noted the laughter that followed jokes about what were often grim realities. I interpreted this laughter as an aspect or manifestation of resilience which was a crucial part of the context within which people were experiencing the cohabitation rule. On another occasion a woman started to speak in a high pitched child's voice, indicating what it was like to be forced to ask her partner for money after her benefit had been stopped. These were meanings that could easily have been missed if I had not listened carefully to the tapes.

Participants' stories made sense in their entirety and cutting them up threatened the internal integrity and contextual detail which was essential to making sense of them. Coding was a painful process for me, as indicated by the long quotations in my original draft data chapters.

I had misgivings about the use of computers in the analysis process not least because I thought it might distance me from my data. Mauthner and Doucet (1998) suggest that qualitative data analysis packages can be used to "confer an air of scientific objectivity" (p. 122) and I have always associated computer packages with numbers, not meanings. However, as I began to realise the enormity of the task involved in analysis, I decided that I would give NVivo a go. The problem I had with cutting up the interview remained although in the initial stages it did help me to gather material around a single code. In the end I abandoned the technological approach and used something akin to Agar's "intuition and serendipity" (quoted in Lofland and Lofland, 1995, p. 202) laying out my coded pages on the floor, marking key quotations, according to what I thought was their significance, cross referencing with other

passages in other interviews, cutting them up, moving them around. However, I did not want to lose sight of the original in-tact interviews and I found myself returning to them again and again to check meaning in context.

I was compelled towards a “holistic” (Dey, 1993, p. 111) approach to the data which includes the understanding that categories are not distinct once-and-for-all boxes that trap bits of data. In the process of writing my data chapters, I found myself shifting participants’ words endlessly around, trying to make sense of people’s stories in the context of the interviews and in the context of my own research project. I had used the six ‘guidance’ issues described in Chapter Two to compare what people thought about their relationships with the bureaucratic construction of cohabitation. This should have made coding easier in this part of the analysis but, of course, the problems adjudicators face in trying to establish whether or not a relationship is one of cohabitation or not, was reflected in the difficulty in separating different aspects of these relationships. You cannot easily cut up someone’s reality for analysis and look at each part in isolation without losing something of the reality.

I avoided holding together my analysis with categorisations which label people or eschew the complexities of people’s experiences and motivations. For these reasons I rejected typologies of behaviour or agency. It is highly unlikely that any of the people I spoke to would self-identify as a “pawn” or a “knave” (Le Grand, 1997); as “macho survivor” or an “unreflexive opportunist” (Dean and Melrose, 1997) or that they would describe their behaviour in terms of ‘bad’ or ‘ugly’ agency (Groves and Mann, 2000). Descriptions of people and actions are always open to different interpretations. I wanted to reflect people’s own interpretations of their relationships and behaviour, not impose my own.

By writing up the first UK data chapter into short stories about relationships in hiding and what might happen if people chose to tell “the truth” before I started to consider the interviews more thematically was helpful. I tried to make sense of people’s lives and experiences without losing sight of the differences between them. This was what I understood as *the effort at encuentro*.

What Next?

Social science is not a neutral enquiry into human behaviours and institutions, but is deeply implicated in the project of social control, ultimately serving the interests of dominant groups (Humphries and Martin, 1999, p. 114)

Because this is a PhD thesis my initial audience will be the examiners. They are the ones I must convince that this research was worth doing and that the design is robust. Beyond that it might be expected that my audience should be policymakers. There are very good reasons why policymakers *should* welcome a study of the cohabitation rule at this time but also reasons why they might choose to ignore it. In fact my audience is not *primarily* policymakers but the people who are affected by the rule including the people who participated in the research. My motivation for carrying out this study is deeply rooted in my identification of it as a feminist issue and its emancipatory significance more generally. Thus although my findings could be used to campaign for concessions from governments in the future, my main hope is that it will add to the debate about what as activists we *should* be trying to achieve, raise questions about the role of the bureaucratic state (and the law) in reinforcing forms of oppression and draw attention to the limitations of using legal rules to enforce 'responsible' behaviour.

My first task after the academic assessment process is over will be to send participants a summary of my findings and invite them to comment on them. I hope that there will be interest in publishing journal articles based on my findings although this will require thought.

In turning private issues into public concerns, and in giving our respondents a voice in public arenas, we have to ask ourselves whether we are in fact appropriating their voices and experiences, and further disempowering them by taking away their voice agency and ownership (Mauthner and Doucet, 1998, p. 139)

Because benefit fraud is a sensitive issue I will think carefully about how I disseminate my findings and do everything I can to make sure that they are not used to further stigmatise lone parents or benefit claimants more generally.

6 OFF THE RECORD

In chapter 2, I drew attention to recent government reports that state that significant numbers of lone parents in the UK are hiding the fact that they have started to live with someone, to avoid the cohabitation rule. Drawing on evidence from my UK interviews, I describe a range of scenarios in which claimants have not declared a relationship to the benefits authorities, all of which might be what the government describes as LTAHAW fraud. I also explore different experiences of hiding a relationship. These stories challenge the government's one-dimensional picture of people who commit benefit fraud as irresponsible, something-for-nothing scroungers who have a different set of values from the rest of us.

Starting to Cohabit

Not all decisions to live together are well thought through. They might be the result of a sudden change in circumstances.

Irene and Bill have a baby and intend to get married. They consider themselves to be honest people who have respect for the law. Nevertheless in the early stages of their relationship Irene lied to the DWP. Irene met Bill when he was on holiday in Europe. Tentative steps towards a long-term relationship were taken when Irene found work in the UK. They decided to keep in touch but Irene, in her forties and Bill several years older, did not want to rush things. Unfortunately Irene was sacked shortly after arrival in the UK. She had no money and no-one but Bill to turn to.

He said come up and I stayed here for a while but the arrangement was for me to rent a room somewhere and then start again but then I was here (Irene)

Bill lived alone in a one bed-roomed flat. From the outset they slept together but there was no financial obligation nor any way of knowing what *type* of relationship it would turn out to be. In the early stages, it is not even clear if it *is* a relationship?

So how long have you been in a relationship with Bill?

Since (pauses to think)? It's difficult to say because we had a relationship since we moved in here. We didn't know if it would actually work out. It was not our plan as it were, you know. It has changed. It has developed. Well all relationships change and develop. It was, I mean, you know, it kind of changed to something permanent. *Did you have a relationship before you moved in here?*
We wrote to each other and uh, you know.

As an EU citizen, Irene was entitled to claim JSA. If found to be LTAHAW, she would not have been able to make an individual claim but would have had to claim as part of a couple. Because her partner was in full-time work, the claim would have been refused. Her claim was investigated. A DWP visiting officer came to the house and asked her questions about her living arrangements. She told the officer that she slept in the bedroom and Bill slept on a make-do bed in the living room. They didn't ask to see the bedroom. In this extract, Irene explains the situation at the time.

It was all very precarious. We weren't very sure...It's not actually as if we had planned for me to move in and stay. It all kind of changed and developed and became something else...It was a very strange situation because we were only just starting to go out together if you like. It was all very sudden. I got sacked and I came here on that day...It was a very weird period for a while, ending up here from one day to the next...And for Bill it was like a shock...As far as money was concerned, I wouldn't have been able to make ends meet. I would have had to ask Bill for money or something because I couldn't get any more work...I got the Yellow Pages and I looked every week in the paper, every week. I sent CVs and, I don't know, I did all sorts of things. ...I just went and signed and got the money and thought, well I need the money. I couldn't have done without it. It's not that much money you get but I wasn't getting any more money from anywhere. I wasn't claiming that money to be able to go to the pub, you know what I mean. It was just basically bills and shopping and I don't know, just living I suppose.

Uncomfortable about concealing the truth and "being investigated" when she made her claim, Irene felt she had no choice.

Ideally, you don't have to hide anything. That's fine. somebody comes and asks you questions but if you hide something, you know, it's not nice. At the time I just thought I needed to. It was very stressful... and it did help but morally, it didn't make me feel very good....Maybe I should have thought of something else but I just felt, um, trapped, in the sense that I got here with very, very little money..... I don't like it but you know at first I was just a friend and you know, we'd just started.

After securing employment Irene wrote to the DWP and told them that her circumstances had changed and that she no longer wanted to claim JSA.

Irene had no understanding of the law. Bill's understanding was that as a couple living together, he would be expected to provide financial support. Irene could have argued that she was *not* cohabiting in the sense of 'living together as husband and wife'. She could have used the DMG to argue that they were sleeping in the same bed but not fulfilling any of the other criteria for LTAHAW but the outcome would have been uncertain.

Dave was in a long-term relationship with the mother of his child but things were not working out. After an earlier attempt at reconciliation, following a short separation, Dave left the family home for good. Having nowhere else to go, he moved in with Lynn whom he had met for the first time a few days earlier. Shortly afterwards Dave was made redundant and signed on. He did not tell the authorities that he was in a relationship with Lynn.

When I left partner number one, I had nowhere else to live so I ended up living with partner number two... I had no source of income whatsoever so I approached the DSS and I signed on... The story I gave was that I was actually renting a room off a friend's girlfriend, obviously so I would be eligible for some kind of benefit, housing costs etc. That was the be-all-and-end-all of it. That lasted about three months. What happened was I got a job.

As in the previous example, Dave could have argued that the relationship was too new for him to rely financially on Lynn. He might have told the truth and convinced the authorities that he was not LTAHAW but this was not a foregone conclusion. In any case he does not even consider it as an option.

In both these cases, claims only lasted for a short period until work was found but at this stage, neither person was prepared to take a chance by telling the truth. This illustrates how people might lie to the authorities and yet not be LTAHAW. Whether or not it is fraud is a bureaucratic decision and as such, uncertain.

These cases also highlight the problem of deciding at what point people start to live together *as husband and wife*.

The End of a Relationship?

Pearl describes her partner as being “mentally ill”. She has asked him to leave the family home on many occasions but he ignores her. Pearl feels helpless to do anything about it because of the children. In ‘full-time’ work, her wages are topped up by Tax Credits and her partner is on I-JSA. She is facing redundancy and is afraid that a claim for out-of-work benefits might alert the authorities to the fact that she and her children’s father are both living at the same address. This might result in a fraud investigation and ultimately a couple claim for benefit. This is a worrying prospect because of the state of the relationship and her lack of trust in her partner.

I’m very aware that I need to be financially independent. And I can’t depend on him for anything because he’s completely undependable on that side. We would starve to death if we had to depend on him (laughs). So, yeah, I suppose in a way I am cohabiting.

It seems that the absence of joined-up benefits administration is all that stands between Pearl and a fraud charge and several years’ worth of overpayment. As far as Pearl is concerned the relationship has never been stable and is now effectively over. He is violent and contributes nothing at all to the household expenses. Although she might be able to argue that the existing relationship is not one of cohabitation, questions would be asked about the shared parenting of the children, casting doubt on any claim that the relationship had never been one of cohabitation. Pearl has resigned herself to her situation because she sees no way out, not least because any trouble would have an impact on the children. She is the sole provider of financial and emotional support for her family and claiming benefits on that basis. Yet in bureaucratic terms she is a benefit cheat.

Living Apart

Zoe is the only person in this study to describe her failure to disclose her relationship as error. Her partner is in the navy and so for most of the year, Zoe manages on her own with her two children. When she met her current partner she was already a lone parent. Her oldest child’s father had never wanted to be involved in his child’s

life and tried to deny that he was the father. After Zoe's second child was born she still considered herself to be a lone parent. Her living arrangements had not changed and she was running the household single-handed. After the baby was born, she went to claim Child Benefit and named her partner as the father. She was given an LTAHAW interview and told that she could no longer claim as a lone parent. Although her partner lived away from the family home for most of the year, they were still classed as a couple. Zoe manages alone when her partner is away but now relies on him to send her money not just for herself and the child they have together but also for a child whose own father has never paid a penny in support.

Although she is finding it difficult to adjust to the reduction in her own income, Zoe does not mind being treated as a couple. She sees it as "becoming a sort of family, a proper sort of family unit". However, the procedure involved in uncovering this case of LTAHAW – a change of benefit following an LTAHAW interview - constructs this as fraud and not error.

Living with Uncertainty

Wilma is in her late teens. She and her older partner have one child. For them, illegal activities appear to be part of a life routine, a culture of rule-breaking. Wilma makes little effort to justify what she herself understands as fraudulent behaviour. When I ask her why she claims as a single parent, she replies, 'Because more money'.

However, there are multiple stories within the transcript, exposing underlying uncertainties and richer understandings of Wilma's behaviour. Wilma's partner is in-and-out of prison so his income is irregular. At the point of interview, he had just started a new job and was waiting for his first pay packet but had a forthcoming court appearance which Wilma said was likely to result in a further jail sentence.

He's back up soon. Looks like, he's going away for a year.

So for significant periods of time Wilma really is a lone parent. Scattered throughout the interview, are the various strategies she has adopted to cope on a low and

irregular income. For instance, apart from a catalogue, Wilma has no debt. She explains why.

I don't have Provident, I don't have Greenwoods, I don't have loan sharks. I don't believe in any of them. I've been with them before. They're all just rip-offs so we just tend to, if we've got no money then we'll ask people and my family for it.

Provident and Greenwoods trade in areas of high unemployment. Their interest rates are high, reflecting the high risk status of those they lend to (Chapter 3). It makes financial sense to avoid them if there are alternatives.

Honesty in relation to the authorities is low down on Wilma's list of priorities and she is, by her own admission "well-trained" by which she means that she knows how to use narratives of violence and abuse creatively to get them off her back. In the following extract she talks about dealing with the CSA.

..they were in a few times about it and I say he's *my* son. I don't really want *him* to see him, you know, blah, blah, blah. I've got an interdict out on him. He's to stay away from me as far as I'm concerned. He's *mine*. And if they did get in contact, all I says is I've had bad experiences with him. They don't know. I'll just talk to my lawyer about this and my lawyer will be straight on to you, know what I mean. That's what I'd do. I'd just get in contact with a lawyer and I'd just get my lawyer to say, the lassie's had violence and abuse and everything from this person and you're basically trying to bring him back into the picture? Because some people are in that predicament, eh?

Wilma's stories are more likely to be believed by the authorities *because* of the environment and real-life difficulties that people are facing in her neighbourhood. From Wilma's perspective lying to the benefits authorities is common practice. Telling the truth would not just mean less money, it would also mean having to repeat the long claims process on a regular basis.

I ken a lot of people that get up to the same things. Some of them are honest, eh, but I don't see the point of being honest to get half of what everybody else is getting....It would just be like me and my son and six months down the line no being with him. He's back in jail...I have enough, having to visit him without having to sit for half an hour and sort all that out with them.

Linda has also learned to use her difficult experiences to good advantage. When I met Linda it was to discuss the relationship she had with her second child's father. They had since separated and he no longer saw her or their child. Linda maintained her lone-parent status throughout the relationship although her partner lived with her and her children for long periods at a time.

As Linda was in 'full-time' work, she would have been expected to take financial responsibility for herself, her children and her partner. As a lone parent she was claiming tax credits. Because her partner was out of work, she would have been able to continue to claim in-work benefits but it would have been the same amount for a couple as she was getting for herself and her children. When I ask Linda why she chose to lie about her cohabitation, her first response was in terms of money.

I think mainly because of the money and it would be for me to sort of keep him and keep the kids and I could barely keep the kids as it is never mind keeping him as well.

Money was an issue for all of the couples I spoke to who were already on levels of benefit which they felt were inadequate for their needs. There was no doubt that the thought of less money if you told the truth might be enough to justify lying to the authorities but it was never the whole story. In the following extract, Linda describes how she turned the truth on its head and used her real-life narrative as a pre-emptive strike against the threat of being found to be LTAHAW. There is real frustration in her voice as well as laughter and all of what she says is true except the lie about cohabitation.

...we'd gone down to the office like and he was putting in his Income Support form and of course, the bairn is running about saying Mummy, Daddy and the guy was like oh, so do you live together and I lost it. Because he was just out of prison that day as well and I was already feeling pissed off. I was like, look, don't fucking go there. I was really fucking rude with this guy (laughing). But he was really like, because he was sitting filling the form in, he was like, oh so do you stay at this address as well? And I was like, none of your fucking business and I was swearing at this guy. I was like, just don't fucking start. I've gone through shit with this guy, just don't even go there. No, he stays at his own fucking house because as you are well aware, that's why he's on the sick list because he's a fucking heroin user. ...First I think he thought, oh you beauty, I've got a good one here. The bairn's kind of stuck them in it, sort of thing...I got the distinct feeling he thought, oh yeah, got a couple of dafties

here. He's a heroin user and I'm tarred with the same brush kind of thing, eh. And he got brought down a peg or two.

Linda's partner was on IS because his drug-related ill-health meant that he did not have to be available for or actively seek work. Linda tells me that he spent his money on drugs which usually meant that he would disappear on benefit days.

If he had it, it all went on heroin, the whole lot. I think that was how it was so much like my money and *his* money. I think it was well, *my* money had to be my money because if he had it, we'd have fuck all (laughs). We'd starve. Not have a roof over our head.

It is impossible to understand Wilma's or Linda's rule-breaking outside context. Both are left to manage on their own with their children for significant periods of time. Their partners' lives are chaotic and both women need a secure income.

Linda had claimed as a couple in the past. She talked about being caught living with the father of her oldest child and losing her right to independent benefit entitlement.

Well he was claiming so he'd get the money. I mean, I think there were only a couple of times where he spent the whole lot because he was in a bad mood.

A cohabitation rule determination can take away a lone parent's income but it cannot guarantee that it will be replaced by her partner.

Harriet had a long-term relationship with the father of her children. Her story illustrates what can happen when someone is forced to depend for financial support on an unreliable partner. Harriet tells me that her partner has a gambling problem. She describes their living arrangement as follows.

It was me, him and the kids but he was away and back and away and back.

Because of this uncertainty, Harriet continued to claim as a lone parent even when her partner was living in the family home. Means-tested benefits provided financial support which she could never expect from her children's father.

He never really supported me. I had to deal with all the bills and stuff myself. You couldn't really rely on him. I think because he'd never had responsibility and if you gave him the chance, it never ever really worked and it put me and the bairns under too much pressure to have nothing. So it was more sensible just to claim myself for me and the bairns and then I knew we were alright.

During an LTAHAW interview, Harriet decided to come clean about the relationship, hoping that it would force her partner to take more responsibility. The result was that she was left with nothing and had to go through the process of claiming benefits all over again.

I thought this is maybe a good thing. Maybe it will give him a bit more responsibility and he'll have to act on it but I was wrong. He claimed it was his dole. We were left with nothing....I wouldn't go through all that again, going away in and trailing up there, sitting the whole day, filling in papers. Having nothing the week before you get up there until the employment fix it all out again. Nuh.

Every time circumstances change, the claims process has to start again. A change to a lone-parent claim is also likely to involve the CSA. It is not surprising that people who spend long periods on benefit want to avoid the process wherever possible. Where there are regular changes in circumstances because of unstable relationships, uncertainties in employment or partners who are in and out of prison, some prefer to lie.

Stephanie's partner is an unemployed drug addict. She has one child and is pregnant. Some years previously the couple suffered a terrible personal tragedy when their child died. She and her partner had lived together unofficially for a number of years but at the point of interview, they were living separately but spending some nights together. She admits that she does not know how her partner would have coped with financial responsibility had they admitted they were together. She made her decision on the basis of previous experience of him and of the benefits system.

I always thought that if he's staying here and we're doing it as a couple, it's normally the man who's like in charge of the money and stuff like that so he would get all the benefits. I don't like somebody else being in control of it. It's like if I've no got any money I would have to ask him to give me a fiver or tenner. He'd probably have spent it after a couple of days and we'd have no food or, ken, that's what I think would happen. I don't know if it would but that's what I think.

Stephanie knows that although technically either the man or the woman in a couple can claim, usually it is the man. If he was classed as incapable of work, then neither of them would be required to look for work as a condition of benefit and she would have been able to claim for both of them. Because of his drug addiction and chaotic lifestyle he might find it difficult to satisfy the bureaucratic conditions for incapacity-for-work benefits. On the other hand, meeting the stringent conditions for I-JSA would also be difficult. Under either of these circumstances being treated as a couple would have tied her and their children to his unpredictable entitlement status.

Depending on Experience

Stephanie cannot rely on her partner to provide the financial security that she and her children need. For Maureen, financial independence is the key issue. Maureen has been living with Frank for ten years. Frank is not the father of her child. He is in full-time work but it is low paid. Maureen has been unable to work due to ill-health. Neither the DWP or the Local Authority knows that Frank is living with her. He is not on the electoral role. However, he has given Maureen's address to his employer. This means that he is registered at that address for tax and national insurance purposes. Maureen might argue that Frank is not cohabiting with her but this would mean he must be a non-dependent or a lodger. Either way there has been a sizeable benefit overpayment. Despite fears about the financial and legal consequences if their lie is discovered, both Maureen and Frank have no plans to change their situation. Once again financial implications are relevant because if Maureen told the truth she would have to accept a drop in what she describes as a modest standard of living.

I have to stress the point that if I wasn't on benefits I wouldn't be able to live where I am living or afford the life I have now.

But there are other issues. Maureen's account of her experience of financial dependence on an abusive husband has made her determined to keep her independent income.

...as a married woman I wasn't working. He was always making me feel small for not contributing anything. Even though I was the mother of his children and I was trying to bring up his children and he wasn't. He didn't always have the money to give me and so we were sitting months at a time with not a penny and it's not easy. And at least if you've got separate income then you're not depending on somebody to give you that money to feed yourself and your kids.

Maureen tells me how uncomfortable she is lying about her relationship and describes her actions in terms of a) *necessity* in the light of her circumstances but also b) *contested obligation*.

I think I can be quite an open person. I hate having to hide things because I feel like I'm dishonest. I hate a thief and a liar. And I *have* to tell lies. Well, people say you don't *have* to but I feel I have to in my life because of my situation. So that has turned me into a liar which I don't like...And if those rules weren't there we'd be able to tell people that we're a couple...If I had my health and had good training and a good job, I wouldn't feel I had to claim benefits. I wouldn't feel I was deceiving people. I feel really awful that I have to claim money to live on for me and my son. Even though there is somebody living with me, *that* shouldn't be an issue. He's not his Dad.

The gendered and potentially harmful effects of the cohabitation rule form the basis of the feminist critique of the rule, as discussed in chapter 3. Lying to avoid the cohabitation rule because of a previous unpleasant experience of financial dependence is not unreasonable behaviour. However, there is another issue raised here less visible in the literature, the assumption that a new partner should become the provider for all children in the family, regardless of their relationship with the children. I return to this issue in Chapter 8.

Telling 'the Truth'

Carolyn made a decision to tell the truth about her relationship after she became pregnant, not least because hiding a relationship is stressful.

...at the beginning there was all this secrecy because he was coming up to my house and I had all this anxiety about, oh, you know, he's staying over at my house and what if the authorities found out and how many nights are you allowed? I can't remember what it is. It used to be three nights you were allowed to have someone at the house without being classed as a relationship. There was all this fear because I

thought this is ridiculous that because I want to be with someone I could get my Housing Benefit taken off me and like have to pay it back or whatever it is and fined sometimes and all that and this is why we went official and we went from that to being completely skint and having all these financial pressures and being in debt because I wanted to be up front about it. I didn't want to have to sneak about, worried that somebody on the scheme would say something or that people would know and I was constantly anxious.

The consequences of revealing a relationship could be seen as too high a price for being honest. In the case of Carolyn and her partner, the financial pressures of telling the truth eventually became too much and they decided to tell the benefits authorities that *he* had moved out.

Not all cases were as straightforward as Carolyn's. In Chapter 1, I explained how difficult it was to prove that a couple are *living together as husband and wife* but that it was questionable whether claimants understood their rights or how to challenge an LTAHAW determination. There was further evidence in this study that people knew very little about the way in which LTAHAW was established. The result was that decisions to hide a relationship might be made not on the *known* consequences of disclosure but the *assumed* consequences. People were making decisions with incomplete information. For instance, Audrey only let her partner stay over two-three days per week, believing that this would not be treated as cohabitation. Because of the vagueness of the bureaucratic construction of cohabitation, Audrey and her partner could have been subject to a cohabitation rule determination.

On the other hand, couples did not necessarily trust the DWP to make fair decisions and some knew from experience, that a challenge to a benefits decision still meant a withdrawal of part or all of benefit until the case had been proven.

Whether or not they believed they were committing benefit fraud, it was generally the case that individuals did not know how the cohabitation rule was applied or how they might challenge a cohabitation rule determination. Most of the people I spoke to wrongly thought that cases were determined by the number of nights a member of the opposite sex stayed over. This might influence the way they behaved, whether or not they were actually cohabiting. One man described to me how during a two year

separation, he had to be careful not to spend too many nights round at the family home visiting his child in case the DWP assumed that he was back living there.

LTAHAW investigations are intrusive and intimidating. If a claimant does not know their rights, how can they challenge a fraud visit or know that a single visit could not provide conclusive evidence that a couple are LTAHAW. Here are two descriptions of such visits.

They didn't ask anything. They were more interested in looking. I don't know what they were looking for. They never really asked. I mean I was quite shocked. I didn't really know what was going on, to be honest. They didn't make an appointment, they just turned up and they were looking in the cupboards which was quite weird. There were two of them. They looked upstairs. It was a personal invasion of the house, in my wardrobe and things, asking me questions about whose things were whose and so forth (Audrey).

I thought afterwards I should have actually said, what on earth is this about? I don't presume that people are allowed on your property just because they decide that they're coming in. I presume they need some kind of official warrant but I just wasn't aware of what the whole purpose of them coming was or what they were looking for.... And if it happened again, I wouldn't actually let them in, to be honest unless, you know, they had a letter saying to me that if you don't let us in then your benefit's going to be stopped. I don't think I'd just let anybody come in and wander round and things (Sharon).

Sharon and her partner had children and Sharon also had children from a previous relationship. They chose an unconventional lifestyle. He had his own place but they used to do things with the children together. Sharon and her partner were investigated and despite their denial that they were cohabiting, her benefit stopped and her partner was forced to give up his tenancy and become the claimant. She told me how her subsequent financial dependence on him changed the way they related to each other and ultimately ended in separation.

Living a Lie

When you were hiding a relationship, there was the constant worry that fraud investigators might be watching.

I don't know if it's like because we stay in the city centre. I'm really conscious of the fact that he's here all the time. I think, oh God, they're right into taking photos and, really sort of taking quite in-depth notice and stuff, eh,...and being private

rented as well, I think I'll end up with a huge overpayment, take it to the landlord, that's him with rent arrears and I'll be out on my arse (Gail)

During my MSc research (Kelly, 1999) fraud investigators told me that most LTAHAW investigations were instigated as a result of anonymous tip-offs by neighbours or people who might have a grudge (like an ex-lover). Participants in this study spoke to me about measures they took to prevent this happening to them.

I've had that problem in the past where neighbours, so-called friends, you know, they get to know your business and then, if they fall out with you, they tend to squeal. So now I don't let anybody know except friends (Maureen).

When I talk to my colleagues, they'll say, where do you live? I just give them the general area. I wouldn't tell my colleagues and I don't think they'd say anything but it's there at the back of your mind (Frank)

...that was probably one of the major stresses about staying there all the time. The guy next door and his wife were such nosy bastards and wouldn't have been into, oh you're working and he's getting benefits. They didn't even know he lived in the house. We made an absolute point of like not mentioning anything. Because I think the nights we would stay at his place or whatever and oh, I didn't see you last night, you know and totally conscious effort not saying anything because then we would have got caught. And the woman on the other side, she was the same (Linda)

It was easy to forget that the other side of hiding a partner was being hidden. George has a false address that he has all his mail sent to but he still worries about prying neighbours.

I worry about hanging boxers up on the washing line and stuff like that, whether to leave my shoes outside the door in case someone comes to the door

Frank is even more concerned because, unlike George, he has no false address to fall back on if the benefits authorities are alerted to his presence in the house.

Sometimes I might have to go out and I've wondered if you see a certain person, been in a car like two or three days. They've been in the same spot every time you go out, you'd be thinking, oh God, you have to go out the back way or whatever. It's bloody annoying. You think I live here, why should I have to do that? You're having to, you know, even like talking to the neighbours. I like to try and be open with people but you're having to watch what you say all the time and how you act ... I mean I'd like to be able to openly say that I live here, without having to worry about it.

But it was not just nosey neighbours that concerned Frank. He was disenfranchised by the decision to live at his partner's house in secret. He suggests that there are a lot of people in the same situation.

For instance I can't vote. I mean that does my head in. I would change that. Live here openly and still be able to vote. There must be a hell of a lot of people in the same boat. They can't vote. You always hear the government, so many people didn't turn out and all that but I mean so many people *can't* vote.

One of the more experienced claimants had some knowledge of the issues which would be taken into consideration. She rightly thought that detection was more likely "if you've got children". Stevens and Smart (2000) point out that this might deter a couple from naming the father of their child on the birth certificate. This is related to another problem for people who are trying to hide their relationship from the authorities, the need to make sure that the children do not spill the beans. During my interviews with fraud investigators for my MSc research, I was told that children would never be asked for information although often it was "volunteered" and this could help to force a confession¹⁴.

Earlier in this chapter I gave the example of Linda who described how her child alerted a benefits officer to the fact that they were a couple. Fear of getting caught might provide a strong incentive to coach children in case they answer the telephone or the door to a DWP officer. Two women expressed concerns about their children letting something slip. In both cases they suggest that getting their children to lie or to hide the truth compromised their parenting role.

I worried all the time that they would answer the telephone and someone ask for him or ask them questions about us. My daughter used to write stories about us [at school]. I couldn't tell her not to, could I? ... I said that if someone phoned she wasn't to mention the fact that he lives here. She asked why. I just said well, he has his own house and we have ours, sort of getting her to see it that way so she didn't land us in it. But I felt awful. I didn't want to tell her that we were doing something vaguely illegal and that if she told anyone we lived together, we'd get into trouble or

¹⁴ During my MSc research, a fraud investigator told me: "You go to the door and a child answers. You ask, 'is Mum or Dad in?' the child shouts 'Dad!'. We certainly wouldn't question a child or relative – it's nothing to do with them" (Kelly, 1999, p. 40).

I'd lose my benefit and he'd lose his. I didn't want to put all that on her shoulders. It would be like making her an accessory. I felt like a terrible parent.

I got him to move out for a couple of weeks in case I was being watched. I'd felt that lots of times. You live in fear of that knock coming and being found out and jail. So then you've even got to tell your child not to answer personal questions. If anybody asks personal questions, say, ask Mum... You hate having to drag your children into secrecy. And I don't openly tell him to tell lies. I don't tell him what is going on. But I do say to him, remember don't tell other people our business. And if any adult, especially adults or even your friends' mums are asking you personal questions, just say, ask Mum. That is all I tell him to say which is hard. You shouldn't have to do that with your kids. And that is another thing that I feel guilty about as well.

I asked one of these women what difference it would make if there was no cohabitation rule.

Well I wouldn't have to hide. I wouldn't be scared. I wouldn't have this fear of going to jail and being a criminal. And I wouldn't have to tell my child not to answer personal questions from anybody.

Conclusion

These stories add context to the LTAHAW fraud statistics. Hiding a partner or being hidden causes anxiety and guilt and where a hidden partner has no 'official' address, he is effectively disenfranchised. Yet in some cases people hide their relationships for years to avoid the cohabitation rule. Participants in this study often felt they had no choice.

One of the justifications for the continuing retention of the cohabitation rule is that to remove it would be to encourage irresponsible behaviour in relation to financial support. The problem with this way of thinking is that the cohabitation rule cannot *prevent* irresponsible behaviour. Benefit rates may be inadequate but they are at least regular. Where partners have chaotic lifestyles or come and go, lying is the alternative to having to repeat a lengthy claims process. Participants showed resilience in what was often very challenging circumstances. A decision to lie in order to hold onto resources necessary to fulfil parental obligation could be viewed as *responsible* behaviour not irresponsible behaviour. Ironically, children might be

caught up in the deceit which was felt to be incompatible with being a good parent but necessary in the circumstances.

There may be *other* explanations of a failure to provide financial support, for instance, the stage or nature of the relationship or the absence of a parental role and hence disputed financial obligation towards a child. People's relationship choices, for example, arguments based on a refusal to be financially dependent or financially responsible for a child in the household are irrelevant to the bureaucratic determination of cohabitation. This approach is at odds with private law in which individual relationship choice is respected. There are strong feminist arguments for the importance of choice and control over income for women in terms of personal identity and protection against abuse (Chapter 4). Furthermore the cohabitation rule ignores the significance of relationship choices to women who are likely to be the ones left to deal with the consequences, if financial support is not forthcoming. None of the stories in this study can be reconciled with the image presented in anti-fraud campaigns of the entirely self-interested and opportunist benefit cheat.

There might be a basis for claiming that couples are *not* living together as husband and wife but no-one I spoke to had done this. This may be because of a lack of information about how LTAHAW is determined - certainly people seemed to be unclear about their rights or the consequences of an LTAHAW rule determination - or because the appeals process was lengthy. Another explanation is that they do not expect to be believed. But what is the truth in these cases? In the next chapter I explore what can be meant by the "truth about relationships".

7 THE TRUTH ABOUT RELATIONSHIPS

In the Commission's view...It would be pushing naiveté to the point of imbecility to suppose that fraud is never attempted, or that the truth about a relationship between a man and a woman will always be openly told. It is not therefore possible to rely on the unsupported word of persons to whom concealment or untruth can bring substantial advantage (DHSS, 1971, section 20)

Introduction

In this chapter I attempt to apply the bureaucratic construction of cohabitation as *living together as husband and wife*, to the lived relationship experiences of people I spoke to during this study. I find that there is variation in what participants understand by 'cohabitation' and that the six issues used by adjudicators to determine cases of cohabitation cannot be applied unequivocally to participants' complex relationships. Case law emphasises the importance of the phrase 'husband and wife' to decisions and there is evidence to suggest that in some cases, resistance to the cohabitation rule is related to negative associations with marriage or the extent to which relationships fall short of the ideal of marriage. The interpretive significance of gender and the fact that the cohabitation rule is still viewed as an unacceptable intrusion into people's private lives are also highlighted in this chapter. The main conclusion of this chapter is that the 'truth' about relationships is multi-dimensional and this raises serious doubts about whether it can provide the basis for regulation in the absence of a contract.

Understanding 'Cohabitation'

A number of different understandings of cohabitation emerged in the interviews. Cohabitation was 'living with someone'; 'living together under the same roof but it's definitely not marriage'; 'staying together'. Cohabitation was 'sharing your life with [somebody]'. Cohabitation 'wasn't like flat mates, do you know what I mean? To me, you're in a relationship if you're cohabiting'. Cohabitation was 'living with

someone in a marriage-type relationship without being legally married'. Cohabitation was 'like somebody staying with you, just lodging with you'.

These understandings of 'cohabitation' are no more than momentary reflections on a relationship past or present and yet they reveal something about the different ways in which people experience their relationships. A 'marriage type relationship' is significantly different from 'just lodging with you'. The latter comment belonged to a woman whose experience of cohabitation was a very negative one, largely characterised by a lack of commitment, despite the fact that the relationship had been long-term. The man who said cohabitation was 'living with someone in a marriage-type relationship' had also had a bad relationship experience but had since had a good experience which led to marriage. The woman who said that cohabitation was 'more than flat mates...you're in a relationship if you're cohabiting', was very positive about many aspects of *her* relationship despite the fact that it had ultimately and sadly (for her) come to an end. Audrey who denied cohabiting with her partner told me,

What I understand by 'cohabiting' is living together and having equal responsibility for my children and financial and equality in things, you know, sharing money and things and supporting, just to divide, I suppose, if I was working and he was working.

Equal responsibility is not what everyone experiences when they live together. Equal responsibility is something which other participants associated with marriage and it was precisely because their relationships could not live up to that standard that they wanted to avoid being treated as LTAHAW. I return to this later in the chapter.

Whether or not participants believed they were cohabiting might be influenced by their understanding of the bureaucratic definition of cohabitation as illustrated in the following extract.

Do you consider yourself to be cohabiting?

No. We're two people that live in the same house and happen to love each other but no, I don't see him as a husband (Maureen)

Maureen rejects marriage because of her previous bad experience so if cohabiting means living together *as husband and wife*, then she is *not* cohabiting. On the other hand, her partner told me they *were* cohabiting. Frank's understanding of 'cohabitation' was "living in a place, sharing responsibility for it, go out doing the shopping, looking after the place".

The differences in participants' understandings, even between couples, indicate the problems involved in constructing a workable definition of cohabitation.

Adjudicators are instructed to look at six issues (see Chapter 2) to help them decide whether or not a couple are cohabiting, where cohabitation means 'living together as husband and wife'. In the following six sections I try to apply these issues to what participants told me about their relationships.

The Household

Case law has established that living under the same roof for part of or even all the time is not *proof* that a couple are living in the same *household* but no one I spoke to was aware of this. Some said that they lived in the same household even though they were at the beginning of the relationship and had not established joint householder responsibility. The arrangement at this stage was often more like a landlord/lodger arrangement. On the other hand, they might continue to live under the same roof even though the relationship had broken down and they lived relatively separate lives. Audrey told me her partner lived in the *same household* sometimes but that they were definitely not cohabiting which for her signalled a commitment which was lacking in her relationship

In Chapter 4, I reviewed literature which suggested that couples are finding new ways of being together which challenge traditional notions of what the family or couple relationship involve. For example, there has been an increase in arrangements which involve self-identified 'couples' deciding for a variety of reasons to maintain separate homes e.g. LAT (living apart together) relationships or

cohabitation *alternée*. One reason why a woman or man might opt for such a relationship is a pre-existing obligation to a person or persons other than their new partner. In my own research I found that pre-existing caring responsibilities might be difficult to accommodate when a new relationship was formed. Maintaining a distinction between *her* household, the site of her relationship with her children and *his* household, a place where he had responsibility only for himself might be an additional reason for maintaining a separate tenancy even though, as a couple you spent most of your time together. Kate and Jim seemed to have that arrangement for a number of years. When the children were with their own father, the couple stayed at his house. The rest of the time they stayed at hers.

When we stayed at his place, it was *our* household but his house. When we stayed at mine, which was most of the time then it was mine and the kids' household. He wasn't exactly a lodger because he didn't pay rent but, em, I don't think he ever really felt like he was part of our household. I don't think he wanted to be part of a family at all. And I didn't want him telling me and the kids what we could and couldn't do, spend our money on etc, etc. That might have happened if he'd ever felt that the household was kind of shared (Kate)

Maintaining separate addresses is also a way of easing the pressure on a couple who are trying to avoid the cohabitation rule. If the address is real, it also provides a "bolt hole" (George) for couples where there is some doubt about commitment or the relationship is still in the early stages. In these cases, there are financial costs attached to keeping the other house going. The question arises, how far couples could be said to be living *in the same household*, if one partner is sleeping over but not taking any financial or practical responsibility for household expenses.

The case of Sharon, a single mother, illustrates that maintaining separate addresses does not guarantee immunity from an LTAHAW determination. Sharon's partner gave up his flat after Sharon's money was stopped following an LTAHAW decision. This decision was based on one visit during which Sharon's partner was discovered to be in the house. Living together under one roof was not part of the relationship plan in this case but the couple felt they had no choice but to comply.

Although numbers mean very little in a small study like this, I was struck by the number of people who wrongly thought that the DWP would only class them as cohabiting if they stayed over with their partner so many nights per week. Audrey thought that she could not be classed as cohabiting with her partner because she managed the time he spent at their house in line with the rule. The rest of the time they would spend at his house or occasionally they would go back to their respective homes. In this respect, the cohabitation rule might play a part in determining household composition and thereby the course of the relationship itself.

In Chapter 6, I described cases where partners could not be relied upon to stick around. The question of whether or not a partner was part of the household was complicated if he was there one minute and away the next.

The guidance in relation to living in the same household is inconclusive. Subtleties in the interpretation of 'in the same household' have emerged in case law which are not understood by claimants and which are not necessarily reflected in the decision-making process. A single visit to a claimant's home can result in an LTAHAW determination.

Sexual Relationship

For Jim, sex was neither a sign of living together *as* husband and wife or of marriage itself.

I think it's daft because you can have sex with somebody without living together as husband and wife. And certainly most of the husbands and wives I know probably don't have as much sex as I do and I don't see that having sex is necessarily an integral part of living together as husband and wife and likewise having sex is not an indication of living together as husband and wife.

The guidance itself says as much. Although sex is something adjudicators are supposed to look at, it is inconclusive either way. But not everyone thought that sex was irrelevant to determining type of relationship. Maureen told me that although she had a "close sexual relationship" with her partner, she didn't sleep with him every night. This was additional proof as far as she was concerned that they "were not man

and wife". Others thought that sexual relationship was a defining feature of cohabitation, distinguishing it from other types of relationship.

[Sex] cements a relationship into a relationship rather than just a friendship. (Bill)

Well, [when you have a sexual relationship] that's when you know you're a couple, eh? ... because you could just have a lodger. It's either a lodger or a partner, eh. (Harriet)

Not precluding the truth of the above statements, most of those I spoke to thought that whether or not a sexual relationship *did* exist was at best irrelevant in determining the *nature* of a relationship and at worst an unacceptable intrusion into their private lives.

I guess I feel it's not really any of their business, you know, if you're having a sexual relationship because there's that many different types of relationship that people get into. I don't think that should really come into it (Carolyn).

I think it's disgraceful. It's absolutely disgraceful. I mean by rights in this day and age people can sleep with whoever they want, you know. I mean, whether you choose to be going out with somebody for a week, two weeks, two months.. (Gail)

I think it's really intrusive. It's like intrusive into what is essentially your private life. Just because you might be having sex doesn't mean that you're pretending to be married or otherwise (Sharon)

In some cases, the sexual component, an important feature of the relationship initially, had become either peripheral or even non-existent despite the fact that the couple were still living under the same roof. So, for example, the children may have become the main or only reason for staying together and apart from that, the relationship was effectively over. Conversely, the absence of a sexual relationship might easily be the pivotal factor in the breakdown of a relationship.

Sex is very important to me. I couldn't continue to live with someone if I wasn't sexually attracted to them or if they weren't sexually attracted to me. (Kate)

Although I explained that DWP officers are not supposed to ask about a couple's sexual relationship in an interview, there was a strong perception that the DWP were prying into people's personal lives and that it was unacceptable.

I think that's really, really personal. I think it's disgusting that they take that into consideration and how they could prove that as well, apart from being intimidating and it would also be humiliating (Audrey)

Several of the individuals I spoke to had previous experience of cohabitation rule interviews. In a lot of cases an investigation would be instigated simply because someone had claimed a benefit from a house they shared with someone else of the opposite sex. Where there never had been a sexual relationship or where any such relationship was well and truly over, there might be no subsequent finding of cohabitation. But the fact of these visits was uncomfortable for and unacceptable to those involved.

I had to be quite firm with them and say look, that's not the case. Just because we're living under the same roof, we're not having sex and at the same time why does sex constitute cohabitation? Sex doesn't constitute two people being married. It's just horrible. I had been paying taxes since the day I left school and I really felt, you know, it's quite invasive ...but that was my naivety at the time, thinking I could automatically get my giros sent to my friend's house without their being any hiccoughs (Gail)

These cases raised issues about what might or might not constitute a significant change where two people of the opposite sex were simply sharing a flat together. Sex might occur between flat mates without *significantly* altering the relationship or practical day-to-day arrangements. Still it could provoke speculation in a benefits context which would be inappropriate in any other context.

I think, um, it's a strange criteria to use in a sense because you could be having sex with somebody and not be in a *romantic* relationship. For example, we could be sharing a flat, we might occasionally get into having sex or whatever and no-one would assume that you were a couple necessarily (George)

Sex might be the *only* basis for a relationship and it might be entirely transitory. However, it was clear that the significance of sex to benefit claimants was less to do with determining the limits of their relationship as it was to do with the constant possibility that someone might be sitting outside your house watching to see if someone from the opposite sex goes in and doesn't come out again until morning.

I think it's ridiculous. I mean you can have a sexual relationship with someone for one night. Does that, if they turn up at your door that morning, mean you're cohabiting... I think a sexual relationship should be like private and absolutely nothing to do with them anyway (Linda).

But they must also assume though that if a person is staying overnight with you, they must assume then that you must be having sex (Sharon).

This evidence suggests that despite changes in the 1970s to reduce the intrusiveness of the rule by not asking about sex, the perception of it remained.

The cohabitation rule constructs cohabitation as a special type of relationship involving obligations which are not thought to be present in other relationships. Despite the wording of the guidance, the sexual nature of a relationship clearly distinguishes relationships which are classed as LTAHAW from other adult relationships, for example relationships of friendship or kinship.

In my interviews I asked people if they thought that having a sexual relationship implied that people had obligations towards each other. Although some of the people I spoke to described themselves as 'traditional' or 'old fashioned' in terms of their own expectations of a relationship, there was a general understanding that sex alone implied neither commitment nor a particular set of obligations because these were to do with the nature and quality of relationships as a whole. A relationship proper might be nothing without sex but it was clearly always more than *just sex*.

[Having a sexual relationship with someone] doesn't necessarily mean that you have obligations to that person. I mean if you had a one-night stand with somebody then I don't think that implies or commits either person, certainly not the male. The female may if she becomes pregnant then feel she is due a commitment by the individual but sex itself, I don't think it's necessarily a part of an on-going commitment. I don't think sex is indicative of commitment (Jim)

That's down to individual choice. Two people could have sex but they don't necessarily have to commit to one another, they don't necessarily have to live in each other's pockets, sort of thing (Gail)

I don't think it was just the fact that we had a sexual relationship. I think the relationship as a whole, aye because it was like sort of sharing everything kind of thing so that coupley sort of day-to-day stuff. (Linda)

Sex was part of the complex dynamics of a relationship and as the relationship developed, it might become more or less important but obligations were something which could exist independently of sex. Living under the same roof or having children together brought with it obligations but these existed independently of the sexual nature of a relationship.

[Sex] keeps your relationship emotionally involved. [It's] an emotional and physical act but you could have sexual relations with half a dozen people. It doesn't necessarily mean you're conducting a married state of being, you know, life or partnership. But it does make a difference, certainly makes a big difference. When there's been times when we've just been like, it just isn't happening, it certainly changes things but that's in our relationship but it hasn't changed our family obligations (Sharon).

A number of people suggested that there were moral issues involved in any sexual encounter. Some of the issues raised were 'respect', 'integrity', 'honesty'. Sex without responsibility happened but it was not something to be proud of. And agreeing that people should be free to make their own relationship decisions was not necessarily the same as saying that anything goes.

..to my shame, I've had sexual relationships before where I didn't feel I had an obligation and I'm sure people have had sexual relations with me when I felt they had an obligation to me and they didn't... To a certain extent, you are giving something of yourself aren't you and you should expect something in return I guess (George)

This is a tricky one because I would say that people have to have autonomy and freedom and can do whatever they want, you know, as long as it's consensual but me personally I kind of feel in my relationships, I feel there is an obligation there, you know because I've shared that particular part of me with somebody else. There's an intimacy there which I think is different from say if you're friends with someone (Carolyn)

I asked whether having a sexual relationship implies any financial obligations? Dave drew attention to inconsistencies in the law.

The government are OK about giving you benefits when you're a married couple but not cohabiting so it's like one rule for one and one rule for the other. So if they want to feel that way about having a rule, they should just ask you, are you married or are you not? Never mind asking you questions about your sexual behaviour.

In all cases, there was an understanding that where two people lived under the same roof, obligations existed, whether or not they were actually fulfilled. But these

obligations were not based on sex. Maureen was resistant to the idea that having a sexual relationship implied a loss of financial autonomy.

I don't think that because you're having sex with somebody that you should say that your money is theirs and theirs is yours. I think you should split things but you should still each individually have your own money and share the bills and all the expenses (Maureen).

Three participants thought that financial obligation arising out of a sexual relationship was akin to prostitution.

If you're living with somebody you obviously have a financial commitment but not because of the sex. An economic commitment based on sex would be prostitution, basically (Jim).

Does it make you obligated to somebody? God, I hope not. I don't like to think so. Because I think that just makes you, sort of like, it's a kind of vague prostitution (Sharon).

Because that's like being paid, if I'm going to have sex with him, he's got to pay me, eh? It's like being a prostitute, eh? No way (Zoe).

It was clear from these interviews that sex was still a thorny issue, some thirty years after interviewing benefits officers were forbidden to ask about it. Most thought that relationships did involve certain obligations and even sex was not obligation free. However, these obligations arose out of the nature of the relationship and not the sex. There is no suggestion in the DMG that sex alone *does* imply an obligation, financial or otherwise. It is, after all, only one of the six issues looked at but it is arguably the most important. Marriage without sex will still be a marriage because of the marriage contract but the question must arise whether or not a couple should still be treated as living together as husband and wife where there is neither contract *nor* a sexual relationship. The continuing association between two people after the sex has gone out of the relationship might be based on any number of things, including the perceived best interests of the children from that relationship, security, the fear of the unknown etc. As we have seen decision-makers are warned that where two people live in the same household mainly for care or 'mutual support'

they should not treat that relationship as one of LTAHAW. Taken together, guidance on the household and sexual activity clarify nothing.

Children

This research project was built around couples with children either of their own relationship or a previous one. As explained in Chapter 2, “where a couple are caring for their own children” this is treated as “strong evidence” of LTAHAW.

The existence of children and their parentage tended to determine the boundaries of relationships, with participants often describing the nature of their relationships in terms of their children. So, for example when Sharon was initially asked to describe her relationship, the children featured prominently

We share three children. We do the best job we can in bringing them up (Sharon).

I asked Josh the same question and he said that “primarily we see ourselves as a family. Even when we are separated”. When I went on to ask him what aspects of the relationship were important to him, he replied,

Being a parent is by far the most important. Being a family is the most important.

Wilma told me that what was important to her about her relationship was quite simply “my daughter”. To the same question, Linda answered “he was there....as part of the household, as our child’s Dad”.

Different parenting scenarios were represented in the interviews. They can be divided into four groups.

- The couple were the parents of the child or children who lived with them
- One parent, in all but one case, the mother, was living with her/his children and a partner who was not the parent of her/his children.

- Parentage was mixed. The couple were parents of one or more of the children living with them and one or more children were of a previous relationship.
- There was shared parenting but not under the same roof. The couple might or might not have an on-going sexual relationship and there might or might not be children of a previous relationship.

There was no uniformity in these scenarios in terms of the amount of care given to children. Biological parentage, for instance, did not guarantee 'care of the children'. Harriet's partner had been "too old fashioned" to do things with his own children.

He thought that was my place, eh, the house and the bairns. I was a nanny.

This relationship, now over, involved her full-time care of the children and his coming and going as it suited him over a period of more than 15 years. Does 'a couple caring for their children' describe Harriet's situation? If only one partner does all the caring, is that LTAHAW or not?

To all intents and purposes, Pearl and her partner had separated *as a couple*. Pearl told me that her partner's parental role was the most important aspect of their 'relationship'.

I think just the fact that he is the children's father and if he's there he can have contact with them.

In reality, he took very little responsibility for his children's welfare. Yet she tolerated his presence in the house *because* of the children.

..that's the only reason (laughs) he's still there.

It is not clear how much weight would be given to a childcare deficit in determining LTAHAW cases.

In most cases where both parents lived with the child or children, the parents said that they shared care although the mother *tended* to do more with and for the children than the father. Any imbalance of care tended to be explained in pragmatic terms. For example, Irene talked about the fact that Bill 'helps out' but work prevented him from playing a more active part in caring for their child¹⁵. Bill confirmed that.

I obviously have much less input because I haven't got breasts. The other thing is that she spends a hundred per cent of her day here and I've got work to do. So there is a huge difference there. She gets up in the night. It's pointless me getting up because I don't feed her. And secondly I obviously need a bit more space and quiet to work so there's definitely an imbalance there.

The fact that women bear the brunt of care even where they live with the father of their children is not surprising. The gendered nature of parenting roles is well documented. However the fact of it raises questions about the identification of a relationship in terms of *couples'* care of the children especially since a finding of LTAHAW can lead to the removal of financial support from the *actual* caring parent.

In the second group, where there was only one parent living in the family home, it would be even more likely that *she* would be caring for the children single-handed. Where a parent takes on full responsibility for their child, they effectively remain lone parents, even when living with a new partner. But a finding of LTAHAW is the negation of lone parent status. This was picked up on by Gail. Since to cohabit would have meant that her partner would be responsible for her child, was she really cohabiting?

Yes [I am cohabiting] in the sense that the DHSS would put it, I suppose, yes. But at the same time, I have a child as well so I mean financially he's not responsible for my child.

This attitude was not universally held. Audrey's ideal marriage partner was someone who would be able to provide financial support for her *and* her children. It was because this partner could not be relied upon in this respect that she would not consider marrying him and denied living with him *as* husband and wife.

¹⁵ Bill looked after the baby during my long interview with Irene and then made the tea. The issue is, how much care of the child counts?

In some situations the relationship between the child and the mother's partner might be quite close. The child might even come to see their mother's partner as a father figure.

My son gets on well with him. As he said to me, he looks on him as a Dad. He sees him more as a Dad than his own because he's never known his own Dad and my partner's always been there. That's my son's words (Maureen).

But a good relationship did *not* imply financial responsibility. It might be this sense of lone financial responsibility that led to women feeling that they had to hide the fact that they were living with a partner.

The third group involved complex family situations which have become increasingly common in recent years, where a couple would have a child together in a household where there were already children from a previous relationship.

Some women reported that their partners had a good relationship with their children from a previous relationship. Women might go as far as saying that their partner made no distinction between their children and his own. Nevertheless, when it came to financial responsibility, a clear distinction emerged.

He's really good [with the oldest child]. He's brilliant with her. He doesn't make a difference between the two...with her being older I think if he and I were to split up, she'd be heartbroken. I don't think it would ever happen, eh, but I could see her being really, really upset about it. She really accepts him as being one of the family (Zoe)

Unlike others I spoke to, Zoe is happy to be treated *as a family* which she sees as the consequence of the LTAHAW determination. Despite cooperation with the Child Support Agency, Zoe has never received maintenance from the father of her first child and she resents it. She accepts that her current partner has a financial responsibility to his own child but questions his financial responsibility both to her *and* to her child of a previous relationship.

I wasn't expecting him to pay for my oldest child and myself, eh and that's still taking me a bit to get used to.

These complex households involve a number of difficult relationship issues. The new partner may have a good relationship with his partner's child. Is that the meaning of *acting parent*? Furthermore being an *acting parent* does not necessarily carry the same obligations, financial or otherwise as does being a parent?

In the final group where parents never had lived together in a marriage-like situation, living apart did not preclude shared parenting. After a separation one might expect shared care to continue albeit in a different form. In the DMG, shared parenting of the children alone does not indicate that a cohabitation exists. Couples had to belong to each other's household. However, where the arrangements couples made involved the father providing care in the home where the children and their mother lived, the couple were at risk of being found to be cohabiting. Earlier I described Sharon's situation. *Despite* her partner having his own tenancy, they were found to be LTAHAW and forced to claim as a couple. The fact that he would come to the house and do things with the children may have made it more difficult to resist an LTAHAW determination.

During a period of separation, Josh and Lindsay tried to juggle their arrangements for shared care of their child around their understanding of the official definition of cohabitation. Despite no longer living in the family home, shared care was a cherished commitment Josh had made as part of the decision to have a child in the first place. Since he did not have adequate accommodation of his own, he used to fulfil his parenting role at the family home but care needed to be taken to make sure that this was not taken by the DWP as evidence of his continued relationship with his former partner.

It was annoying when we were separated because legally he was only allowed to stay here so many nights a week with us, especially if I was claiming and he was working and that would be a part of it. You were allowed, is it two nights a week if you're visiting a child? (Lindsay)

This was perceived by Lindsay as an example of the intransigence of the system which did not recognise or support an arrangement which she felt was clearly in the best interests of the child. It was yet another example of the rule influencing the shape of personal relationships to the potential detriment of those relationships.

These different scenarios cannot be resolved by a single rule about financial responsibility. A new partner may take on some aspects, often but not exclusively expected of a parent, especially where one of the biological parents is out of the picture but that does not necessarily mean that he will accept or be expected to accept the financial responsibilities of a father. In some cases a mother might feel that financial dependency on a man who is not the father of her children will give him some sort of right to interfere with her own parenting role. This would be a powerful reason not to accept financial support from him. This is compatible with studies, for example that of Burgoyne (1990) which show a link between financial clout and power within relationships. The gendered nature of the rule is conveniently stepped over by talking about 'a *couple* caring for their children', by not specifying what 'acting parent' actually means and by ignoring the fact that a new partner may take on some childcare responsibilities but still not feel financially responsible.

Public Acknowledgement

Whether or not couples acknowledged their relationship in public varied from couple to couple and even between partners. In some cases, couples concealed the *true* nature of their relationship from neighbours and even friends and family to avoid detection or being judged for lying to the benefits authorities. The rule itself discourages public acknowledgement of couple status.

In some cases, one partner would be more open about their relationship than the other. For example, Jim acknowledged that his partner had more to lose if the truth about their relationship was revealed because she had a family to support. Also because their relationship was conducted mainly at *her* house, suspicion was more likely to be aroused in her neighbourhood than in his. Linda could not think of any

of her *friends* that she wouldn't have told about her relationship although she steered clear of what she called the "curtain twitchers". However, she made a joke about her former partner's detached behaviour which reduced the likelihood that they would be caught.

We wouldn't have been perceived as a couple because he was so like distant kind of thing

But *he* hid the fact of their relationship from *his* 'friends' and this was related to his drug habit. Linda speaks of her surprise that his friends knew nothing about her and their child.

I was totally gob-smacked (laughs), you know, friends of his, sitting in his house and I'd gone down with the kids and that and, 'oh, right I didn't know you had a girlfriend, didn't know you had a child', chin hitting the floor kind of thing. I think a lot of them, you know because of the circle he was moving in, couldn't be trusted anyway.

There was variation in the risks that people were prepared to take in acknowledging their couple status to *official* sources. However, even where the information needed to catch couples out, was under the State's very nose, it seemed that 'Big Brother' was not always watching. Couples were able to maintain their lifestyles undetected although there was undoubtedly a price to pay in terms of anxiety level. Ironically, it is possible that concealment might actually be affecting the relationship to such an extent that the people concerned were *less of a couple*.

Finally, the issue of separate identity which is raised in connection with 'public acknowledgement' is important. Feeling less equal or even owned are identity issues which were raised in this study in relation to being forced into financial dependence. For example, both Sharon and Maureen described being reduced to the status of a child by financial dependence. By directing decision-makers to treat the retention of 'separate identities' as irrelevant to a determination of LTAHAW the DMG conveniently ignores the relevance that a sense of self might be to a healthy and stable relationship.

Stability

I explored this concept of stability in depth in the interviews. If they did not volunteer the information when I asked them to tell me about their relationships, then I prompted them to see if they thought that their relationship was stable. Then I followed up by asking what made them say that their relationships were stable. Finally, I asked them what they did for and with their partners to see how relevant the DMG guidance on 'stability' was in each case.

Is it stable?

This initial question was harder to answer for some than others. For instance, some volunteered the information that their relationship was stable or answered the initial question with no hesitation, for example "Absolutely, yeah" or "Never. It was always rocky, always". Others were more tentative, for example, they said it was "pretty stable" or "pretty unstable" or "yeah it's stable in a sense" or "I wouldn't say exactly one hundred per cent".

One meaning of stability is *constancy*, but for some of the participants, stability was not a constant. Audrey described her relationship as stable "most of the time". Sharon said "ye-es, generally it is, even with the ups and downs". This notion of *ups and downs* was echoed in other interviews. In some cases, survival of a relationship despite the *ups and downs* might be seen as having strengthened the relationship or be a measure of its stability. For others the ups and downs were a sign of long-term *instability*. Alternatively there was a sort of stability where a relationship had been consistently bad for a number of years.

I suppose it's stable in the fact it has kind of deteriorated to a stage where it has been much the same for a long time (Pearl)

Some were looking back on relationships which had since ended. They might look back and say that the relationship had *seemed* stable at the time but that in some important sense it had not been.

At the time I suppose [I considered it to be stable], yeah (Dave)

It appeared to be [stable]. Um, I thought so. I think he definitely wanted it to be so and he really did try but em....we couldn't, we just couldn't sort of do it, you know (Carolyn)

As one man struggled to answer the question whether or not his relationship was stable, he spoke of different levels of stability. At some level it was stable but there was also a more superficial level which seemed to be related to some of the daily ups and downs which other participants had referred to

At the most fundamental level, on the most important level, yeah, yeah...on a day-to-day level it can be a bit, you know, on and off (George)

Elsewhere Bill made the distinction between “emotional” stability and “practical” stability. Emotional stability was to do with *love* and *wanting* to be with someone. Practical stability was to do with *financial security*. You could have either without the other but there was evidence to suggest that the absence of the second could seriously undermine the first. This had obvious theoretical significance. Inadequate benefit levels, having to rely on a partner who could not be relied upon to provide financial support or contested obligation meant that an LTAHAW rule determination could *destabilize* a relationship.

Hesitant or qualified answers might be explained by two insights evident in the interviews. The first insight was that stability *is* a problematic concept: difficult to define and difficult to measure. Those looking back on failed relationships might conceptualise stability differently from those whose relationships were more recent or differently from the way they would have done at the time.

The second insight was to do with the *uncertainty of relationships*. Participants spoke about their relationships being *successful* (Sharon) or *working* (Irene) and these were often used interchangeably with *stable*. However, a story about a *stable*, *successful* or *working* relationship was a snap-shot in time and there were varying degrees of confidence in the long-term. Relationships that seemed strong now might

not be further down the road. One related concept which came up a lot in the interviews was *permanence* but there was a general awareness amongst participants that there were no guarantees. In fact Kate was hesitant about saying that her relationship was stable in case she “jinxed” it. If stability was equated with permanence there was no way of knowing whether or not a relationship was stable unless it had already broken down.

The meaning of stability

When it came to questions about stability so different associated concepts emerged in the data. Often explanations involved the qualities of the relationship e.g. there was “mutual respect” or trust”. Lindsay told me,

It’s the personalities that makes it stable, knowing each other and acceptance.

The length of time a relationship had lasted or was expected to last was critical to participants’ understanding of stability. If a couple had “been together for a long time” (Josh), then this was one indication that the relationship was stable. However, this was not always the case. The quality of the relationship was important too. Harriet was in relationships for over 15 years with the father of her children said that the relationship had never been stable.

Often those who raised the issue of time were looking forward. Despite the knowledge that there were no certainties in relationships, when most participants said that their relationship was stable, they meant that “it’s going to last (Kate) or they planned to stay with this person for the rest of their lives.

I have no other plans than to spend the rest of my life with her and as far as I know she feels the same way (Bill)

In a sense that I don’t think we will ever leave each other, not now (Gail)

Some spoke about their *expectations* that the relationship would last *unchanged* for a number of years.

I can't see myself with anybody else or I don't want the circumstances to change, put it that way (Bill)

I don't see it changing in the foreseeable future (Jim)

Where relationships were new, questions about stability made much less sense. This could be the time when the relationship was at its most intense and ironically, at its best but there was no way of knowing what might happen in the future.

..it's weird to the extent that you're learning someone else's traits, habits, the way they do things and the way they don't do things, their interests, their outlook, all sorts of things. Stable? It's hard to describe it as stable because there were no arguments or disagreements at the time. It was new and I think I was, I would call it a period of discovery where you're discovering each other in all sorts of ways, shapes and forms and as time goes on then you realize that this may not be the person you want to spend the rest of your life with, you know? (Dave)

Love is a concept which does not have any status in the bureaucratic construction of LTAHAW yet love featured in some explanations of stability.

Just the fact that we're in love, eh. I think we both think it's going to be forever (Zoe)

Similarly, although love in the sense of being *in* love or love as an intense sexual feeling is often associated with the early stages of a relationship when it is impossible to tell whether or not the relationship will last, for some the expectation of future happiness was built on that intensity of feeling.

I would say it was permanent, yeah. I would say it's stable in the sense that (pause), it's quite sort of *passionate* (George)

There may be other things which in reality maintain a connectedness between two individuals or keep them together in the absence of love for example, children or financial security. However, these were closer to relationships described elsewhere in the guidance as examples of something other than LTAHAW, e.g. those based on "the need for care or support". Furthermore, the concept of marriage used in the

DMG is based on the ideal rather than the reality. It is questionable whether or not you can separate the modern ideal of LTAHAW from the idea of love. In fact, love might be even more important where there is no marriage contract.

Our relationship is more stable than most marriages. We stay together because we're *in* love and not because we *promised* to love and cherish each other forever
(Kate)

So in one sense love might be an essential ingredient of a stable relationship and perhaps even of an LTAHAW relationship. On the other hand, love might be at its most intense at the point where the relationship is at its most uncertain.

In this study, words such as 'trust', 'reliability', 'steadiness', 'constancy', 'security' came up a lot in people's understanding of stability. It was clear from the interviews that the absence of these things could be the main reason why a claimant, mainly women, wanted to avoid a cohabitation rule determination. These issues which were often the things that people associated most with marriage-like relationships do not feature anywhere in advice to decision-makers.

Shared values like the importance of mutual respect and the importance of equality (compare Giddens, 1998) might be seen as crucial to relationship stability but fears that these things could be lost if a cohabitation rule determination was made was another reason why claimants had decided to hide their relationship.

The stated reason why marriage is privileged in recent government policy documents, is because it is perceived as being the most stable foundation for bringing up children. This in turn is because marriages last longer and statistically, divorce or separation have adverse effects on children. However, it is also acknowledged that the effects of separation on children depend on a number of factors including financial resources and the continuing relationship between the separated parents. There was evidence in the research that shared parenting could provide a sort of stability which survived not just through time but also through change. Where parents prioritised the children's interests, their relationship would remain stable even if they separated or had never lived under the same roof.

We still have a relationship because we have a child (Lindsay)

It hasn't always been stable because we haven't always had children (Sharon)

On the other hand, children could bring additional pressures which *destabilised* the relationship, especially where a child came along early in the relationship.

I think having bairns, I always thought things would get better but things just didn't, the pressures just worsened (Harriet)

Having a baby so early into the relationship as well made it ten times harder (Carolyn)

Where the couple did not share parentage of the children, stability might *depend* on clarity in relation to financial responsibility.

I think we've stayed together as long as we have because we've kept the finances separate. That was really important because of the children. If he'd been expected to provide for the children, the whole relationship would have collapsed long ago (Kate).

This illustrated something that was evident throughout this analysis. Although easily separated conceptually, in reality the six issues were interlocking. In the rich descriptions of these real life relationships, it was impossible to separate the issue of stability from that of children or separate the issue of children from that of financial support.

What couples do for and with each other

In the DMG, stability is measured by what couples do for or with each other. I explained this to participants and asked them about responsibility for household chores and what activities they did together. I wanted to see how far people's lived experience corresponded with the State's understanding of what a stable relationship was.

Exploring what couples did *for* each other confirmed the gendered nature of household chores. Not surprisingly, the women in the sample tended to take on the lion's share of those chores, many of which were seen as specifically relating to the responsibility of parenthood. There is no acknowledgement of this typical asymmetry in the DMG let alone guidance on what it might represent in terms of relationship stability or the importance of maintaining an individual income. Where the child was *of* the relationship, any gendered division of responsibility was justified by the fact that the woman was 'available' to do it (Carolyn), usually meaning, not in paid work or because the child was very young.

In some cases, though not all, the lack of shared responsibility for household tasks was associated with problems in the relationship but whether or not it was the cause or the result of the problems was not always easy to tell. This matters because a reduction in doing the household chores might be an indication that a relationship which once was LTAHAW now no longer is.

In other cases, responsibility for household chores was associated with the householder, that is, the person whose name was on the rent book or the mortgage. An underlying reluctance to share *responsibility* for household chores might come from the householder *or* the non-householder. But the following two extracts show that *responsibility for* household chores can be separated from a *willingness to perform* household chores. In both cases the non-householder is willing to perform tasks in the home. In the first case, Sharon cannot understand why he felt he had to ask if he can help. She sensed that he preferred to ask rather than do because he does not want to feel that it is his house. In the second case, Dave described a partner who was reluctant to let him help. He interpreted his partner's behaviour as an extreme case of wanting to maintain control over her own home.

... it's not like he goes on his high horse. It's not like, well it's your house so you have to do it. I think, wait a minute, you do spend most of your time here, you do eat most of your meals here, ..but he still likes the feeling that, no, this is your place, you know and he'll ask stupid questions sometimes like, em, can I do this or can I do that? Ask a stupid question. You've been doing it for like eight years so why ask? I think guys certainly have a different perspective and belief about things (Sharon).

As I say, it was her house. It was her domain. She had lived there for several years. I was new on the scene so to speak. Although yes, we had a sexual relationship, she was responsible for the household chores. In saying that if she was out and the dishes were dirty, I would do the dishes and things like that so we would share things but I would say eighty per cent of the things that needed done, she did them. She was so used to doing them and the other thing, she was a control freak. She would say, don't do my dusting because you put things back in the wrong place, kind of attitude, so just leave it. I'll sort it out. That was the kind of attitude we were dealing with so she did the household chores (Dave)

In one of the above cases, the relationship had lasted for several years and there were children of that relationship. In the other case, the man was describing the very early stages of a relationship which ended very badly. Whether or not either of these relationships was stable is not easily read off from the things that the couple do *for* each other.

This is linked to evidence which I look at in Chapter 8, that as a result of being *hidden* to avoid the cohabitation rule, a partner might feel less a part of the household or less commitment to the family home. As a result he might have little or no interest in contributing or feel he has responsibility for household chores. The irony in this case was that, if things you do *for* each other is evidence of stability, one of the unintended consequences of cohabitation rule avoidance might be reduced stability.

Although sharing household tasks might well be a sign of a healthy relationship, not least because it suggested a more *equal* relationship, there was evidence that stability could be a feature of relationships which did not involve the equal distribution of household chores. Where the mother lived with a new parent who was not the father of her children, there was not the same expectation of shared household tasks. This might not be presented as an imbalance so much as each partner taking on their relative share. In the following case, as in others, a denial of responsibility for chores was largely based on the same principle as denial of financial responsibility, that is, *her obligation* to her children and *his lack of obligation* to her children.

We share that responsibility [for household chores] although I would say that my partner probably does most of them because most of the chores arise from the children and I regard the children as primarily their parents' concern. So, for

example, all the children are old enough to basically look after themselves, do the dishes, do some tidying up, housework, shopping. They do very little of that but you know in a household of four people, I do at least my share. She does much more than her share (Jim)

Jim's attitude to her management of the family home was part of the reason why Kate was happy to maintain full responsibility for it. She did not want her partner to feel that he had the *right* to tell her children what to do. She was convinced that the stability of their relationship was dependent on the separation of her role as a parent and her role as his partner, even if it did mean that she took on more than her fair share of household tasks.

He would just be too hard on them. OK so they don't do as much round the house as I would like but I'm not going to have him shouting at them. ...I just get on with it (Kate).

The link between the householder, that is the person who is responsible for the household and whose name is on the rent book or mortgage, and *responsibility* for household chores is an important one. There are many examples in the data of both resistance to *giving up* and resistance to *sharing* responsibility for the household. This resistance is open to a variety of explanations, and the appropriateness of one explanation over another is related to the particular set of circumstances which make up each relationship. In some of the interviews I carried out, resistance to sharing responsibility for household chores appeared to be related to resistance to sharing householder status. This is interesting because as a result of a cohabitation rule determination, the non-householder can become financially responsible for the household. In this way resistance to being responsible for household tasks was related to resistance to the cohabitation rule. But who does what for who seemed much less relevant to couple status. Anyone who has been invited to live in *somebody else's* home might feel they should offer to help with the dusting.

There was evidence of a more equally balanced sharing of responsibility for household chores where both parents shared parenting of the children *and* where there was no clear single householder. This was the relationship which came closest to the bureaucratic understanding of stability. However, these stories might be based

on relationships which though equal while they lasted, did not last very long due to other pressures, like money for example or other personal issues which might predate the relationship as in the case of Carolyn. She spoke well of her former partner who had always shared the household chores and who had clearly felt committed to the relationship. They also did lots of things together during the life of the relationship.

[we] socialised together, maybe going out to the pub or em, the pictures, visiting people, em, walks and then household things like shopping.

But although this relationship seemed stable at the time in the sense that they both saw it as a long-term committed relationship, the relationship did not last. Lack of stability in this case was explained by her, not by what they did not do for or with each other but by a number of pressures both external and internal.

The combination of his history and my history, expectations, financial pressures...and having a baby so early on in the relationship as well made it ten times harder

Financial pressures were exacerbated when the couple admitted to the authorities that they were living together *as* a couple.

Doing things with and for each other might be a feature of the early stages of a relationship where stability could not be measured simply because it was too early to tell. Sharing activities and chores might remain a significant feature of a stable relationship but in itself such sharing was not necessarily an indication of stability. This was brought out well in one of the interviews where I asked whether or not the things that the couple did together had changed.

It's not the things that we do together, it's more the stability. At first we did the same things together but it was like in a different way. It was more like boyfriend and girlfriend. Now we're not married but it's more like family. It's more in confidence and that kind of thing, you know, feeling of security (Irene)

Participants who said that their relationship was stable were likely to say that they did a lot together either with or without the children. However, that was not true in every case. Wilma described her relationship as stable because of the length of time

they had been together and the routine they had established which worked for both of them. However, because of the age difference between them, she and her partner had very different tastes and interests.

To be truthfully honest, when he comes in from work I just say, right, cheerio and I go wherever and he doesn't mind that because he sits in and watches football and, don't get me wrong, we had a good chat about whether we were compatible and we're no really compatible at all, like, because he likes everything that I totally hate and its food, clothes, things you watch, films, drink. He's no into going to clubs, that kind of thing. It goes for everything. There's nothing that we can really agree on, nothing at all (Wilma)

Where participants described their relationship as being *unstable*, there was likely to be less or no couple activity but they might still do things together with the children. But this could also be true of couples who had separated or who were in a relationship but maintaining separate tenancies. In these cases, the interests of the children were paramount and activities such as going on holiday together, days out together, sharing Christmas and birthdays or taking meals together helped to maintain stability in the *children's* lives. It was clear that doing things together with the children was not a reliable indication of relationship stability *or* LTAHAW although it might be treated as such.

Quality of time spent together might be more important to stability than amount of time.

Once we had a holiday with the bairns and it was horrendous (laughs) to say the least. We'd have been better staying at home.

What about Christmas and birthdays?

He always sort of wasted them. He didn't participate much in anything. It was a case of the bairns greetin' on him to get up and see them opening their presents or waiting on him, you ken? (Harriet who had already described this relationship as unstable).

It was not uncommon for participants to respond to my questioning by pointing out the financial restrictions on leisure. This was especially true of holidays. Most said they could not afford to go on holiday. So there was an irony involved in measuring the stability of their relationship by what they did together, especially where both were on benefit or one was on benefit and the other was on a low wage. Where there

was an imbalance of income and/or low outgoings this might mean that one partner was able to do things which the other could not, leading to possible resentment. If doing things together is a sign of stability then not being able to afford to do things together might undermine relationship stability? On this basis, a cohabitation rule determination could make relationships less stable.

Financial Support

In the guidance it states that “in most husband and wife relationships it would be reasonable to expect financial support of one partner by the other” (DMG, 11043) but there is no attempt to give examples of circumstances where it would *not* be reasonable to expect it. The DMG is carefully worded to ensure that even where couples do not pool their resources, there can still be a finding of LTAHAW. Jim disagrees.

I think that individuals should be allowed to claim benefit as an individual and not as an adjunct of somebody else. The power is taken away from them when they have to claim as a couple so it forces dependency on whoever the claimant is. I don't think that one individual should have to depend on the other individual's largesse or generosity in terms of income. Two individual should have an income in their own right as individuals, as people, as human beings. They should have a human right to an individual benefit payment

In Chapter 6, I described cases where an assumption of financial support was inappropriate. Participants agreed that it was *reasonable* to share the household costs with their partner just as they would wish to share household costs with anyone they lived with. In fact resentment grew where a partner did not appear to be making his fair share. Where a participant was financially dependent on a partner, they might feel they were not making *their* fair share. A sense of self, loss of control over life choices, past experience of abusive relationships and lack of trust were also relevant issues.

It is easy to forget that the cohabitation rule extends the financial support obligation of the designated breadwinner to children living in the household regardless of biological parentage. This is a highly contested issue, yet treated as unproblematic in

the DMG. Parents with care pay the price for inappropriate assumptions about financial support or their partner's inability or unwillingness to provide financial support after a cohabitation rule determination. These finance issues are revisited in Chapter 8.

Husband and Wife

Case law has established that the phrase 'husband and wife' is significant in the determination of cohabitation rule cases because it acts to exclude other types of relationship. In fact, people's attitudes to marriage in this study often revealed a great deal about their relationship and helped to explain their determination to avoid the cohabitation rule. Maureen associated marriage with ownership and inequality.

When I got married, I felt that person owned me. I wasn't an equal. I felt like a child there. He was the adult and I was the child. Whereas with this relationship, it's equal. I don't have to answer to him. I don't have to tell him what I spend my money on or anything like that. My life is mine....Once you're married it changes. That person they think they own you and try to run your life as opposed to you still being in charge of your life. I wouldn't get married again (Maureen)

Financial independence is essential to Maureen's self-image and to lose it would alter her relationship with her partner. Her resistance to the cohabitation rule and her resistance to marriage come from the same source.

Similarly, Kate saw marriage as a legal straightjacket and a form of State control, recognizing a gender dimension: "men owning women which has nothing to do with love and commitment". She rejected the cohabitation rule for the same reason. It was like being "forced to be married", she told me.

Sharon questioned any attempt to define a relationship in anything but its own terms. She rejected the cohabitation rule for the same reason that she rejected marriage, the unnaturalness of relationships which are bound by a fixed set of expectations and obligations.

When people get married, they are not expected to live apart at all. The whole thing's set up that you live in the same house all the time...and that's really restricting. I don't think it's quite natural really, you know. We expect to live a good seventy/eighty years, no problem these days. How could you spend most of that life being married with all its legal entanglements and financial, you know, obligations. To me it's not quite natural as human beings, as individuals. It's like a huge thing to do, spend the rest of your life with the same person. You're basically joined at the hip with that other person.

Conversely, others saw marriage as a relationship ideal, a standard by which they were able to measure their own relationship. In the interviews marriage was often associated with *sharing* responsibility. Where a partner was not prepared to share that might suggest that the relationship was *not marriage standard*.

I suppose I do accept that I do cohabit with him. In the earlier days I probably considered my relationship to be marriage-like before I realized that things were never quite going to be that way and perhaps expected a more traditional relationship. You know where you kind of share things (Pearl)

Dependability was also a marriage ideal. Stephanie uses humour to make the point in the next extract which is powerful because it draws attention to the gap between the ideal and the reality.

I suppose if you were married it would be somebody you can trust and someone you can depend on. It's not you having to do everything.
Did you feel that your relationship was ever marriage-like?
Aye. The arguing (laughs)

Financial security might be the main reason for marrying and particularly attractive to a lone parent who was struggling to make ends meet.

If I was to get married now definitely the financial considerations would be there. I'd have to, it sounds awful but I would look for somebody who's got a job and who could provide assistance to myself to get me out of that kind of rut that I feel I'm stuck in at the moment....I don't think he's that sensible enough in the financial sense to get married and if I'm going to get married I want to have a house and a car and things that I haven't got at the moment (Audrey)

In Pearl's case marriage was a threat to financial security.

I didn't think it would add anything [if we got married]. In fact it would probably subtract because I'd be more vulnerable if we split up. Would he try and claim half

the house, etc? And I couldn't because I'm responsible for everything. I just couldn't threaten my children's home.

Pearl's case draws attention to the fact that it cannot be presumed that marriage will provide financial security to women in every case.

Marriage might suggest a commitment which a partner was unable to make.

With marriage, you'd probably have, you'd take more responsibility on yourself
(Frank)

When a partner was unreliable, would not share, could not fully commit or provide financial security for whatever reason, then like marriage, being found to be LTAHAW was to be avoided.

Research has shown that many people who cohabit do not understand the law and think that after a certain amount of time, they acquire marriage-style rights (Barlow and James, 2004). Three women described their relationships as 'common law' and two women believed that, after two years together, they were as good as married.

Well, as I say, after two years, you're common law husband and wife anyway. We've been together seven so I don't know what that makes us (Wilma)

We thought under Scottish law, common wife and husband, we had certain rights anyway (Lindsay)

Other participants also agreed that their relationships were marriage-like.

I do think my relationship is marriage-like, yeah, in some respects. For what marriage is supposed to represent, two people being together, two people looking after each other, supporting each other, doing things as a family. Yeah, of course it is (Gail)

Jim was strongly opposed to marriage – “if we got married, since it would be much against my will, I would probably feel resentful that in some way I'd been bribed, bullied, browbeaten or seduced into it” – but when I asked him if he thought that his relationship was 'marriage-like' he answered, “Probably, yes”.

Believing that a relationship has some marriage-like qualities or that you had some marriage-style rights was not necessarily¹⁶ the same as endorsing the cohabitation rule or accepting the state's construction of a marriage-type relationship.

Conclusion

The removal of state financial support, very often from the full-time carer of children, is a serious matter. The rules that govern such an action had better be clear and rigorously applied. The guidance on identifying cases of LTAHAW is *not* clear but open to various interpretations which may or may not support an LTAHAW determination.

The difficulty in coming up with a single definition of cohabitation was first evidenced in this chapter by looking at the variations in participants' views on the meaning of cohabitation. These variations were related to participants' own relationship experiences and in some cases by their misguided understanding of the state's construction of cohabitation as a minimum number of nights under the same roof. Where there is evidence that participants have been influenced in their relationship decisions by their often partial knowledge of the cohabitation rule and how LTAHAW is determined, then it is not possible to make a straightforward comparison of a relationship with the state's construction of it. Nor is it possible to make a clear distinction between rule avoidance behaviour and other complex relationship behaviours.

Because LTAHAW is supposed to be established empirically, an issue which is crucial to participants, for example, financial autonomy, is treated as irrelevant by

¹⁶ Some participants did endorse the rule although it was rarely straightforward. So for instance, as mentioned elsewhere (chapters 6 and 8), Zoe was happy to be treated as a couple although she did not understand why her new partner should pay for her child from a previous relationship and preferred to have her own income. Lindsay thought it would be good but did not think it would work. "...it would be better if they could take each case individually but they can't. People getting their own money? I think it might even be better that way, you've got your own money to play with and then you can have fights about how you share the money She also believed I would like it but I don't know how it could be possibly done." She also considered the possibility of assessments on the basis of cohabitants' actual contributions rather than assumed contributions but thought that would lead to too much "book work" and "all these questions. That would get a lot more intrusive".

decision-makers. However, the six issues which *are* relevant to decisions could not be mapped onto participants' varied, dynamic and sometimes chaotic relationship experiences in a way that would guarantee safe LTAHAW decisions. A key problem is how to weight each. How should adjudicators categorise an unstable relationship where the couple still share the same household? If sex is gone out of a relationship but a couple still share a household is that LTAHAW? If there is nothing *but* sex in a relationship and couples live separate lives under the same roof, is that LTAHAW?

The inclusion of sex as one of the issues stirred up indignation. It was an unacceptable intrusion into private lives, it was humiliating and when combined with the issue of financial obligation it reminded some participants of prostitution. How important sex was in a relationship varied between participants and it was clearly difficult to pinpoint the moment when a sexual relationship turned into a stable committed relationship or a friend or a flat mate turned into a cohabitant. However, the DMG claim that a couple can be LTAHAW even where there is no sex seems disingenuous, especially when combined with case law that says that if a relationship is *only* based on care and support then it is not LTAHAW.

Children tended to establish the parameters of participants' relationships. They might be the *only* reason why participants wanted to live under the same roof. Financial responsibility for children was often cited as a reason why a couple should not be treated as LTAHAW. The association of financial support with biological parentage, regardless of how good the non-parent's relationship was with the children raises crucial questions, not addressed by the DMG about what 'acting parent' can mean? What couples do with and for each other are found to be poor indicators of stability. The very newness of a relationship can cloud judgment about issues like compatibility, security, trust, shared values, equality and reliability, all issues which participants associated with a stable relationship and which are missing from the DMG. It might be the absence of these things which necessitated cohabitation rule avoidance. Participants recognized time as being significant but in the DMG the relevance of time is left deliberately vague. There is little encouragement in the guidance for couples to claim that a relationship is too new to be LTAHAW. This

alone would deter anyone in the early stages of a relationship from disclosing it and from relying on a lack of proven stability to avoid an LTAHAW determination. Furthermore, there were indications that participants' relationships had or could become less stable as a result of a cohabitation rule determination.

Avoidance of an LTAHAW ruling often meant avoiding public acknowledgement and this could affect a relationship. DMG instructions to disregard separate identities in public ignores the gendered significance of personal identity to relationship development and does not reflect what participants said in interviews. LTAHAW establishes couples as a single unit. The guidance is based on 'couple behaviour' not individual behaviour and so the gendered reality of individual experience is lost. Thus, there is no guidance, on the meaning of a gendered imbalance in the care of children or what cohabitants do for each other yet these were found to be very important contextual relationship issues in this research. Similarly, the treatment of financial support as *just one* of the six issues rather than the *main* issue ignores the highly gendered consequences of financial dependency which participants in this study were only too aware of.

An LTAHAW determination is meant to be an empirical matter and so attitudes towards marriage are largely irrelevant. However, participants' attitudes towards marriage tended to reflect the circumstances of their relationship. These insights reflected concerns, e.g. about, dependency, ownership, personal identity, inequality or the inability of a relationship to live up to the marriage ideal which were crucial in participants' explanations of why they did not want to be treated as LTAHAW.

The main conclusion of this chapter is that there *is* no satisfactory way of establishing the parameters of a living together situation where that means *more* than simply living under the same roof¹⁷. Relationships in this study were multi-dimensional and their relationship behaviour was open to too many different interpretations. The 'truth' about a relationship is not a unitary fact that can be established empirically or otherwise.

¹⁷ Even establishing living under the same roof is problematic when a partner is there one minute and away the next or couples retain separate addresses.

8 LIVING TOGETHER

In this chapter I consider what participants told me about their living together arrangements *within the context of* the cohabitation rule. This provides insights into the issues involved in becoming a couple on a low income, including reconciling a relationship with responsibilities to children. Who is the original householder is found to be important in relationship negotiations, especially early on. Underlying the cohabitation rule is an implicit assumption that couples share although there is no consensus among participants about what sharing means and getting it wrong can lead to hardship in some cases. My main conclusion is in relation to the affects the cohabitation rule itself has on living together negotiations.

Low Income Living Together

A recent DWP report stated that “there was little evidence of financial mismanagement among poor families” and cited a number of issues associated with living on an insufficient income as the reasons why families found it hard to cope financially (Millar and Ridge, 2001). Participants in this study were resourceful and thoughtful about their financial situation but might struggle to explain how they *organised* their household finances. This was because the challenge of managing on a very low income often meant a high level of *ad hoc* measures which were difficult to conceptualise as a ‘system’.

I wouldn't say we do [organise our finances] really. I wouldn't say we did (laughs). We just muddle through (George)

On the whole we were just ticking over, day-to-day, hand-to-mouth kind of stuff, you know. .. At the time she was just paying things *ad hoc*, you know, if a bill came through she would pay it if she had the money, kind of stuff (Dave)

It's quite hard to organise finances when there isn't much there actually (Audrey).

An *ad hoc* approach to financial management did not necessarily amount to carelessness with money. Thus Lindsay and Josh have financial systems in place

whereby they put money aside for essential bills but still have to extemporize from time-to time.

Sometimes, it's just juggling money until we kind of catch up with ourselves again (Lindsay)

Limited financial resources meant limited choices and tough decision-making. In some cases, financial commitments had to be ignored because of more urgent needs.

If something needs to be paid, you weigh it up. Have I got enough money to pay for it now? Have I got enough money to pay for it next week or in a couple of weeks? For example, at Christmas we had a phone bill in and the choice was to pay the bill and be absolutely skint over Christmas or to completely ignore the phone bill and get cut off and have decent kind of food and whatever else at Christmas time. That was the choice and so unfortunately the phone was the casualty. But there was a price to pay because you need to pay to get it reconnected. So there was a penalty attached to being able to eat over Christmas (Sharon).

Um the priority is obviously food, um bills are not really a priority for me, to be honest. If I can pay them, I pay them. If I can't, I can't. As long as I've got enough money for my children and myself ... That's, you know, how I organise my money (Audrey).

These decisions make sense *in* context but ignoring bills means further costs in the long run and increased debt which might be attributed to fecklessness.

It is clear that finding someone to share household costs could be financially beneficial to someone who is finding it difficult to manage. Not all hidden partners make a financial contribution. This has always been a problem with the rule. Where hidden partners *do* make a financial contribution that extra money can be used to organise the household finances more effectively so that bills can be paid and an amount can be saved for one-off expenses that might arise from time to time.

The negative experience of living with an abusive husband who mismanaged the household finances for his own benefit means that Maureen values her financial independence, but on her own and on IS, she struggled to meet her families' needs. When Frank originally moved in with her he was unemployed and so they were still struggling. When he eventually got paid work it was low paid work but it meant that for the first time, Maureen was able to put a little by every so often for essentials.

This is where the money I've got left over comes in. I put it away in a separate wee purse and it can lie there for weeks until I need it and if my kids need something I'll give them the money and tell them to get themselves, maybe jogging bottoms or trainers or whatever they need. But before, I could never do that. They were always asking me for things when they were younger and I could never give them the money. I used to always say, no, Mummy can't afford it but when she does have the money she'll get you it and a lot of times it never came about (Maureen)

Extra money from a partner might mean that the householder was able to budget sensibly, reducing debt and the possibility that they would be considered irresponsible householders. An LTAHAW determination cancels out that advantage, triggering a set of benefit changes which might not be beneficial to anyone involved. The couple rate of benefit *was less than* two single persons' benefit combined and a partner in full-time work meant instant ineligibility for IS or I-JSA.

When Josh and Lindsay were considering living together again, money was a key consideration. It seems that despite savings in some areas, Lindsay might be worse off but Josh better off since Josh moved back. This is because, during the separation, the CSA would not accept that Josh was sharing the care of his son when he looked after him in the family home so Josh had to find suitable accommodation which was expensive (I return to this later).

Lindsay was concerned about being worse off with the benefits etc so basically I had to find a way that she wasn't going to be worse off. Otherwise we won't be getting back together again. ...I think we are a little bit worse off being back together again. Em, though I am actually, I'm better off. I was in total, I lived in poverty yeah. I moved into a flat to have a roof, to have my daughter under because that's what the state could recognise (Josh)

I think we financially got worse off when he moved in though we got better off because now we share electricity, there's only one rent, eh, but personally I think I'm a wee bit worse off having to pay rent now, having to pay higher rates, em, yeah, I'm pretty sure weekly it works out we're worse off (Lindsay)

It would be wrong to ignore the part that money might play in someone's decision to lie about their relationship. However, bearing in mind what has already been said in earlier chapters about the variations in and complexities of these couple

relationships, it was unwise to make assumptions about how couples in this situation organise their finances once they have decided to live together.

Different Ways of Sharing

The idea that couples *should* share responsibilities when they live together was strong in the interviews but what sharing meant varied between individuals. Stephanie's ideal situation involved a common pot which each would dip into whenever they needed anything.

I think it would be good if you could put it together and if you want something or if he wants something, you just get it (Stephanie laughs and then we laugh together)

The laughter that follows Stephanie's comments is at least partly due to the improbability that she could ever have that type of arrangement with her children's father, a long-term drug addict. Where one partner has a problem which makes it difficult for them to handle money, then sharing is unlikely to be an option.

Unlike Stephanie's partner, Maureen's partner, Frank is not the father of any of her children. Frank pays a regular fixed amount and the rest of the money is his to do what he wants with. He is more like a lodger than an equal partner. Yet they have been living together in secret for ten years.

The ideal way for me would be to sit down, see how much we are using in electricity and gas and other things, split that right down the middle and the food, split it right down the middle but we don't do that and we've never done that and I wouldn't feel comfy sitting down and putting that to him (Maureen)

Josh acknowledges that how you organise your money is a personal choice. He subscribes to the ideal of equality in relationships. To that end, equal contributions are not necessary but ideally each would have autonomous control over equal amounts of personal spending money.

It's very much down to individuals. Some people might work, one person might have a lot of money, one person might have a little bit of money and yeah, I can see how people can come to other sorts of arrangement. I'm all for seeing equality in these things so, yeah, if one partner's got more money coming in they should pay the

rent and the bills and you know, and pay whatever until the point where they both have the same sort of money, yeah. Do the shopping or just stick it all in one account. In an ideal world if there was enough money floating about it would be good if each partner feels that they have access to some money that they don't have to consult anybody about. Yeah, like I buy a computer magazine now and again. It's the only example of a luxury I can think of and Lindsay might think that's a waste of money but it's *my* money. So she can't complain (Josh)

In a couple there might be two different perspectives on the importance of contributions, to sharing. Bill was quite happy to support Irene now that they had a baby together and were considering marriage. He saw his and Irene's organisation of the finances in terms of a "partnership" and, based on his experience of his own father's irresponsible behaviour, had "strong feelings" about supporting his family.

[My father] had plenty in his pocket while we went without. That's well ingrained in me (Bill)

As far as Bill was concerned, Irene was fulfilling her side of the partnership because she was caring full-time for their baby. Irene, on the other hand felt the loss of her independence and could not wait to return to work so that she could start to make her own contribution to the household expenses. For her sharing meant making an equal *financial* contribution.

I don't actually like the fact that he's giving me money. I mean I have always been independent and I like sharing, you know, to put my part, you know, my part of it. I thought, you know, I should be doing it but I haven't got any alternative right now. So every time we get a bill, now, I say I have to go back to work because I think, oh God, I *have* to go back to work. I just feel awful (Irene)

Bill recognised that Irene was not happy with the current arrangement. He told me how he had to "force [money] on her" because she was so reluctant to take money that she did not feel any ownership over. He said

There is no great pressure on her to be earning again. She might feel it emotionally but practically there's not a great need (Bill)

It is interesting that Bill describes Irene's response as "emotional" not "practical". Although certainly not dismissive of her feelings, his remarks suggest that her situation is *felt* (subjective) rather than *real* (objective). Currently the breadwinner,

he admits that if Irene was the one earning and he was her financial dependent, he would not like it at all.

I would find it very difficult, I'm a wee bit old fashioned in that way. It wouldn't be a comfortable situation for me.

The issue of financial dependence cannot be resolved through one partner's magnanimity and determination to construct his or her financial dependent as a *partner*. In Bill and Irene's case, the arrangement is temporary. Irene expects to go back to work as soon as the baby is old enough and she is impatient for that time to arrive. For a lot of women, a cohabitation rule determination might be viewed as long-term dependency if access to work was restricted by inadequate childcare or perceptions that low paid work would put them in an even more difficult financial position. Also, caring for a child *and* working might not be an attractive option if a partner could not be depended upon to share the household chores.

Irene's ideal situation is that both partners make an *equal* contribution and she cannot wait until she is working and generating an income of her own.

I'm fine with fifty:fifty when I work. Then I have money then fifty:fifty is fine and as I say to you it's really hard. Before I used to go shopping and spend, I don't know, go shopping a few times a week and sometimes I wouldn't tell him, you know, by the way there's shopping in. Otherwise it's unequal, not, not just in the sense of fairness but also in the sense of, I don't know, I'm paying my bit and you're paying your bit and we're both contributing to the household expenses and the shopping and whatever needs done

But it might not be possible for both to contribute *equally*. Where one partner earns more than the other or where one has less disposable income than the other, sharing *might* mean one partner paying out more. The cohabitation rule is based on an assumption that this imbalance is acceptable. In fact, a cohabitation rule determination can leave one partner with *no* personal income. In such cases, sharing means dependency of one partner on the other and this can lead to the provider feeling resentful and a loss of self respect for the person being provided for. This is the way Audrey spoke about it. She already felt that her partner was becoming "a little bit resentful" about the fact that he had more money than she did. This meant that *she* could not indulge in the lifestyle *he* was accustomed to as a single man

unless he paid for her and, on IS she cannot afford to treat him. This has an impact on the way she feels about herself.

He's offered to pay a bill for me once but that never came about anyway and I wouldn't really like him to pay it. I feel like my independence would be a bit, my pride would be a bit hurt if I actually had to say, I'm struggling. ..I would like to be able to take him out and, you know, buy whatever for him but I can't so that's me stuck as far as I'm concerned.

Where a couple have an imbalance of personal responsibility, then what is meant by *sharing* is not straightforward. Sharing financial responsibility means coming to some agreement about spending. Where there are children from a previous relationship it might not be easy to get agreement on levels of spending. Kate is not happy having the full responsibility for the financial management of the home and would love to share that burden. However, she is not convinced that Jim, her partner, would make decisions appropriate for her and her family.

I want someone to share the bills and especially the things that go wrong. It's very lonely managing on your own. I don't know, he makes different decisions, sort of single man decisions, if you know what I mean

Sharing the household costs was not the same as sharing the management of the household finances. So, for instance, despite wanting to pay her way, Irene did not *expect* to share the financial management of the home and this seemed to be related to the fact that Bill was the *original householder*.

Well, for whatever reason, Bill was here before and..he understands the system better and he's got things coming into his bank account (Irene)

One of the key issues when a couple start spending time together under the same roof is whose roof it is.

Original Householder Status

When a person moves into another person's house, control has already been established in favour of the original householder. The householder is used to making financial decisions based on their own priorities and bills are already in their name.

She says I've been organising the rent and paying the bills for whatever amount of years it was, so what happened was I just kept on just giving her money. I was giving her towards the rent and food bills and electricity bills, all that kind of stuff and she would just take it from there and pay it. She would organise it. Actually, she would organise it as she had done it in the past, you know (Dave)

Systems may be set up and a sense of security and integrity, especially where there are children in the household, may depend on maintaining that role, at least in the short-term until the relationship is established. The original householder may feel they have a lot of personal investment, financial, physical and emotional, in the home and in these circumstances, it is not at all surprising that they are at least cautious about handing over or sharing any financial control.

OK, the thing is I'd been paying for this house long before Jim arrived. And that's not been easy because I've never had a lot of money. And when I make decisions I have to think about the kids. It's their home as much as mine. ...I think for both of us this will always be *my* house (Kate)

It might take a long time if ever before *the incomer* would be allowed to share householder status or feel that his/her partner's house was his/her home. Jim spoke about "gradually becoming part of the household" a year after he gave up his own tenancy and moved all his possessions into Kate's flat. For several years before that they had spent almost every night together, mostly in *her* house.

Where women are maintaining the family home, relationships are likely to be played out in *her* home, even where *he* has his own address. In these cases where the woman's householder status pre-dates the current relationship and the couple spend time together under the same roof, he is living in *her* home.

As the *original householder* she is likely to continue paying the bills, buy the food and generally make all the household decisions, including spending decisions. In these cases the man might make a contribution towards household expenses but not share the financial management of the home.

Well, she runs the household and I give her the money towards running the household (Jim)

He gives me the money and I pay the bills (Zoe)

Original householder status might also transfer from one house to another, especially where it was the family home. A couple might move into a different house perhaps with the specific intention of starting afresh but the householder status would be transferred in tact along with the furniture which would be mostly hers and which she might assert ownership over.

But like the possessions in the house are mine. I've brought them myself, my money's bought them. His hasn't. So there's a big thing there too. [And he sometimes feels] that it's not his home. When we moved here we decided it was a new start and we'd build a home together but he doesn't seem to be able to put money aside or to give me extra and say that's towards whatever it is we're saving up for. And that's where our arguments are coming from. (Maureen)

A cohabitation rule determination was likely to undermine householder status because the resources needed to fulfil the householder role would be swept away. With the growth in lone parent households, this is likely to be an issue for a lot of women but its significance is neglected in policy and in the literature.

Child support

One reason that couples might be resistant to the cohabitation rule although not necessarily resistant to dependency *per se* is the expectation of financial support for the entire household, including any children, regardless of parentage. There was strong resistance to the expectation that a new partner would be expected to provide financial support for children where there was no biological connection.

We've had this conversation sometimes, my partner and I. He says but you'll not let my giro be sent here, will you? And I said, we can't, we can't because then all of a sudden you'd have to claim for all of us. He'd have to claim for my daughter as well. And why should he? People who cohabit shouldn't be penalised or shouldn't be made to claim together if they don't want to because the majority of people who cohabit, there are children but the children don't necessarily belong to the other person and so, in that respect, it's not fair (Gail)

The creation of the CSA was predicated on the assumption that non-resident parents have a financial support obligation to their children. A cohabitation rule determination involves assuming that one partner will be financially responsible for the whole family, including children from any previous relationships. This might cause resentment, especially where the non-resident parent makes no financial or other contribution to their children's support and/or well-being.

Attitudes to child support varied in the study. A wide spectrum was represented: from the woman who had actively sought child support from her former partner through the CSA to the woman who refused to authorise the pursuit of maintenance despite intense CSA pressure. Zoe describes why she decided to pursue the father of her oldest child for maintenance. She was not motivated by financial need but by the attitude of the father to his responsibilities *as* a father.

Em, well he actually had access and he just sort of dropped her and didn't turn up one day. I wasn't really bothered about money. We were actually managing on my Income Support and my Child Benefit money but after that I thought I'm going to get you for this. You don't do that to my child, sort of thing (Zoe)

The father's response to this was to deny parenthood and force a DNA test which did confirm him as the father. At the point of interview no child support had ever been paid although the child was nine years old. Clearly an illustration of the limitations of the CSA in terms of efficient maintenance collection, this case is also an example of the part the State *might* play in acrimonious relationship breakdown. While the CSA continued unsuccessfully to pursue the biological father for maintenance, the new partner had now become the State-designated economic provider for the child. Zoe's failure to disclose her relationship was not deliberate (Chapter 6) and she is positive about having been found to be LTAHAW because it has made them more of a 'family'. However, she has difficulty coming to terms with the child support arrangements.

I think having that extra child maintenance would improve [the way we organise money] a lot and also with the government taking my Income Support off me. I know that my boyfriend was quite happy to pay for my eldest daughter but he

shouldn't be doing that so maybe if the CSA can't get hold of her dad then maybe the government should be made to pay that money still, then take it off him when they get hold of him¹⁸.

In the second case, the woman was frightened of her former partner who was also the father of her oldest child. Her experience of the CSA was entirely negative.

They just bloody harassed me for ages because he was really violent and I'd asked him like before to go halfers on getting school uniform and I got loads of abuse for that. I thought, Christ, they're going to have him kill me. So I just said, look, ..you pursue him, he'll pursue me, you know what I mean. Are you going to take this on? So they accepted it and then each time I got my renewal form for Income Support, I had to go through the whole thing again and I was fuming and I was saying to them look, I've already told you this, it's not changed. He's no become like non-violent, you know. That happened for ages. I put in several letters of complaint and big spiels on the back of my Income Support form. Leave me alone. And that only stopped when I stopped claiming. It was like that for the whole time (Linda)

In the interview this woman made the distinction between the father of her oldest child and the father of her youngest child. The latter had a drug addiction and she did not expect him to pay maintenance. The former, on the other hand, had a lot of money. Not only was she scared of him but she knew he would be able to hide his wealth, all acquired dishonestly. Nevertheless she resented the fact that he was not making any significant financial contributions to his daughter's upbringing while she was struggling to make ends meet

The youngest child's father obviously doesn't have the money anyway and even if he was working on the side or whatever it'd all go on drugs but with the oldest child's father I would have liked it but he was too clever, you know, like bank accounts hidden and no way of justifying what money he had but he had lots of it and of course, I'm sitting years and years on Income Support or whatever, eh, watching him buy flash sports cars and renting these big houses and going holidays to India and stuff like that. (Linda)

Here was a situation where there were two fathers and two different set of problems preventing her from pursuing for maintenance. Her current partner who was not the father of either of her children also had mixed feelings about the issue of child support. The family might have been worse off financially without the contribution

¹⁸ This was an interesting suggestion because it describes the current Danish child support system (Chapter 9).

of the non-resident parents but, on the other hand, that meant that these parents were not part of their lives which in the circumstances was a bonus.

It makes finances difficult, on the one hand. On the other hand we're a damn sight more comfortable without having the Dads there (George).

These cases illustrate the problems involved in universally assuming or imposing personal financial support obligations. Although both women accepted that the biological fathers had a financial support obligation, one wanted to pursue for maintenance and the other did not. Their choices were made in a very specific set of circumstances. The CSA was unable to help either of these women.

In between these two cases there were a number of other cases where women had been left alone by the CSA or had little difficulty in persuading the benefits authorities that claims for child support could result in harm to themselves or their children. Believing that biological parents are financially responsible for their children was not the same as wanting to claim child support, especially where there was a perception that child support was conditional.

It would be excellent [to get child support]. But then saying that, I probably wouldn't actually. The money would be nice but thinking of the conditions and things, probably not actually, quite realistically, no, no. (Audrey)

Kate felt some resentment that the father of her children had got off lightly. Her decision to avoid the CSA was part of a strategy she had adopted to prevent conflict over how she spent her money which she recognised as harmful to her children.

In the past when I've asked him for some help financially he said something like, 'if you need more money why don't you try spending less time in the pub' or something like that. And when he does get something for the kids or goes half on something, he's like this incredibly generous guy. So most of the time I manage on my own and just get into debt (laughs) but it upsets the kids when their Dad and I argue. I've just *learned* over the years to avoid arguments. (Kate)

The father of Maureen's children was determined not to provide child support after separation and took extreme actions to ensure that happened.

When my marriage first broke up, I had the children and their dad said that rather than support us he would give up working which he did and he took a job on the side as well but he would never pay a penny. Another member of his family used to have to give me money to get them shoes because their dad refused which made me feel small...In the end I didn't want anything from him. I didn't want to be beholden for anything

On the other hand, where men *were* determined to be good parents, they might find that the system got in the way. Lindsay and Josh had made a commitment before they had a child that they would share parenting and Josh was determined to fulfil that commitment even when he and Lindsay separated. Because Josh did not have appropriate accommodation to have his daughter over night, the decision was made that he would carry on parenting in the family home. However, under child support rules he could only be considered as sharing care if he cared for the child a certain number of nights per week away from the family home. In the family home, he was potentially cohabiting.

I did keep expecting the Child Support Agency for a while. Josh wasn't living anywhere so he would come and stay with us for a few days a week and I always kind of half expecting to hear someone saying like, oh, where's he sleeping and things like that and I felt like, well, basically it's none of their business like if he was sleeping on the settee, it was all to do with letting him see his child, spend some time. He didn't have anywhere to take his child so he spent the time at my place (Lindsay)

Although he was sharing care, he was considered not to be because he was not caring for the child under a separate roof and a child support bill was issued. Lindsay, his child's mother, had not wanted to claim child support because she did not think it benefited the child but Josh had insisted because he wanted to do everything above board. Here is what he had to say about the experience.

We both looked after her. That's very important. It's all about my status as a parent because the problem with the Child Support Agency is the important factor of whose roof does he stay under. For quite a number of years I didn't have a roof and I still had my child but I'd be putting her to bed in her Mum's house. Especially when we split up being an active parent involved in every aspect of her life was particularly important to me so I didn't want to be one of those dads who has the kids on a Sunday afternoon and they go to the park. I wanted to feed her breakfast, do her laundry, cook her meals, take her on holidays, read her a bedtime story, tuck her in, get her ready for school, take her to school, for everything. (Josh)

Josh's experience, illustrates the problems involved in regulating a financial support obligation in a way that is not sensitive to individual circumstances. Josh was stuck between the cohabitation rule and the CSA and this obstructed rather than supported his relationship with his child. In other cases, where there had never been a significant relationship between parent and child, it might seem wholly inappropriate to pursue a non-resident father for maintenance.

Uncoupled Finances

Any attempt to construct a typology of the way couples managed their finances in this study would have been complicated by the fact that in many cases (not all), there was no *couple* system. This raised questions about whether couples did live in each others' 'households'.

Firstly some relationships were just too new for a couple system of organising the finances to have developed. In these early days, the non-householder might feel keenly the need to pay his or her own way and cautious about intruding in someone else's affairs. It is also possible that the new partner might never have had responsibility for household finances before and so might be happy to leave the arrangement as it was.

Yeah, well I'm the kind of person that tries not to upset the apple cart so you know, you've had this house for a certain amount of years and you've run the house as you have done for several years. How would you like us to live together? I pitched it that kind of way. Would you like to take over responsibility for the bills? To be honest I wasn't keen on that anyway because it's not a thing I'd ever done before, being responsible for the household bills or whatever and there's always the fear of the unknown that the relationship's going to go pear-shaped so I says, if you're quite happy to go along doing that, I'll just give you money and she was more happy with that (Dave).

In the very early stages of a relationship, it might be entirely inappropriate to talk about *their* financial management of the home as the partner is unlikely to see their new residence as their home yet. As the relationship progresses, this might change and couples might begin to organise as a couple. However, original householder

status might remain a very powerful influence over any financial arrangements that couples made. In addition, the very fact of being hidden might put off the development of a couple relationship in terms of mutual support or joint householder status because being hidden detached the incomer from responsibility for the home and made him/her less likely to feel that it was their *home*.

It was easy to see how this might happen where a couple maintained two separate addresses. In these circumstances, although they might in a sense 'live together', mostly in *her* house, they would probably lead separate lives financially.

Well, the situation we're in because I've got my house, he's got his house then naturally his bills will have to come first just like my bills have to come first and so we'd have to do that (Gail)

Financially they maintained their own individual sphere of financial responsibility, despite spending significant amounts of time living under the same roof. Because of the children, this usually meant living most of the time in the family home. Men in these situations had little or no financial responsibility for the family home. In addition to higher levels of disposable income, the man who had his own address might have freedom to come and go regardless of whether or not he shared parental responsibility for his partner's children.

Because he did have his own tenancy or whatever, it felt that was a big sort of gap between us. But there didn't seem to be any other way to do it...He had his own house so if things got tough or he was pissed off or whatever, he'd disappear for a couple of weeks or whatever. And I think part of that, you know, he was saying, oh, it doesn't feel like my house (Linda whose partner was the father of one of her two children)

I feel that I'm providing probably more of a home environment than he does and I think he relies upon that, for me to make meals and things, you know? He eats the majority of time at mine. He comes in after work sometimes - and he doesn't always come in after work - and you know, is there anything for dinner or can I have something out of the fridge or something

(Audrey whose partner is not the father of her children)

He thinks he can have his single life and do whatever and come back and do all the family stuff

(Stephanie, whose partner *is* the father of her children)

It annoyed me that he didn't see that I was supporting him as much as he was supporting me because we spent most of the time at my house rather than his...So really, in a way, *I* was subsidising his single lifestyle
(Kate whose partner was not the father of her children)

Despite the imbalance of income favouring her partner and the fact that their relationship is mostly played out in her house, Audrey sensed some resentment from her partner because so much of her income went on her children and she was unable to keep up with his single life outside the home unless he paid for her.

I kind of feel in his conversation, he's a little resentful of the situation I am in. At the beginning he was very generous and now he's thinking, I paid for you last week so you can pay for me this week. So I think it has changed. I think he's kind of begrudging that I haven't got as much as him. I've said to him if you want to go out and find somebody who's single, who hasn't got children, you know, who doesn't rely on benefits and then you won't have the arguments and stuff (Audrey)

In the following extract, Jim explains that he also felt some resentment although once again, this relationship was mainly played out in *her* house, not *his*.

I always felt that I was paying the bills for my house, Kate was paying the bills for her house. I didn't think there was a great degree of cross-subsidy or anything. We used to have big arguments so I must have thought at one stage there was.
What sort of arguments?
Arguments about money basically. My feeling that I was bearing a larger burden than I should have been.

Where there was only one address but one was hidden, money might be paid towards the household expenses. This was similar to a 'female whole wage system' (Pahl,1989) without the wage, where the woman had control over the household finances and the man handed over a certain amount, the rest being his own personal spending money. But where a partner was hidden, it still wasn't necessarily a *couple system*. This latter scenario seems to be the one adopted by Maureen and Frank

My partner gives me a certain amount every week. We see it as the house is in my name, everything else is in my name so I'm responsible for it all. Even in my eyes, I'm responsible (Maureen)

When I asked Frank why they organised the finances in the way they did he replied in terms of everything being in Maureen's name which was necessary because he was a hidden partner.

Well, it's mainly because everything's in her name. I can't really go down and pay, go down and meet some person because it's obvious they'd go, who are you or whatever. If it was something about the house I couldn't go down. Jasmine would have to go (Frank)

Frank's detachment from responsibility for the home, positions him more as a lodger than as a partner and has led to arguments about his contribution and commitment to building a home with Maureen. Frank is concerned that he is getting value for money and so thinks he should pay less when he spends periods away for any reason although he has clearly tried to understand Maureen's point of view.

Like if I was away for a couple of weeks, I'd probably think, oh well, I wouldn't have to pay as much because I'm not here but then again, there's bills and all to be paid as well, you know what I mean? Maybe I'd say well, I'm not here so obviously I'm not eating food or whatever but obviously the electricity and all has to be paid at some time. Sometimes if I'm at a low ebb, probably think I shouldn't be paying as much as I would if was living here. I'm having to eat elsewhere anyway.

On the other hand, Maureen is disappointed when Frank spends a sudden windfall on himself. As far as Frank is concerned any money he has over and above the amount of rent he pays, is his to do with what he wants. In arguments Maureen finds herself asserting the fact it is *her* home, even though what she really wants to do is for him to see it as *their* home.

Like when he got that money, he didn't say to me, well, there is a couple of hundred pounds for flooring or whatever whereas that would have been the sensible thing to do because we were supposed to be building a home together. So any time I'm saving up because we need such and such, he doesn't say well, there's some money towards it. I always feel that I'm the one saving up for a long time to go out and buy. That's still how it is. So I think that's where it comes in that he thinks, he believes it's my house and only when we're arguing then I say, well, it *is* my house. You've not put any money towards blah, blah or whatever. I know I shouldn't but there are times I do because sometimes I really resent the fact that he hasn't offered and then I feel too awkward to come out and say well, look, I think you should give me so much

The very fact of being hidden seems to have delayed development of a couple relationship in terms of mutual support or joint householder status because it has detached Frank from responsibility for the home and made him less likely to feel that it is his *home*.

However unsatisfactory these *uncoupled* money systems might be they were seen as preferable to being treated as a couple by the state where that meant financial dependence for women who had childcare responsibilities *and/or* were in relationships with men who had no parental role in relation to their children *or* were unreliable for whatever reason.

Elizabeth (2001) has already shown that ‘independent money management (IMM)’ does not necessarily lead to an equal relationship but that it can actually work against equality. However, the situation is complex and there may be a trade off where women who have established a household for themselves and their children make do with less disposable income than their partners in order to be able to maintain control over the management of the family home. IMM still provides a degree of financial autonomy which would be lost if a couple were found to be cohabiting and the non-working partner, usually the woman, lost her right to claim benefit.

Relationship Changes

Although clearly not the only issue when couples split up, money might be a significant factor and where money was tight it might exacerbate other weaknesses in the relationship. Money or a lack of it could put a strain on a relationship even where couples agreed about financial priorities or shared common values like a belief in equality.

When we first split up there was certainly a financial component... It wasn't to do with what we did with the money, who spent more, it was just the struggle of not having enough money (Josh)

Finance might be implicated in a break up even when the reason for moving in together in the first place had been at least partially motivated by a desire to save money.

There were relationship issues that were beyond the finances. But I think finances, ironically, I think finances played a massive part in us splitting up, well, getting together and splitting up (laughs) if that makes sense (Carolyn)

Issues such as trust, dependability, values which people in this study associated with relationship stability had to be ironed out before the shared house became a shared home. A relationship changes when you live together and both individual's priorities have to be accommodated. Interest might clash, for instance where one partner has no responsibilities and the other has children. The new partner will not necessarily accept financial responsibility for the children and there may be disagreements about behaviour and spending.

For Sharon, it was being *forced* into a financial relationship which put the most strain on a relationship.

Naturally you want to support someone you know. If they had no money and you had tons of money then it would be like, you wouldn't have to think about it. But then if you're in a situation, it's like being forced, you will take care of this person and depending on what kind of state your relationship is in then you will feel, no, I earned this money, why should I give it to them? And the resentment and oh God, it must be terrible to be on either side of that. I think that must, you know, kind of change the relationship.

Sharon felt it was human to respond to another in need. Rules damaged people's relationships by taking away what in some sense it was to *be* human.

It's like, do we not have an obligation to each other, you know. If you're sitting here and you said, by the way, I don't have my bus fare home, would I not give you fifty pence or whatever to get home. We're not in a couple. Naturally we would support each other and if you're in a relationship, I don't think it's like this is the rules if you're living together then you must be financially support each other. Once you make it into a rule, you're kind of taking away the importance of it being part of the human race if you like. It's like it's another person. You care about this person so you support them. If they need a meal then you give them a meal and you don't think, well the rule says that I have to, you know? (Sharon).

This statement and Sharon's attitude to her relationship were by no means representative within this study but her argument is interesting: that by ruling on relationships the state actually changes them.

Participants' stories suggested to me that living together was not a single event but a gradual process of mutual accommodation, communication and negotiation. The financial management of the home could be the focus of a number of disagreements. Although two people might be a couple in terms of intimacy, it might take time for them to become a couple financially speaking and they might never want to be financially 'joined at the hip'. But as Sharon told me "relationships don't stay in some stagnant place". A relationship might evolve to the point where money becomes less of an issue.

When we first got together we weren't really contributing together. We just sort of, like everybody else, this was mine and that was his and if he took mine we really did have stupid squabbles and that over it but as he says, what's the point of us arguing over money when at the end of the day it's getting spent on him, me or our daughter (Wilma).

An LTAHAW ruling could make it more difficult, not easier for a couple to reach this point because of the changes to the balance of power might have on living together negotiations. On the other hand, as Maureen and Frank's case illustrates, efforts to avoid an LTAHAW ruling might result in a couple's finances remaining separate for much longer if not permanently. In each case the cohabitation rule has an impact on the development of the couple relationship.

Financial Autonomy

Strictly speaking a life on benefits does not constitute financial autonomy but it has been found that many women find it preferable to dependency on men (Walby, 1994) because it provides a measure of self-determination which women value and which a decision to treat them as a couple puts at risk. Despite the inadequacy of benefit levels, the benefit book might have acquired iconic status in poor women's fight to maintain their independence.

My partner's Mum actually said this to me as well, now don't get rid of your book. Whatever you do, don't get rid of your book (laughs) (Gail)

In modern times, the householder is increasingly the woman who has been managing on her own for some time, surviving on benefits and enjoying the relative security and control that regular benefit income provides. When a cohabitation rule determination is made, she remains *the householder* but with neither financial security nor control, she may find herself without the resources that she needs to fulfil her householder role. By deciding to cohabit with a man, a woman with children who is claiming IS gives up a lot.

It is not just women who feel the effects of a cohabitation rule. Men may not want to provide or feel they ought to provide for a new partner and her entire family. Alternatively, in those cases where a cohabitation rule makes men dependent on their female partners, they may feel the loss of their financial autonomy as keenly. Men in this study also valued having an amount of money that they could call their own, that they did not have to account for to anybody else. But women often had the added responsibility of children and so financial autonomy was very much about providing *security* for the whole family. Throughout the study, women kept telling me how important it was to them to know that they had a "reliable source of income" (Audrey)

If I did put down as a couple, I wouldn't trust him, I just wouldn't trust him because at least if I've got my money and the bills are getting paid, the bairns are getting clothes and stuff like that. I wouldn't be able to rely on him (Stephanie)

Lindsay and Josh maintain separate bank accounts for that purpose, dividing responsibility for household bills between them and thus maintaining some personal control over spending.

It's important that you have your own money so that you have some control in the household. And we had different accounts because that way you can keep a wee bit his money and hers. So many times, money is the power and it can, yes, usually men get more money so they can get a little bit more powerful (Lindsay).

However, the need for control might be seen very differently by their partners. Two of the men I spoke to described their partners as 'control freaks'. In both cases the women had original householder status which they were eager to protect. Both men were *incomers* who might be eager to establish a sense of home in their partner's house. Conflicting discourses emerged around control over personal space that were not easily resolved. Although these can be constructed in terms of a power struggle, I would argue that they are more usefully thought of in terms of protecting personal integrity. Neither party are unreasonable in their demands although understandings of fair sharing might be influenced by dominant discourses around gender. The cohabitation rule indirectly sacrifices women's financial autonomy, leaving men's virtually intact and might reinforce these discourses.

Couple claims meant that one partner, usually the woman had her choices taken away from her.

Because then people have a choice, you know. It's like individually they're entitled to subsistence. And that's what they have so then they have a choice of what to do with it individually. You don't have a choice if it's a claim that's by a couple and one person has to make that claim then the other person doesn't have a choice, so there's no control over it (Sharon)

This might be felt all the more keenly if you were reliant on benefits because already that meant limited control over life choices.

There's no individual choice in the system. The majority of women like me, and I've always been the same in the past, you know well, let's face it, once you have a kid that's it. They say to you, you're life's not your own and apart from that you're stuck in the house, you're on limited money, you can't go anywhere. Yeah, individual choices are just not taken into consideration [when you're on benefit] and surely that's what life's about, you know, career changes, deciding to have children. No room for individualism but as soon as anything goes wrong it's your personal fault (Gail).

On the other hand if the householder becomes the breadwinner because of a cohabitation rule determination, then they may have to make the limited resources they already have, go a lot further. If the incomer is hidden or holds on to his/her

own address, the process of negotiating shared personal space becomes all the more difficult. The potential for resentment grows on both sides. The householder might feel the incomer isn't making enough of a contribution. The incomer feels that he is paying enough, since it's not really his home. The withdrawal of financial support threatens the personal integrity of women and it does not automatically create more responsible behaviour, not least because the incomer might not recognise any responsibility. It's not his home, the kids are not his and so on and so forth. In these circumstances the cohabitation rule becomes at best an inappropriate and at worst a dangerous intervention into personal relationships.

Audrey was one woman who longed to be freed from a life on benefits and saw that freedom in terms of a rich husband who could give her and her children a better life. She did not feel that she could rely on her existing partner who was not sufficiently careful with his own money to be trusted with her families' support. Despite her enjoyment of the social life he gives her and her dreams of a richer and more responsible partner, there is still resistance to him paying for her.

I don't think he realises what it's actually like to scrimp and save. I think he sometimes likes to be, yeah, I'm the man and I'm paying and I say, I should pay really (Audrey)

Like other women in this study, Maureen would like to work to support herself but her poor health makes it impossible. Her resistance to financial dependence is based on her experience of an abusive and disempowering marriage and an unreliable ex-husband who made her feel bad about the fact that, as a full-time mother, she made no financial input. Her insistence on personal autonomy in financial matters was based on her own sense of self respect *and* her responsibility as a parent.

[I claimed as a single parent] because I would never be financially dependent on somebody else because when I was married I was financially dependent on my ex-husband who spent his money on other women, didn't pay the car payments, didn't pay the mortgage which meant that we had to give up our house plus I had no money ever in my pocket from one month to the next and he was always throwing up to me that I wasn't contributing anything. And when you've got children you need to have money and you shouldn't have to sit and account for every single penny you've spent to your partner, I don't think either, which is what I had to do. So no I would never want to be financially dependent on anybody ever again. It's true. Children suffer. (Maureen)

Gail would also like to work but lack of suitable after-school care in her area means that she is finding it difficult to find something that pays enough to come off benefits.

If an individual's not working for whatever reason then that person should be allowed for the sake of that person's own pride and self-esteem, they should be allowed to claim benefit, of course (Gail)

The following extract from Sharon's interview is about the difficulty she had in claiming a local authority concession where proof of benefit entitlement is required. In re-telling the event, this woman relives her frustration and anger at being forced into a dependent situation.

He was the claimant for Jobseekers Allowance, he was entitled to a concession, I was not. And that was completely farcical because both of us wanted to go swimming. He had a concession but *you* pay full price and I was like but I'm financially dependant on him and he has a concession but I have to pay the full price and have to get him to pay for me. It was complete bollocks. Well they were like, that's just the rules, that's just the way it is. And I refused. I said, I don't have an income. He claims for me so I'm financially dependent *on* him and he could go swimming for a pound but I had to pay full price... and eventually I hassled the Job Centre..and they wrote me a letter, an official headed letter to say that I was in receipt, and I wasn't in receipt really. I was only in receipt *through* him. I had to represent this letter every single time I went for a swim so I could get a concession. But imagine all the people that don't go to that length, that don't go the lengths of that who are financially dependent on somebody whose on benefit but they have to pay the full price. It's like, what? That does not make sense. It doesn't make sense at all. There's absolutely no logic in it because then we were worse off. He was worse off at the end of the day because he had to pay the full price for me. We didn't have that kind of relationship where I would have to go and trip over and say (she speaks in a high pitched child's voice) 'oh I need 45 pence for a packet of crisps, can you give me 45 pence'. We just don't, you know, we just don't.¹⁹

The tone of voice Sharon uses suggests that she has been reduced to the status of a child. For Sharon, it was human, to respond to someone who was in need. One of the most important things in a relationship for her was mutual respect which was difficult to achieve and not easily maintained throughout the life of a relationship. It was mutual respect that was threatened when you were forced into financial dependence on your partner.

¹⁹ I thought this might be a local glitch. I decided to check out the situation with other local authorities' leisure access schemes and found that the policy was replicated in other areas throughout Scotland. The results of this additional piece of research are contained in Appendix 2

When you're emotionally and physically involved with somebody and that's gone through various stages, I think the important thing is to keep a mutual respect and if you can hang on to that without anything else getting in the way then ten points each, you know, ten out of ten if you can do that and that's been a struggle, that's been really difficult, you know, especially being forced into cohabitation, not forced into cohabitation but not given the choice about whether to be financially independent from him. It puts a terrible, terrible strain on the relationship after being independent financially for a long time. For that to be taken away, that wasn't good. It was a few months after that, he left, you know.

This case illustrates the impact that an LTAHAW determination can have on a relationship and the personal identity of the partner forced into financial dependence.

Conclusion

Promoting responsible couple behaviour is an historic justification for the rule. However, this assumes that what counts as responsible behaviour is unproblematic. It does not recognise: the different ways in which people relate to each other; the complexities of modern relationships where couples are renegotiating existing household arrangements, often involving children from a previous relationship or how difficult it is to negotiate and sustain relationships when you live together in *any* circumstances but especially on a low income. The evidence presented in this chapter, suggests that the cohabitation rule *discourages* responsible living together, whether or not it is applied.

Not all women are against dependence per se. Some, like Audrey, would welcome a partner who could provide for them and their families. They reject dependency in *this* relationship because they cannot depend on partners *or* because the relationship is at a stage where financial dependence is inappropriate *or* because of their responsibility for children from a previous relationship. Where claimants valued their independence it did not mean they were selfish opportunists. In these stories, the children came first. Participants also showed sensitivity to their partner's different point of view and circumstances.

This chapter highlights the difficulties involved in moving in with someone who has already established householder status for her own sake and for the sake of her children. It can take time to arrive at a point where a couple are able to share control and share responsibility. From this point of view, living together or cohabitation is not a single event but a process.

What counts as fair sharing will always be relative to a particular set of relationship negotiations in a particular set of circumstances and it may take time for couples to reach agreement on it if indeed they ever do. Although it might be possible for couples to establish an equal relationship on the basis of one providing care and one providing financial support which is the way Bill sees his relationship, for everyone I spoke to some level of financial autonomy was crucial. Seemingly competing discourses of sharing and independence make sense but only as part of the continuing negotiation and renegotiation of relationships. The answer might be not to abandon either but to support couples in achieving both.

The cohabitation rule bypasses the fact that women especially might have and surely *should* have different relationship expectations than in the past. There is evidence in this study to support the view that some women are uncomfortable with financial dependence on men because it affects their sense of self.

The section on child support illustrates tensions between child support policy and the cohabitation rule. It also provides further evidence of the problems involved in regulating personal obligation based on a single model of how people *do* or *should* behave without taking into consideration individual circumstances. Participants' challenging personal circumstances combined with complex relationship stories and identities make building and sustaining equal and respectful relationships hard enough. The government have emphasised the importance of stable families to children and society. The evidence from this study suggests that the cohabitation rule may prevent rather than promote the development of stable family life.

9 NO LONGER SINGLE IN DENMARK

In this chapter I discuss research carried out in Denmark and its implications for this study.

Denmark differs from the UK in its treatment of cohabiting couples on social assistance. However, lone parents still stand to lose significant benefits should they choose to take a partner. I refer to this policy as the *reelt enlig* (really single) rule. The operation of the cohabitation rule in the UK and the *reelt enlig* rule in Denmark both act as disincentives to the declaration of couple status. This small study revealed that lone parents in Denmark who hide their relationships face similar issues to those who do so in the UK. Two key issues are identified: the gendered effects of means testing and the value of lone parent status. These are problems which need to be addressed in both countries.

An Individual Rights Model of Citizenship

Esping-Anderson's (1990) focus on *decommodification* which occurs "when a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market" (p. 22) in his typology of 'welfare regimes', has been criticised for underplaying ways in which women's social rights are undermined by family-based entitlement (e.g. Langen and Ostner, 1991). *Defamiliarisation*, "the extent to which individual adults can uphold a socially acceptable standard of living, independently of family relationships, either through paid work or through social security provision" (Lister, 1997, p. 173) adds crucial gender awareness into citizenship debates. Esping Anderson (1990) categorised Scandinavian countries as being strong in terms of *decommodification*. But they also score better in terms of defamiliarisation (Kofman and Sales, 1996).

Individualised rights in Denmark have been associated historically with the acceptance of public rather than private responsibility for citizens' welfare (Koch-Nielsen, 1996, p. 9) and the rejection of a *male breadwinner* model of welfare

provision (Lewis, 1992) in which women’s rights to benefits are mediated by their husbands. It is widely accepted that an individualised approach to social citizenship and the absence of institutionalised dependency of women on a male breadwinner in Denmark reflects a greater commitment to gender equality (Sainsbury, 1996).

In Denmark, the idea of the *dual breadwinner* model has long been considered to be dominant, culturally as well as in policy (Siim, 1993, p. 145). The mothers of over three quarters of children in Denmark are in employment and it has been said that “only three per cent of the mothers have an official status as housewives” (Heide Ottosen, 2001 and 2001a). Figure 7 shows that, although they still lag behind men, Danish women are far more likely to be in full-time employment than women in the UK.

Figure 7 Percentage of women and men in full-time and part-time work in Denmark and the UK in 2000.

	Full-time Employment		Part-time Employment	
	Women	Men	Women	Men
Denmark	62.2%	76.9%	34.1%	10.2%
UK	49.7%	74.4%	44.6%	9.1%

Adapted from European Commission figures reprinted in Hantrais, 2004, p. 89

Heide Ottosen (2001) claims that “a traditional family pattern with a gender division based on (female) housewife and (male) breadwinner practically does not exist in Denmark any more” (p.3).

In the UK, the male breadwinner model lives on through the continued use of the household as the unit for means-tested benefit entitlement, despite changes purporting to make our social security system more equal (Daly, 1999). In Denmark, it has been claimed that “the principle of individuality can be regarded as the main rule in social security” (Koch-Nielsen, 1996, p. 12). Claims for benefit are made *by* and payment is made *to* the individual. However, a distinction is made between married and unmarried couples in this respect. Despite greater individualisation of

rights, there is still a strong presumption of spousal and child support in the calculation of social assistance.

Every man and woman is obliged towards the public to support oneself, one's spouse and one's children below the age of 18

(Social Assistance Act, quoted in Koch-Nielsen, 1996, p. 14)

Spouses benefit is assessed on joint incomes but payment is individualised. Since the introduction of partnership agreements, same-sex couples with an agreement are also expected to provide support to each other. But Denmark appears to be unique in its treatment of *cohabiting couples* without an agreement, in that the unit of assessment remains the individual both in terms of payment *and* resource calculation. Nevertheless, lone parents lose lone parent status once they cohabit and *some* benefits are affected.

The Differential Treatment of Cohabitation and Marriage

As in the UK, Denmark has seen significant increases in the numbers of people who choose to cohabit rather than marry. It has been accepted that there can be no comprehensive definition of what is meant by cohabitation and that, as in the UK it is often either a short-lived relationship or a prelude to marriage.

Cohabitation is a heterogeneous, quite fluent social phenomenon and therefore not easy to grasp: for many cohabitants the living arrangement tends to be a transitional phase leading either to marriage or dissolution (Heide Ottosen, 2001).

Although marriage is not a favoured family form in Danish policy, the marriage contract does confer certain rights and obligations which cohabitation does not. So, for example, the responsibility of spouses but not cohabitants to provide financial support to each other is explicit in the law governing social assistance (Koch-Nielsen, 1996, p. 14). In Danish private law, cohabiting couples can have agreements drawn up which provide them with many of the rights and responsibilities enjoyed by married couples. The right of registered partnerships for

same-sex couples has existed since 1989 (Koch-Nielsen, 1996, pp 14-15) although partnerships do not provide full marriage rights (Wehner and Abrahamson, 2003)²⁰.

Despite rhetoric that suggests the importance of a pragmatic non-judgmental approach to families, the defence of marriage has been a significant characteristic of UK family policy. UK policymakers have claimed public support for privileging marriage (Home Office, 1998, sect. 4.12 and Scottish Executive, 2000). Eardley et al (1996) suggest the absence of a cohabitation rule in Denmark is a reflection of quite different societal norms.

Societal attitudes towards cohabitation and marriage [in Denmark] seem to be such that the potential behavioural effects of treating cohabitants as individuals do not present major policy problems (Eardley et al, 1996)

The more liberal attitude to cohabitation and marriage persists in the face of Scandinavian research conclusions comparable with those found in the UK which suggest that marriage is more stable than cohabitation and that the absence of marriage may be weakening relationships between fathers and their children.

..short-lived unions and the liberalization of the legal ties, tend to make the father-child relationship of previous consensual unions more fragile, compared to marital unions

(Heide Ottosen, 2001, p. 78)

Most European countries give automatic parental rights only to married fathers, the “*pater-est* principle” (Wehner and Abrahamson, 2003), so the legal relationship between fathers and children is weakened if couples choose not to get married. The legal rights of unmarried fathers has been the focus of recent policy initiatives in Denmark. In the 2001 Children Act, the “principle that every child ought, as far as possible, to have both a mother and a father” was affirmed (*ibid*). Part of the original recommendations were that the *pater-est* principle should be abandoned to strengthen the rights of fatherhood to those not married to the mother of their children (*ibid*, p. 9). Although this change was never included in legislation, the Act

²⁰ Legal restrictions on adoption mean that same sex-couples are still not treated the same as heterosexual couples (Wehner and Abrahamson, 2003).

did include additional state powers to put pressure on women to name the father of their child (*ibid*).

Research shows that women in Denmark choose marriage on the basis of equal partnership values (Heide-Ottesen, 2001). However, the same research suggests that after marriage and especially after the arrival of children, more traditional roles begin to emerge.

..these results indicate that equality – in terms of a symmetric way of organising gender roles in the family – works as a marriage trap. The study suggests that it is possible to formulate a thesis about a paradoxical dynamic of modern relationships: Practised equality in the relationship tends to push the couple towards marriage, whereas marriage tends to traditionalise their gender roles (*ibid*, p. 11)

The legal contract of marriage gives legal rights to fathers and thus establishes the *two parent family* in law but seems to result in a further gendering of practical *parenting*. Thus, it is not clear that doing away with the *pater est* principle would fully restore the *two parent family* in a way that is compatible with modern notions of gender equality.

Work and Care

It is commonly believed that because a dual breadwinner model of welfare reduces women's economic dependence on men, welfare policy in Scandinavia is more "woman-friendly" (Polakow et al, 2001, p. 3). This is based on women's greater economic activity. Women in Denmark have the highest levels of economic activity in Europe (Hantrais, 2004), supported by increasingly substantial levels of good quality day-care and after-school provision. Between 1980 and 1999, the percentage of children aged 6 and under who attended a childcare institution during the day increased from 44% of children to 75% and waiting lists have been reduced considerably although there is still not universal availability (Wehner and Abrahamson, 2003).

However, despite evidence that the *dual breadwinner* model is an institution in Denmark, there has not been a commensurate shift in the distribution of *unpaid*

work. Women are still doing most of the care work (Kiernan, 1992). Furthermore, their dual role as worker/carer means that they are generally speaking working less hours for less pay. It has already been observed that in the UK apparently gender neutral policies actually work to conceal and marginalise interest in continuing structural inequalities. In Denmark, the institutionalisation of a 'dual breadwinner model' may perform a similar function, as the problem of reconciling work and care persists despite a commitment to near universal childcare provision. Also because of their disproportionate caring and household responsibilities, mothers are at a disadvantage in the market place (Siim, 1997). This has led recent commentators to insist that In Denmark, children still come with a significantly greater cost to women than they do to men.

Though the generally high coverage of childcare institutions has made it possible for both parents – of course especially women – to be on the labour market, the 'costs' of having children are still gender biased (Wehner and Abrahamson, 2003, p. 36)

This creates a particular problem for lone parents who have to play the dual and often conflicting roles of worker *and* carer.

Lone Parents in Denmark

Denmark and the UK have for some time shared the distinction of having the highest rates of lone parents in Europe (Millar, 1996, p. 98). In 2001 it was estimated that approximately 20% of all households were lone-parent households in Denmark and as in Britain, most are lone mothers with only just over 10% of all lone parent households being lone-father households (Polakow et al, 2001, p. 12). However, in Denmark the concept of self-support is very strong (Siim, 1997, p. 145) and there is a much higher prevalence of lone parents who work full-time. As "*eneforsorgere* or single breadwinners" (Siim, 1997, p. 140) they are not stigmatised as they are in the UK. On the contrary, Siim (1997) suggests that "there has been a positive even heroic, image attached to lone motherhood and the women who struggle to combine wage work and caring for children" (p. 146).

Relatively high levels of employment and generous and often universal benefit entitlement, has led commentators to say that in Denmark, lone parent families are no poorer than other families (Chambaz, 2001). However, not all commentators agree. Wehner and Abrahamson (2003) insist that “in general, the lone parents are worse off than two adult families”. Polakow *et al* draw attention to literature which describes the high levels of reliance on social assistance by lone parents in Denmark

One third of lone mothers receive social assistance for some period of every year. Despite a progressive system in Denmark with a strong safety net in terms of public day care, universal health care and higher education, there are certain recurrent problems that *appear* to strike particularly vulnerable groups of lone mothers and young children (Polakov et al, 2001, p. 13).

Although there has been a considerable increase in socialised day care in Denmark, the amount of hours that children spend in kindergarten has fallen. It has been suggested that this is because of an increase in “flexible working time” (Wehner and Abrahamson, 2003). However, such family-friendly working conditions are much less useful to lone parents and so, according to the National Institute of Social Research, where children are spending very long periods in socialised day care, they are probably the children of lone mothers (*ibid*). Polakov et al (2001) paint a much bleaker picture of lone parenthood in Denmark than some of the more comparative research suggests.

Mothers who lack a ‘dual’ breadwinner partner also lack back-up support when their children are sick, their time and material resources are scarce, and crisis situations ...impact on their capacity to maintain a viable attachment to the labour force (p. 4)

Support for Children

In 2001, Denmark was claimed to have the “most generous” levels of social assistance (Kazepov and Sabatinelli, 2001, p) even within the Scandinavian cluster. Although the assumption of a parental obligation to support children is very strong, an equally strong children’s rights policy approach ensures that where parents cannot or will not provide, support for children is guaranteed.

As well as greater individualisation of benefit entitlement, universal benefits play a much greater part in the Danish welfare state than they do in the UK. Welfare states that put a greater emphasis on universal benefits rather than residual entitlement are seen as being in the best interests of women because means-testing tends to be worked out on the basis of the household or family “assuming women’s dependence” (Kofman and Sales, 1997). In the UK child benefit is considered to be universal, but reduces means-tested benefits²¹ so is of no value to parents who are claiming these benefits. In Denmark, child benefit is not treated as income in the assessment of social assistance (Koch-Neilsen, 1996, Wehner and Abrahamson, 2003). It belongs to the child.

Where parents are separated and the resident parent is having difficulty obtaining maintenance, the local authority (Kommune) will pursue the non-resident parent for what is known as “the normal contribution”, a tax free amount, “the same amount as child benefit”(Koch-Nielsen, 1996, p. 22). Until recently in the UK, child support reduced IS, pound for pound although there is now a small maintenance disregard. In contrast in Denmark, child support has no impact on parents’ means-tested benefit entitlement. In the UK, maintenance is only received if the non-resident parent pays up. In Denmark, the minimum amount is guaranteed by the Kommune to anyone who applies.

Following her comparison of child maintenance systems in Europe, Ann Corden (2001) observes that child maintenance systems in the Nordic countries generally are characterised by an emphasis on child rights and this involves “a major commitment to guaranteeing maintenance to children” and making sure that payments specifically *for* children are not clawed back by the state. Corden compares this with the UK where the main focus is on citizen *obligations*. The difference may have significant implications for both public acceptance and effectiveness of child support systems. Corden suggests that an emphasis on parental responsibility rather than children’s rights could be implicated in the failure of the UK system to gain public support.

²¹ Except Tax Credits which because they are aimed at encouraging work, are more generous.

In addition to child benefits paid to all families and guaranteed maintenance from non-resident parents, lone parents receive additional child allowance (Wehner and Abrahamson, 2003). As lone parents, they may also receive additional help with day care (Ketscher, 2000). But these lone parent benefits are only payable for as long as lone parents are considered to be *really single*.

The Household

What might distinguish one welfare regime from another is the extent to which the household “[reinforces] women’s dependency” (Sainsbury, 1996, p. 44). The *household* in some form or another is relevant to the calculation of entitlement to means-tested social assistance in *all* European welfare states *including* Denmark (Koch-Nielsen, 1996). What matters is how the ‘household’ is understood and its overall significance to entitlement. In Denmark, the income of any other adult living under the same roof affects help with housing costs²² but, in the absence of a marriage or partnership agreement, there is *no* presumption of an obligation to support (Ketscher, 2000). A cohabitant will be treated in the same way as any other adults in the household in this respect. However, lone parent or *reelt enlig* (really single) status *is* lost on cohabitation and this means the loss of lone parent benefit and help with childcare costs.

‘Reelt Enlig’

In Denmark the marriage contract institutes a financial support obligation between spouses which is missing in relation to cohabiting couples who have “no reciprocal duty of support” (Ketscher, 1996). This is also true in the UK in *private* law. What has seemed to distinguish Denmark from the UK and other welfare states is the absence of an expectation of mutual financial support in relation to unmarried couples in relation to means-tested benefit claims (public law).

²² This resembles the non-dependent deduction in the UK.

“One parent families” in Denmark qualify for special benefits (Koch-Nielsen, 1996, p. 14). These include child benefits which are *not* mean-tested and a reduction in child care costs which *is* means-tested (*ibid*). Help with housing costs is available to anyone on a low income and so is not specifically tied to lone parenthood but because entitlement is affected by the income of all adults in the household, lone parents risk losing that help if they take a partner (Storm and Jacobsen, 2001). This is justified on the basis that if somebody is living in the house, it is reasonable to expect them to contribute. Housing/Council Tax Benefits in the UK are initially worked out on the basis of the income of the claimant and his/her heterosexual partner if s/he has one. The needs of the claimant, the claimant’s partner and any dependent children are aggregated. Where appropriate the amount of housing benefit may then be reduced by a ‘non-dependant deduction’ fixed at six rates depending on the income of the non-dependents.

In Denmark where help with rent is concerned, the concept of ‘household’ is widened to include same-sex or opposite-sex partners as well as brothers and sisters, mothers and fathers, non-dependent children, other relatives and friends. In other words the kommune (local authority) looks at the income of *all* adults over 18 in the property.

However, lone parents in Denmark who are found to be no longer really single *also* lose entitlement to special benefits which they only receive if they are *really single*. These are entitlement to special non-means-tested child benefits and mean-tested child-care. A UK cohabitation rule determination and the loss of lone parent status, can often leave the parent with care without any income of her own except Child Benefit. In Denmark lone parents who are found to be no longer really single are still able to claim social assistance in addition to other universal child benefits and maintenance.

Generous benefits in Denmark compared to the UK, mean that that the amount lost by a claimant declaring that s/he is no longer single could be significant. At the kommune I visited, references were made to women losing 83,016 krona per year

(“that’s someone with four children”) which on the basis of 11.6 krona to the pound, worked out at £7156.55 (UK). As a kommune worker told me, with the high rates of tax in Denmark, a woman “would need a lot of wages to make that up”. The universality of lone parent benefits in Denmark mean that even those in relatively well-paid work stand to lose significant sums of money if they start to cohabit. Figure 8 tabulates the comparison between Denmark and the UK.

Figure 8

UK	Denmark
Cohabiting couples on social assistance treated as if they are married – must claim as couple	Cohabiting couples on social assistance not treated as married – claim as individuals
Lone parents and work: encouragement but no expectation; lack of child care	Lone parents and work: expectation; availability of child care
Child Benefit/Maintenance: considered as household income for social assistance	Child Benefit/Maintenance: belongs to the child, ignored as household income for social assistance
Cohabitation rule only affects means-tested benefits and bereavement benefits	<i>Reelt enlig</i> rule affects all lone parents who take a partner
Cohabitation rule encourages claimants to hide couple status: enforcement issue	<i>Reelt enlig</i> rule encourages claimants to hide couple status: enforcement issue

Ketscher (2002) attacks the existence of special benefits which encourage people to cheat the system and which have resulted in Kommunes using what she regards as questionable methods to catch people who are no longer single. She is also critical of the intrusive nature of measures to determine whether or not claimants are ‘really single’ and believes that the disincentive to live with the father of the child that the extra benefits provide “seems out of date with modern family relationships”.

Ketscher describes the process in which the Kommunen act upon their suspicions. They report the matter to the police, stop the extra benefit and demand payment. At this point, citizens can appeal to a “social committee” who evaluate the evidence and often the “social committee expresses that the evidence is not satisfactory”.

It rests upon the Kommune to start payments again, to cancel the demand for repayment even if they still think that benefit abuse is taking place. The police investigation continues and there may be an indictment. Until this is settled the authorities must continue to pay the benefit.

She argues that kommunen are acting like the police but on not enough evidence, that they use “methods of dubious judicial character”. Furthermore, because of the disincentive to live with the father of your child that the extra benefits provide, the rule conflicts with the recognition by policy makers of the importance of both parents being with the child.

She concludes that the increase in social benefits for single parents is anomalous, creates a lot of problems, involves “the undignified lifting off benefits” and provides “too great an incentive to cheat”. Social benefits, she argues, should be based on “simple unambiguous legal facts like the custody of the child”.

An Exploratory Visit

I discovered that a report had recently been published summarising the results of a recent campaign to get people to admit that they were no longer single and arrangements were made for me to visit the kommune concerned.

I asked if many people challenged decisions. The answer was that the initial hearing system (like tribunals but local politicians sat on them) was “very well used”. Cases where there is a matter of principle involved can be heard in a “higher ministry”. Not many cases went to court for prosecution. One official told me that rather than force people, they preferred to try and talk to them to get them to change their decisions voluntarily. Although this sounded impressive, I was reminded of the fraud investigators I spoke to in the UK who “persuaded people to live together” on the

doorstep because of the difficulty in establishing a hard and fast case of cohabitation. I was curious how a determination that someone was no longer “really single” was established. If, as in the UK, this was problematic, it might encourage officials to take advantage of people’s lack of knowledge about their rights.

I discovered that, as in the UK, there were guidelines on establishing ‘no longer really single’ but no legal definition. At the Kommune, I was told that a case might be determined because “another person contributes to the daily work in the home and is in the house for a certain time, say three or four days, even if he has his own address”. As in the UK, if a ‘partner’ stayed over three or four nights that *could* be an indication that they were living together as if married. However, this was not enough on its own to establish a case.

There has to be a concrete evaluation in each individual case, looking at all the facts.

This is also similar to the UK. In this Kommune, a questionnaire is sent out to single parents every six months along with a statement to sign, saying they are really single. If they do not return the form then they lose the extra benefits.

The officials told me that they often heard women saying that their alleged partner never gave them money but the officers felt they had evidence to the contrary.

Then he goes to the shops every day and brings the shopping home and he takes the children to kindergarten and takes the laundry down to the cellar.

I asked how they knew these things. They said they “asked and watched”. However, I was also told that they are “not allowed to watch people systematically”. They must observe them “by coincidence”.

The officials then produced their “check list” for deciding individual cases. First of all it has to be “believable” that a couple are living together. My understanding of this was that there has to be a reasonable suspicion that the person is no longer single. They looked for clues. Do they have joint accounts? Do they have children

in common (perhaps after separation or divorce)? Do they have a “joint dialogue” with the authorities or does the man come to talk for the woman? Has he paid child support? If not why has she not claimed it? Is there relevant information from other departments which suggests that they are living together?

They explained that there were often inconsistencies because in other parts of the welfare system there could be an advantage in being treated as a couple. It was emphasised again that they did not watch systematically but that when a man moves into another lodging, they get the landlord to declare if he really does live there and how often he is about. They also want to know how much electricity, heating, water and so on he consumes. Sometimes it turns out he is paying “zero” for these services and “that’s not believable”. I asked about the utility companies (which are semi-private). Do they have a duty to disclose such information? The answer was that they must answer questions. They also check whether or not the person is officially registered at that address and consult post offices and banks. This appeared to go beyond the powers of UK fraud investigators. However, the *kommunes* do have significant autonomy in Denmark and it has been suggested that different *kommunes* have differing interpretations of the limits of their powers of investigation (Ketscher, 2000)

The commune officials told me that people “don’t always think about these inconsistencies being found out”. Sometimes they discover that a couple own a property together or share a bank book or buy a car together. Suspicion is increased when children are born.

They could be friends but then they often get children together.

I was told that one couple they knew about claimed they each lived on a separate floor of a house and then the woman became pregnant. This was taken as evidence of a lie rather than evidence of a significant change in the relationship.

UK fraud investigators told me they received the majority of referrals from members of the public. The kommune officials insisted that there were no UK-style campaigns to get people to report their neighbours. If a member of the public did come forward with information, they would treat it carefully and look into “who is saying this, is this true or is it a grudge?”

The campaign in that particular kommune had resulted in what was considered to be a significant drop in the number of single people in the area. They showed me a graph from their report which showed that there was a rise in the number of single parents to 995 in January 2000 but that the first one and a half year results of the campaign showed a drop in January 2002 to 947. They drew attention to the fact that theirs was not an area of high unemployment, that it was “average” in that respect. It was viewed as evidence that it was not only poor people who lied about their couple status.

The authors of the report thought that the letter they had sent out had done the trick, assisted ironically by the amount of adverse publicity at the very start of the project about the methods they would be using. They told me they had appealed to people’s sense of “solidarity”. In the letter, they had said that there would be “no backdating consequences”, that they would just lose their extra benefits from now on. Once again I was struck by the similarities between this approach and what I had discovered about fraud investigators tactics in the UK during my MSc research. Less punitive measures can win trust and encourage claimants to hand in their books, avoiding the problems associated with establishing cases of cohabitation.

In the following three sections I draw on interviews in Denmark to produce stories about undisclosed relationships which are comparable to relevant cases in the UK. In each case the women are officially categorised as solo parents for benefit purposes.

Metta's Story

Until recently, Metta hid the fact that she was living with a partner, the father of her youngest child. He had a false address, his parents' house. Metta has two children aged eight and five months. Her oldest child has no contact with her father who is seriously ill with AIDS. Metta lives in social housing and has not worked for some time because of physical ill-health and care of a young child. Her present income is made up of maintenance, child benefits and social welfare, including help with the rent. She hopes to go back to education and then work when her child is old enough.

Metta is very clear about what she expects from a relationship and the shared responsibilities of parenthood. She describes how her former partner's lack of responsibility and his lack of interest in work led to their break up.

He didn't want [to work]. I just couldn't understand it. I think if you are supposed to be a family, you're supposed to support each other with a little bit either emotionally or financially and he didn't so out he goes.

She talks a lot about choices. It is in the context of pregnancy that the decisions to split with both of the fathers of her children were made.

It was in my pregnancy that he got a drug addiction. I said you can choose me and the baby or..and he took the wrong way.

The explanation she gives of her most recent break-up involves changes in *his* behaviour that took place "under the pregnancy" but also in *her* expectations of him once they were having a child together. This meant that what seemed a good relationship deteriorated because he was not prepared to take on the responsibilities that came with parenthood. In the first of the following extracts she describes these changes. In the second extract she describes the good relationship they had before the pregnancy including the 'freedom' she gave her partner.

I got pregnant last year .. Under the pregnancy he got lazy and wasn't very much for me and when my son was born, he wasn't present at the birth and there were some other issues. He didn't support me so I chose to live alone and I think that was nicer than having a man who is just sitting on the sofa all day.

We gave each other a lot of freedom. We had a lot of friends and had a lot of social times here in the house also and with my child. And I think we were very good to give each other some air and do some stuff without each other. And I think it was that, that lasted so long but when we were having the baby together I wanted some more and he couldn't support it and so I choose to be alone and stay there but we had a good relationship for five years... I thought we would be together a lot of years.

The relationship between boyfriend and older child continues to be neither very close nor particularly problematic which may be a function of a different set of expectations and perception of responsibility.

They get along but he's not the biggest, uh, he's not very good doing things with her. He's too lazy. That's a shame because I think children are fun to be with. Their language is very, very funny (laughs)...She thought of him as my boyfriend but not as her father. Never. She liked him and that's it. She's also enjoying staying alone because she has her mother alone again.. He did look after her a couple of times. He was not entirely hopeless (we both laugh).

Later in the interview, it becomes clear that Metta did not expect her partner to take as much responsibility for a child that was not his.

First of all it was not his child and he was here. He did a little bit for us and a little bit for himself and I don't think it's fair that he full-time support a baby that's not his. It should be the original father or myself.

This idea that a new partner should not have to take responsibility for children that are not his is similar to what women were saying to me in the UK, raising questions about the loss of lone parent status when a new partner who is not the father of children in the household moves in.

I was struck by the importance which Metta attached to retaining her *really single* or lone parent status.

Is it your name on the agreement?

It's my name on the door?

Did your partner ever have his name on the door?

No. Always mine and only mine (laughs).

The need to maintain control over the family home was also expressed by UK lone parents who had what I have already referred to as *original householder status*. In

the UK, admitting that you are with a partner means losing control over the means of providing for the family whilst still retaining the responsibilities for that provision. In some UK cases, for example in the case of Harriet, previous experience of claiming as a couple was important in understanding decisions to hide a new partner. Metta's decision to retain her official status as really single has also been affected by previous experience.

I had a boyfriend once and we decided we wanted to live together and I thought it was so happy and he ran off after two months and I ended without any money and I sat with my social worker and I cried and I told her what it was and she helped me. And I've never talked to that man again because we had some good things going I thought and we got together and then he split with all the money and so I got some help and since then I've never wanted to live with a man on the address because I was scared it would happen again. I thought, no, so it's better alone.

However, the difference between Metta's case and Harriet's must not be underestimated. In the UK, Harriet's decision to declare her partner resulted in withdrawal of *all* of her social assistance.

The fact that Metta has thrown her former partner out for his failure to take his responsibilities seriously does not mean that she has washed her hands of him altogether. Metta perceives the continuing relationship as one of gradual change. She has refused to let him come back to live with them at least in the near future but does still allow him to spend time developing a relationships with his child.

He would very like to be there. He misses us. [He] comes twice a week and learns to get to know him and it's supposed to be good in the end.

Metta's name is on the rent book and this is the basis of her claim for help with the rent from the Kommune. In keeping with having sole householder status, she largely managed the financial management in the household even when her partner was living with her.

I get to the bank every month and get my money and I sent him to the bank and we laid it on the table and first an amount for bills and what's left we divided in small portions for food and clothes and fun and...then we shared it all so everything was paid. [I pay all the bills] because it's my bank whose paying the rent and so it's what

we have when the rent was paid and then I took the rest out of the bank and then he's come with what he gets and then we divide it. So I have always paid the bills here.

The level of contribution was an important issue for Metta. Because she paid all the bills, she took more out of the common pot than he did. Nevertheless, she is critical of her partner's contribution at the time.

I felt like the provider in the family. He had a couple of jobs and of course, he brought some money home. I don't think it was enough to be equal. So I think he should have done something more but that was his choice so I took a choice and threw him out.

This reminded me of Jasmine in the UK who was upset that her partner, Frank had spent a windfall on himself. In that case it had seemed as if being hidden had weakened his sense of an obligation to "building a home" and I wondered if there were similar issues here. Being hidden meant that Frank felt it was not really his home. Metta describes something similar and came to the same conclusion as Jasmine about the necessity of keeping the arrangement as it was. However, the critical emphasis is far more on his behaviour and problematic contribution record than on problematic social security rules as such.

I think he was a bit sorry that he couldn't call it actually his home because I was so stubborn, saying you're not getting your name on the door. I can't afford it. It's a little shame that he hasn't done anything to do something for his life so I thought enough and if he wants something more he has to do something more.

Metta perceived the system as a whole to be fair. The loss of lone parent status was important and there was a strong sense that continuing to claim that you were really single even although you had a partner was justifiable not least because of the need to retain what were considered to be generous but necessary benefits. Metta makes another important point which was echoed in the UK interviews and in other interviews in Denmark. When a couple move in together, especially when there is a child living there from a previous relationship, it is not realistic to expect the new partner to start taking financial responsibility. Metta suggests a period of grace before a new partner's contribution is taken into consideration.

It's not a bad welfare. It's not. But in my situation I have a daughter whose not known her father. [A new partner] should right away accept the child as his child, everything just lays on his shoulders? I think it is wrong. Because it's also new for him and he has to get used to it. It's not fair before he's tried a bit. Maybe give it a year or two.

Unlike in the UK interviews where the cohabitation rule was associated with an intrusion into couples' sex lives, the people I spoke to in Denmark tended to dismiss that aspect of the *reelt enlig* rule. Metta's response was similar to others I received

No they're not so naggy in our personal lives. But they would like to visit if they thought that I lived with someone. Then they would like to visit but I've never heard anything from them. I've kept it a secret for all five years.

Metta expressed her belief that pretending to be really single when you actually had a partner was common. This was significant for two reasons. Firstly, it meant that the lone parent count might be distorted and if they did away with this particular rule, you would see the numbers of lone parents drop significantly.

If they change the system, I'm sure many people would be more open about their relationships. They say we are a couple of hundred thousand in Denmark who live alone and I think it's a lie because it's just that they don't know that we live in hiding.

Secondly, it meant that although she hid her partner from the Kommune, Metta could be quite open about it with people she knew in the community who understood why keeping relationships a secret was important. There is a suggestion in this next quote that social security rules might be acting as a disincentive to get married.

All our friends and everybody we talk to, they know and they don't say anything because a lot of them live in the same way. A couple of them got married because they love each other and they didn't have to cheat but they have ended with four children and absolutely no money because they married and I said I don't want to live like that. I don't think it's worth it not to have anything to eat and have a ring on my finger so maybe I think everybody knows. Also the grown-ups in the day care. They know but they don't say anything.

However, some people did disapprove, including her family. Metta describes what she says to them and how she feels about what she is doing.

Some of my family also think it's wrong. They say I should not get support and I should live on the address with him and I've tried to tell them I can't because then it's all about not getting any money or clothes on the body and they say go out and find jobs. It's not nearly enough. I have a huge debt to the bank that's also to be paid back so right now, I can't. But I know, I can understand their feelings. I don't think it's nice to live like this but I have to for a couple of years and then it's over. Then I don't have any debts left.

However, despite Metta's general complacency about maintaining her secret, it was evident, as it was in the UK interviews that responsibility for hiding relationships might also fall on children in the household. This had not been a problem for Metta until recently because of her daughter's age.

It's just now she's big and a couple of months ago I talked to her and said, it's a secret. It's Mummy's boyfriend but don't tell them we live together. And she asked why and I tried to tell her why but she doesn't understand it in an eight year old's mind. But she has never said anything. She told the day-care centre that Mum's boyfriend was there but she never actually said we lived together. Maybe I'm lucky.

There was a moment in the interview when Metta expresses the fact that when her partner lived with her, she was both alone (responsibilities) and not alone (company).

I think men are a little bit lazy, the most of them and he was very lazy so we lived together five years and I always felt somehow I could live alone because I was almost alone but it was also cosy to have someone to snuggle up to in the evening.

The need for company, the avoidance of being alone and the comfort of being in a relationship, may be a significant factor in many women's tolerance of a partner who is not pulling his weight, at least in the short-term. In this case Metta did not see her partner as *responsible* for her older child and so was quite happy to give him his 'freedom' and even to be "a lot like his mother" but all that changed once *he* became a parent. It is significant, given a greater emphasis on equality in Denmark that she sees her ex-partner's behaviour as gender typical.

It is not entirely clear whether the behaviour of Metta's partner changed or her expectations changed at the point when she became pregnant. It may have been a symbiotic mixture of both. It is clear, however, that the responsibilities that come with parenthood continue to be a key issue in the renegotiation of this relationship

and whether or not Metta's partner is ever allowed to live with the family again. This is further evidence of the relationship between negotiating fair sharing when couples live together and women's reluctance to lose their lone parent status. Admitting that you had a partner *might* make the process of negotiating a new living-together situation more difficult.

Hilde's Story

Hilde's relationship decisions are bounded by her sense of responsibility to her children.

Previously married and now divorced, Hilde is in a long-term relationship with a man who is not the father of any of her three children. The children still have substantial contact with their father who pays regular child support payments which Hilde considers to be fair. Hilde views acceptance of the part that her ex-husband plays in her children's life as a crucial aspect of negotiating any new relationship.

Every two weeks the children stay with their father and they get to do things. They spend Christmas and their birthdays together but when it is the children's birthdays their father comes and spends it with them.

She acknowledges that this in itself can be difficult for a new partner and this is part of the process which makes building a new relationship and especially moving in together difficult. The people involved require time to adjust. This also helps to explain why she is not prepared to give up her really single status yet.

..the children have a father that is very close by so it would be difficult for a boyfriend to be part of my life. Because me and the father, we go together at everything with the children and my boyfriend doesn't participate in anything in the school. It's Mum and Dad that go. And that one has to accept of course when you are divorced and I think that one has to use some time to think about it, if one is able to accept it. Because the father of my children will be part of our lives, also my life, all the lives (laughs). And I think that can be difficult. But that's the way it is if you have to be girlfriend and boyfriend (everyone laughs)

Hilde's partner stays over "three or four days a week". When I spoke to the kommune officers, they told me that the fact that a partner stays over three or four

nights per week might alert their attention but as with the cohabitation rule in the UK, is not conclusive. When her partner is there, Hilde considers him to be part of her family and like a marriage. She still considers herself to *be* really single but believes that the authorities would not see it that way. In fact, contrary to what the officials told me, Hilde said “there are very certain rules about spending the night”²³. Hilde thinks they look at “how much you live together, if you share things and the economy and how many nights you sleep together”. Like Mette, she does not believe that the authorities are interested in who lone parents are having sex with. This contrasted with interviews in the UK where “the number of nights you sleep together” was very much associated with prying into people’s sex lives.

Because Hilde herself does not believe that she is misrepresenting her situation, she does not feel guilty about her non-disclosure although she knows that if she was reported by her neighbours she “would have a problem”. She tells me that although her friends know that she is in a couple relationship, she would not disclose it to the Kommune because if she did, she would lose her “rent support”.

But I know I have the risk that they might one day be knocking on the door. But I don’t really have a conscience because we don’t live together. But officially they’d say that we do.

There is no reason to think that disputes around the meaning of *no longer reelt enlig* will be any easier to resolve than determining *living together as husband and wife*.

Hilde is eager to distance herself from any suggestion that she hides her relationship from the Kommune simply for the money.

I do not think that we should be living together yet because there are a lot of considerations when you have children but it’s not about the economy.

²³ In the UK it was common for claimants to believe that cohabitation was determined by the number of nights a partner stayed over. During my MSc research, fraud investigators told me that they knew that was a common but misguided perception and it could be used to catch claimants out (Kelly, 1999).

When I ask her how other people view her relationship she replies that they “think we are a couple and that we almost live together”. It is impossible to say with any certainty to what extent “almost live together” might be treated as ‘no longer really single’. Her meaning cannot be understood outside the complex nature and network of her personal relationships. Hilde believes that when she describes her relationship in this way it is out-of-step with the interpretation which the Kommune would put on her relationship behaviour. However, to some extent it is irrelevant. The very fact that she risks losing her ‘really single’ status means that she is unlikely to put it to the test.

Unlike Metta, Hilde feels that her partner must be committed to her children *before* he can move in with them full-time. She explains that the relationship between her children and her partner is something less than a parent-child relationship and yet there must be a significant accommodation of her children in his life.

The most important thing is that he has to love my children and be able to stand them. I don't expect him to love them like I do because he wouldn't be able to and because my children have a father who is very close by. My boyfriend will never be their father.... I think I'm clearer on these aspects than him and I want to be sure that he is hundred per cent positive that he will stay if he moves in.

Nevertheless, Hilde describes her relationship *as it is now*, as stable, by which she means

He's the man of my life but not at any price.

It might be significant that in Metta's case, her older daughter did not see her father whereas in Hilde's case her children do. Hilde sees this as an extra complexity which she has to take into consideration. The contrast between Metta's and Hilde's cases emphasises the different ways in which people develop relationships, within the context of networks of relationships of more or less significance.

Because Hilde's partner does not live permanently in the family home, he does not pay regular payments to the household expenditure although he does make *ad hoc* payments or payments in kind.

He will sometimes lay down some money to go shopping for groceries. And for birthdays I get very big presents like a washing machine or a drier. He pays for a vacation for the four of us.

Although Hilde tells me that she does most of the household chores, she says that he also does some when he is staying there. From this point of view she has no complaints. She doesn't "have to tell him", he just does it. However, when I ask about "things like decorating, painting and maintenance" she quickly replies "It's my house". This is relevant to what I have elsewhere described as *original householder status*. It is the significance of this status which is underestimated by policymakers and activists calling for greater regulation of relationships to protect people who do not have a stake in their partner's homes. The issue is one of control but here it is possible to detect the drawing up of boundaries around what are and what are not appropriate responsibilities when people share a house together. At this point in Hilde's relationship those boundaries are more straightforward because they only 'almost live together'. Hilde's partner's *ad hoc* contributions at the present time are compensation for time spent in the family home and using the facilities and are thus fair.

..he's eating here and he's washing his clothes here. He takes baths and he uses electricity. He uses my home.

I was interested in what she thought might happen if and when her partner moved in full-time, especially in terms of the financial management of the home.

...if we lived together it would be different. Then we would share the economy more...

Hilde explicitly distinguishes that type of arrangement from the provision of financial support but, again emphasises commitment to her children.

It's not like I want him to provide for me and my family. But if he has chosen me, he has chosen my children as well because they go with it. But it costs to have children and it costs to go shopping so we will have to be sharing and he will agree to that.

Hilde believes that if her partner moves in she will be financially better off overall, which contrasts with what was said by the other two women whose stories I tell here. It is significant that Hilde and her partner are both in work. It is also significant that her partner's address is not a false address. He actually pays rent and so the loss of lone-parent benefits on moving in together might well be off-set by halving housing-related costs.

If you are true about sharing things, the expense, then you can only have more money. Right now he pays his own rent and his own bills. I never made the calculation but I can only imagine that it would be better.

The key thing is that the costs of living together are shared fairly. She will not accept being worse off financially because he moves in with her. She would expect him to pay "fifty:fifty" on everything not least because of the loss of her lone parent related benefits and help with rent.

I would lose this extra child support, child benefit for a single parent and I would lose my rent ...If say that we live together and I find that I am losing money then he must be part of balancing it again.

But fifty:fifty is not as straightforward as it might seem. Does that mean splitting bills right down the middle or does it mean splitting the disposable income fifty:fifty? As Elizabeth (2001) and Pahl (2005) have shown, the former may fit into a discourse of fair-sharing and may be associated with more equitable partnerships but it can often leave women with a much smaller disposable income because their spending tends to be focussed on the household rather than themselves. Despite Hilde's confidence that fair-sharing would be possible if her partner moved in full-time, they did not always agree on money now. This would be part of the negotiations. Having some personal money would be part of the arrangement.

I wouldn't say that [we agree about money] (she laughs). I think we'd agree if we lived together but now he thinks that I use money for unnecessary things. So if we're going to live together it will be like we put an amount for food and we share the bills and the rest is our own.

It was clear that such financial management negotiations would not be entirely clear-cut and that reconciling two uneven disposable incomes might be difficult.

He's very controlled about the money he uses and he always has a lot of money in his account and I don't. It's not because he doesn't want to pay but he doesn't use money for himself because he needs to consider for a few months if he is to buy a new pair of shoes for running.

These matters can not easily be sorted out as soon as a couple move in together and that is part of the problem with *cohabitation* and *no longer really single* determinations which can take effect as soon as a couple decide to live together.

Relationships are not static but dynamic. They change over time and there are a number of factors which might affect the character and pace of change. Hilde's relationship has changed and developed but her need to protect her children from harm has had an impact on the speed at which developments have taken place. What she describes is the gradual development of a relationship between her partner and her children.

Yes, it has changed because when I first knew him, ten months past before I would let him meet my children. We had lots of things to overcome. He can come now more often and then you get closer and closer. And he becomes closer with my children.

Although Hilde accepts that there has to be rules, she is concerned that the complex and difficult transition from new partner to full-time member of the family is sometimes forgotten about in bureaucratic systems.

I think it's OK that there are some rules but I also think that they forget to look at the people behind the rules. For instance when you are a single parent, woman or man with children then it's not so simple just to live with someone and it's not about money. It's about emotions and to be ready and be reassured that your children can support this change, that they can be part of it. And for me, it's not possible to find out in a year or two. I don't know if you have children yourself but when you have children, it's the most significant for a person. And my children already live through one divorce. It was from their father. Even though he (her current partner) is not their father, I don't want them to live through that if he moves in here and moves out again. It would be a divorce for them again. They shouldn't live through that again.

Hilde signs a paper every year to say that she does not live with anyone and that she does not “share the economy” with anyone. She tells me about her own and her partner’s misgivings.

... when that paper comes every year that I have to sign it then I think, oh God, and we discuss it, me and my boyfriend from time to time because he’s very worried sometimes for me.

However, her own conviction that she is doing nothing wrong means that if officials came to her door to investigate, she would insist that she was still really single.

I’d deny it and I’d say we spend time together but we don’t live together and we don’t share the economy.

On the other hand, if the arrangement became permanent, she would tell the authorities not only because of the difficulty of hiding the fact if he lived there all the time but also for reasons of fairness.

..because they would surely find out if his address would be at this house. And I think I would tell them because it would be fair

This case illustrates the difficulties involved in reconciling a new relationship with existing responsibilities for children. As well as having to work at her relationship within the all-important context of already being a parent, she also has to contend with the worry that she might be found to be living with someone. At this stage of the relationship she is not ready to accept such a determination. She is not yet ready to *really* share her home with her partner, not because of the money she will lose or because her relationship with her partner is not stable but because she needs to be sure that his relationship with her children is stable. She recognises that living with someone else’s children is not easy especially when the new partner has to accept that the children’s father is still a part of their lives and thus also part of Hilde’s life.

There is no easy way of determining whether or not Hilde’s relationship is cohabitation. The question is whether or not a bureaucratic description of her relationship would be any more accurate than her own and also what effects an

inappropriate determination would have on the delicate *process* of relationship negotiation. Questions also need to be asked about the effects of living with the *possibility* that there may at any time be an inappropriate bureaucratic intervention.

Silje's Story

Silje is the youngest person I spoke to in Denmark. Although Silje does not consider herself to be really single anymore, as far as the authorities are concerned she is still a lone parent. Her *boyfriend's* address for all official purposes, including voting, is his mother's.

He has his address as his mother's place but he is here all the time. He used to have his own apartment but he stopped having it now

Silje believes the relationship is now secure but it has been difficult to achieve stability, not least because there was an unplanned pregnancy early on. This is how Silje tells it.

Well, it's a long story....We started dating and two months after we started dating, I got pregnant. We had our own little places and we kind of broke up when we found out I was pregnant because we would have a baby but then we began dating again and we kind of agreed that I would move and have my place and he would live there in his and we would still be girlfriend and boyfriend but not live together. But then he kind of stayed here but it wasn't the meaning in the beginning. We weren't supposed to be living together because he's a year younger than me so he was twenty when he became a father and I was twenty one. And then he kind of like moved in and we've been living together for nearly two years but still he is having his own place. Then we kind of broke up for almost half a year but began again because I think that's the way it's supposed to be and then we started dating again and, um, he stopped here and he's been here from that point. It was two months ago he left to go abroad. He gave up his place and moved in with us because he was addressed at his mother's place but all his things are here. And it's kind of because that's the way it's meant to be so we move into together when we were ready for it and then the financial stuff came upon it.

Silje's main reason at this stage for not informing the authority about her relationship is that she will lose money. However, more significantly, she believes that it would have jeopardised her chances of getting money for an education which she believes has been granted precisely because she is still classed as 'really single'.

We lose a lot of money. We lose too much money.... I don't like it. I don't like cheating. I think it's wrong but we can't, we can't just, you know, we'll lose so much money. Of course we can if we're working but I've got to have an education.

Silje's partner was until recently unemployed but has now joined the armed forces, spending large periods abroad. Like Zoe in the UK, while her partner is away Silje manages alone. During this time, in practical terms, she is a lone parent. Furthermore, because most of the relationship has been characterised by instability and Silje managing alone, the relationship between the child and his father has not had an opportunity to develop to the point where the father could be said to play an equal part, even when he is around. Silje tells me that although she is the "primary carer", the situation is changing as her partner is starting to develop a relationship with his child.

He (her child) is mostly connected to me because I was taking much responsibility for him in the beginning and he had to get used to being a father so I'm the primary carer. I'm the one who is most important but he is getting a really, really good relationship with his father now and they play a lot. I am mostly taking care of you know the things that mothers do but I also play with him. His father mostly plays so I think they have a good loving relationship but I am the primary carer so I'm the most important.

Silje tells me that at the moment her partner lacks "self confidence" when he is left alone with his son and usually takes him to his mother's.

He's afraid that he can't do it. He's afraid he can't handle his child without another person around. I just do it and he's afraid and so if he has the child alone, he usually goes down to his mother's because he's secure there (laughs).

Silje also tells me that she is the one carrying out what would traditionally be thought of as the woman's role in terms of household chores and she is the one who is responsible for the financial management of the home. However, this is at least in part due to the fact that she has retained her *reelt enlig* status even although he has now moved in with her. Because she receives money for the house, she feels that she must earn the money by being the practical householder and also, paying the bills.

Now this is a kind of old fashioned sexual thing. I do [the household chores]. He's getting better but I have to tell him what to do. But I look at it actually as, this is my place and I pay for this place and I pay for food in this place because I want to be fair because the Kommune give me this money because I am a single parent and because I live alone in this house or this place so therefore I want to do this myself. I want to pay for food myself or else I can't justify getting this money so, of course, he puts in money for the food when he is here because he's also eating here but not more than that. I don't want it. But when we move in together it will be different. It's just I want to be able to justify myself morally to myself.

Silje is not fully confident that when they move in together officially, that she will share the household chores but hopes that in time it will get better.

It will probably be me do these things and we have kind of had our fights about it and it's getting better and it will probably be better in time.

Silje talks about the changes that have already taken place and the difficulties and successes of negotiating a relationship which got off to such a tricky start. Part of that negotiation has been dealing with the conflict between *his* need for freedom and *her* need for security.

We are actually very happy together and I feel we are kind of special people both him and me. We're both kind of childish (laughs). We play a lot still. I see a lot of people, a lot of couples around that they don't play the same way we do. So I think we have a great relationship because we play a lot. But he needs or needed a lot of freedom and that was really hard because I need security and I need to know that money's here all the time.

That process has been helped by the fact that Silje's partner's friends are not around to play with as much as they used to be.

All of his friends are getting older and they are getting girlfriends and so they don't have as much time for him as they used to so he's also becoming more of a family man.

As time has moved on, Silje feels she is better able to trust her partner. In the context of past experience, learning to trust him has been a very important aspect of building a relationship.

Trust is very important for me because I have emotional scars from my childhood so I have not really trusted him. We've been dating for about three years now and now

I really trust him (laughs). It was really hard to build up. I always expected him to hurt me and he almost never does.

She believes that the relationship is now stable. I ask her what she understands by 'stability'.

That we are happy, we have a lot of ups and downs and we've been apart and back together. Also we can't be without each other. We just tried that and that's not really what we want. We've kind of reached peace.

Silje's partner pays child support each month "because if he didn't then the Kommune would probably ask why not". As far as the Kommune is concerned Silje's child never saw his father as he had no official custody rights. This could be relevant if the father wanted to claim rights later *and* is relevant to the administration of any policy based on promoting the two-parent family. Silje's recognition of the importance of the father seeing the child would not register in any bureaucratic records or statistics.

They probably think that he's almost not seeing him and, of course, that's an insecure situation for children but I have always been good at it because it makes me feel that they saw each other even if we weren't together. But, of course, if I decided to go fuck him, really I could actually say well, he has never seen his son because he doesn't have any evidence. I actually think he's kind of right-less if I should turn out to be a bitch.

In this case, as in the other cases, there was no sign that Silje felt that she was under constant surveillance by the authorities although she admitted that they were both "looking forward to having it straight" . Her complacency was due to the fact that they were sharing a very small apartment, "people don't think that they could dream of three people living in a two-bedroomed apartment", but also the fact that pretending you were really single when you were in fact living with a partner was so common.

But it's not hard work to hide. Normally to neighbours I say, well he doesn't live here, he has his own place but they kind of like know. Everybody does it.

Conclusion

It is clear that despite cultural and policy differences, the *reelt enlig* rule in Denmark and the UK *cohabitation rule* create similar problems. Both encourage claimants to avoid cohabitation or to hide their relationships from the state. In Denmark, because of the significant financial advantage of being a single parent, benefit fraud is also a temptation for those in legitimate and even relatively well-paid full-time work. Problems of definition mean that this *type* of legislation or policy approach will always be difficult to enforce.

I mainly focussed on the stories of three women who risk the loss of their lone parent status if they declare that they are living with someone. In all three cases, loss of lone parent status means loss of some benefit income and this is a significant disincentive to tell the truth.

Responsibility for the well-being of their children seems to be the key motivating factor. In every case women have tried more or less successfully to accommodate partners into their and their children's lives and deal with complex relationship issues and negotiations and the challenges of parenting. The stories reflect the importance that can be attached to retaining lone parent status when a partner is unreliable or a relationship is unstable or when you have children from a previous relationship.

In two cases, women shared *parentage* with their partners but not necessarily *parenting*. In both cases, the women concerned tried to encourage greater responsibility although in Silje's case this appears to be tempered by the feeling that she must justify her continued lone-parent status.

Hilde's case is different from the other two because she refuses to accept what she believes is the bureaucratic construction of her living arrangements. This highlights the problem of determining what 'no longer really single' means. In the UK, cohabitation rule cases are difficult to prove. In Denmark as in the UK, administrators have a vague set of guidelines to work with, none of which are

conclusive. As in the UK, there was evidence in Denmark that people *mistakenly* believe that the number of nights a person stays over *is* conclusive. Nevertheless, participants in Denmark seemed to trust the system more than the people I spoke to in the UK, and they did not feel under constant surveillance. There is no ‘shop your neighbour’ campaign in Denmark as there is in the UK. This could be because of this sense of ‘solidarity’ mentioned by officials and academics during my visit.

The loss of child-related benefits specifically because of new relationship status is puzzling where the new partner is not the biological parent. On the other hand, where the new partner also shares parentage then the *reelt enlig* rule appears to conflict with policy aimed at encouraging two-parent involvement in children’s lives.

Despite Denmark’s more gender sensitive policy, roles are still gendered. Most lone parents are women and so the loss of lone parent status affects more women than men. In Denmark, as in the UK, lone parent status is lost, not as a result of shared parenting but because of the absence of an assumed breadwinner. This illustrates the lower value given to the parenting that mostly women do and is particularly difficult to comprehend when children are from a previous relationship. Metta suggested there should be a period of settling in before lone parent status is affected. It is clear that the immediate loss of these benefits at a time when complex reordering of relationships and responsibilities are going on, can be a significant problem in both countries which is why Metta suggested there should be a settling in period before lone parent status is lost. However, it is likely that the loss of benefits involved in reaching the end of a prescribed period would still act as a disincentive to declare couple status.

Lone parent status is not the only issue. The presence of any other adult can reduce entitlement to help with housing costs. Because women bear the brunt of the responsibility for families on a low income, they are hardest hit by any form of means-testing or selective benefits procedure. This issue cannot be resolved by increasing benefit rates or by making better assumptions about who should or should not be treated as part of the ‘household’. By examining the UK cohabitation rule

through the lens of Danish policy, it is possible to see that more generous benefit rates and more individualised entitlement will not be enough to prevent claimants lying to the state about who is and who is not living under their roof. In the final chapter I use this different perspective to argue for an entirely different approach to state support for families.

10 CONCLUSION

In this final chapter, I bring my analysis to a close by addressing my research questions and discussing the wider social security and family policy implications of my research findings.

This thesis seeks to re-ignite interest in a highly problematic rule built into the foundations of the welfare state and sidelined as a policy issue. I began this thesis by making the case for re-opening the debate. The case is based on:

- the cohabitation rule's gendered effects (Chapter 2) and the gender issues it raises in relation to the use of the household in welfare provision and the 'sexualisation' of welfare entitlement (Chapter 3)
- inconsistencies between private and public law constructions of cohabitation (Chapter 2)
- problems in administration related to the absence of an adequate definition of cohabitation (Chapter 2)
- family change, in particular the increase in cohabitation and lone parenthood and questions about the role of the state in relation to those changes (Chapter 4)

The cohabitation rule is a political issue (Chapter 3). This thesis is underpinned by the knowledge that individual claimant behaviour cannot be understood outside the politics of welfare and that the rhetoric of individual responsibility and blame has been used to avoid confronting unjust rules or the principles and assumptions that underlie welfare policies. This is not to deny agency but to recognise that understanding individuals' decision-making in context is far more important as an object of study than attempts to categorise people into the deserving or undeserving poor.

The politics of welfare shapes understandings of 'lone parent', 'claimant' and 'benefit cheat' and helps to make sure that the cohabitation rule remains a non-issue.

The contribution principle provides the basis for the citizenship deal which governs welfare rights and responsibilities. However, contribution is seen purely in terms of paid work. Dependency on out-of-work benefits diminishes citizenship status and also explains why when a couple claim, it will be the partner who is available for and actively seeking work who gets to keep the money even though the other partner may be working full-time in unpaid childcare and running the household. Gender-based and class-based constructions of dependency and citizenship tend to silence dissent, pushing the cohabitation rule out of sight as a policy problem and protecting policymakers from uncomfortable questions about its legitimacy. This thesis asks and addresses those questions. It involves an examination of the assumptions underlying the rule which have been used historically to justify its continued retention, despite the knowledge that the rule is problematic both in principle and in practice.

Exploring Relationship Stories in the Context of the Cohabitation Rule

My research objectives were based on three historic justifications of the rule. These justifications were related to assumptions about responsible couple behaviour in relation to financial support; assumptions about the nature of cohabitation and the costs of individualising benefit assessment and/or entitlement. In order to determine whether or not these justifications provided a good enough defence, I formulated three research questions.

- How can cohabitants' attitudes and behaviour in relation to money, be understood?
- How should 'cohabitation' be understood?
- Does the cohabitation rule in UK social security law have any social costs?

Answers to these questions are based on interviews with 20 people who are or have been affected by the UK cohabitation rule. This empirical research involved

listening to peoples' relationship stories and their experiences of the cohabitation rule and then:

- re-telling participants' stories in order to understand why cohabitants might hide a relationship and the experience of hiding a relationship (Chapter 6)
- looking at the relevance of cohabitants' own understandings of cohabitation and marriage and applying the six issues used by adjudicators to operationalise the cohabitation rule LTAHAW to participants own relationships experiences (Chapter 7)
- exploring participants' experiences of living together within the context of the cohabitation rule (Chapter 8)

Early on in the study, it became clear that to talk about a comparison of people's relationship experiences with the bureaucratic construction of cohabitation was misleading. These relationships were conducted under the shadow of the rule and affected *by* it, regardless of whether or not claimants chose to officially declare that they were living with a partner.

An Unjustifiable Rule

As a result of exploring couples' own accounts of their relationships and experiences of the cohabitation rule, I was able to answer my research questions. My overall conclusion is that there *is* no adequate justification for the cohabitation rule. The arguments are as follows.

1 Understanding cohabiting couples' attitudes to money

Participants' accounts led me to conclude that it is not possible to make fixed assumptions about what is reasonable in terms of cohabitants' attitudes towards money since these are part of complex relationship negotiations. The nature and

outcome of these negotiations depended on a number of factors. These factors included

- Stage/quality of relationship
- Circumstances of moving in, including who is the original householder
- Perceived obligations to children
- Experience of present and past relationships and relationship aspirations
- Material circumstances e.g. living on a low income
- Whether each partner has a separate address

In some cases it was not clear whether or not a couple *were* living together. Where a partner had his own address, he had associated expenses. In these circumstances he was less likely to be making a significant financial contribution even if the couple did spend most of their time in the family home.

In Chapter 2, I examined the claim that if the cohabitation rule was only applied where financial support was actually provided, it would encourage cohabitants to behave irresponsibly in relation to their financial support obligations. In Chapter 6, I described a number of scenarios where participants were deliberately concealing relationships because they wanted to *meet* rather than avoid their financial responsibilities. Key concerns were dependence on an unreliable partner and disputed obligations, especially towards children from a previous relationship. The cohabitation rule assumes a financial support obligation but cannot enforce it. It is difficult to see how disclosure of a relationship where that means handing over the cash for family support to an assumed breadwinner who cannot be relied upon to stick around, lives a chaotic life or feels *no* responsibility for your children's well-being could be seen as responsible behaviour.

On the basis that it applies within marriage, the cohabitation rule assumes that it is reasonable to expect cohabitants to pool their resources. Research suggests that unmarried couples are more likely to have independent money management systems, assuming that this is more equitable. However, they have been found to reinforce

inequality because of gendered spending patterns and perceptions of earner ownership (Pahl, 2005). Pooling resources is potentially more equitable but this research provides evidence of the importance of a measure of financial autonomy to women, and conflicting understandings of what it is to share. Participants in this study agreed that when two people live together, regardless of whether they are a couple, they *should* share²⁴. Resentment would build up if one partner felt that another was not pulling their weight. Although there were different views on what sharing meant, it never meant one partner becoming the dependent of another. Being dependent was sometimes seen as *the opposite* of sharing. Participants felt it was essential to self-esteem to make a contribution or feel they had some money they could call their own. Different attitudes to fair sharing reflected different experiences and/or beliefs about the ways in which couples *should* behave towards money. How couples *actually* behaved towards money was specific to particular relationship dynamics and challenges and were often very different from what people viewed as fair.

In all relevant cases, *original householder status* was a significant issue when a new partner moved in. Renouncing control over the household economy was a difficult thing to do, especially where the household was a family home and new partners expressed sensitivity to it. Declaring a relationship is tantamount to renouncing that status, not in a partial way (reduced benefit - the 'couple' rate) but totally (complete withdrawal of weekly IS). This pre-empts the negotiation process without any guarantees that the new arrangement will work.

It might be reasonable to expect that couple systems of money management would develop over time. However, where the couples had separate addresses or a partner was hidden, the process of integration could be delayed or halted (Chapter 8). Keeping bills in the original householder's name was essential in the concealment of a relationship. Neighbours were kept in the dark and participants described sneaking in and out of the house to avoid detection. There was evidence of disagreement about the level of contribution when a partner did not feel that where he lived was

²⁴ This supports the conclusion of other researchers described in Chapter 3, that benefit claimants do not live by a different set of rules to other people.

really his home. The couples' descriptions of his status was more that of a lodger than a partner. Although two people might be a couple emotionally and sexually, they might never develop as a couple financially.

This study shows that the cohabitation rule has a significant impact on the way unmarried couples organise their finances and can slow down or prevent the development of shared financial systems. It was clear that whether or not the cohabitation rule was applied, it was still likely to affect what couples did about money when they moved in together. These affects are gendered. Far from *supporting* responsible behaviour in relation to money, the cohabitation rule makes agreement on mutual financial support *more* difficult to achieve.

2 Understanding Cohabitation

Cohabitation is not a single relationship form and cannot be equated with 'living together as husband and wife' *if* that implies the assumption of certain fixed obligations. The cohabitation rule itself has a significant impact on the development of relationships whether or not it is applied.

The significance of the marriage contract should not be underestimated. It defines the obligations of marriage which couples sign up to when they marry. Marriage also has a clear beginning and an end. In cohabitation, obligations are not fixed and it is not easy to determine when a cohabitation begins or ends, especially one which involves the obligations normally associated with marriage. It is not even possible to be sure that someone is living under the same roof for example, if they are there one minute and gone the next, as is often the case where a partner's behaviour is chaotic or commitment is uncertain or the couple only sleep together at weekends or alternate between his house and hers.

In Chapter 7, I found that couples' understandings of cohabitation and marriage were varied and that they were related to different past and present relationship experiences and aspirations. An attempt to apply the six issues used to determine

LTAHAW to couples' actual relationship experiences exposed the impossibility of getting a consensus on the meanings of relationship behaviour. The significance of gendered roles to understandings of terms, e.g. providing 'care and support' for each, or 'caring for children' is ignored completely.

It is not possible to read off a set of obligations just from the fact of living together. This is evidenced by the esoteric understanding of 'the household' developed in case law. Claimants cannot know in advance how much weight will be given to different aspects of a relationship and, even if they were familiar with the DMG (in this study they were not), uncertainty about decisions means that lying about the 'truth' is an easier option.

The cohabitation rule is based on the ideal of marriage and not the reality. Attitudes to marriage are treated as irrelevant to the bureaucratic determination of cohabitation unless they support a determination on the basis that claimants cannot be expected to tell the 'truth' where it will reduce benefit entitlement. However, participants' attitudes to marriage revealed a great deal about their relationships *and* the reason why the consequences of a LTAHAW determination should not be applied to them. For example, participants' relationships were not marriage standard: they could not trust their partners to share responsibility in the way that married couples are supposed to; that marriage meant ownership or dependency, was too restricting or abusive or involved a loss of a sense of self; that marriage meant a commitment too far. These are reasonable concerns which should be reflected in and not dismissed by welfare rules. It is also clear that these issues can apply to married as well as unmarried couples but marriage is regulation which you sign up to and this is an important difference.

In recent policy documents relating to private law, particularly in relation to maintaining a distinction in law between cohabitation and marriage, the discourse of choice is affirmed, policy-makers accepting that people who choose not to marry should not have the institution or its concomitant obligations foisted on them. Benefit claimants have no such choice. One stated reason for that is that they cannot

be trusted to tell the truth about their relationship if telling the truth would mean economic disadvantage. This study illustrates that there is no single truth about relationships. Participants' relationships were individual and dynamic and there was no clear consensus on their meanings and obligations. Couples might disagree about the significance of living together. In these cases, who should be believed?

But the main point about choice is that choices have tended to be gendered. The subsuming of women's personal identity under that of their male partners is institutionalized in household-based welfare provision and is not cured by giving couples the choice of who should claim. In any case, where one partner, more often than not the man, is in full-time work, neither is allowed to claim, leaving women with no choice but to become dependent. Two women described their experiences of financial dependency as being reduced to the status of a child. Any attempt to force couples into particular types of relationship risks disempowering women. That is another reason why relationships *must* be voluntary.

Perhaps the most important findings in this study are that the cohabitation rule changes relationships and that those changes are not necessarily for the better. When a cohabitation rule determination is made, it changed the dynamics of the relationship by placing mainly women into dependent relationships with their male partners. Not all relationships will survive such a change and the shift in power could have serious consequences for all concerned. Some participants were happy to be treated as a couple²⁵. In these cases, trust, deemed to be an important measure of stability by participants but ignored in the guidance to adjudicators, was high. Where trust is not high, a claimant may do everything in their power to avoid a cohabitation rule determination.

But even in cases, where couples successfully avoid the cohabitation rule, its very existence has an impact on the formation and development of relationships.

²⁵ Lynn Jamieson (1988) refers to research that Burgoyne carried out which "suggest that cohabitees typically treated as unwelcome any assumptions that they were 'unattached' individuals who were therefore possibly romantically available. Most desired recognition as a committed couple without being reduced to an adjunct of their partner" (p. 156).

Participants spoke about restricting the number of nights their partner stayed over. The relationships were affected when partners hung on to a separate address. Where men were hidden, the necessary commitment to building a family home was missing. The cohabitation rule ignores the effects on a relationship where one partner must *pretend* he is not really there.

The importance of the voluntary nature of relationships is affirmed by this study. It cannot be forced or ruled upon without being changed. Marriage and cohabitation *are* different types of relationship even though they may have some things in common.

3 The Costs of the Cohabitation Rule

This thesis argues that the cohabitation rule comes at a cost which outweighs the costs associated with abolition. These costs are there whether the rule is applied or not.

Firstly, the thesis highlights the gender significance of the rule. The responsibilities to children and the home that participants took so seriously in this study are mostly women's responsibilities. The cohabitation rule treats the fulfilment of responsibilities as of lesser value. This is out-of-step with modern perceptions of what democratic relationships look like (Giddens, 1998) and the belief that societies are diminished by gender inequality²⁶.

This research establishes that the rule is a disincentive to become or declare that you are a couple; skews the lone parent and cohabitation statistics and has housing resource implications where couples live in two homes instead of one in order to avoid the rule.

²⁶ This is an issue which could perhaps be pursued in European courts although how that could be achieved is beyond the remit of this thesis.

The research showed that the cohabitation rule makes building stable relationships more difficult. It takes no account of the difficulties participants experienced in negotiating living together in often difficult circumstances or situations where the imposition of financial responsibility for a family was inappropriate. There are examples in the study which show how an imposed LTAHAW determination can change the balance of power and arguments about spending priorities can ensue. Efforts to avoid the rule, were slowing down or preventing the development of full couple relationships in some cases. Misunderstandings about the application of the rule meant that participants were shaping their relationships around rule avoidance. The societal implications of relationship breakdown underpin much of government policy in relation to families, especially because of adverse effects on children's well-being. Policy should support stable families. In this respect cohabitation rule is a failed policy.

The assumptions underlying the rule that resources are shared equally within the family home is not borne out by the evidence. Children may suffer every time their main carer has her income taken off her. I would also argue that children are not well-socialised by seeing their mother's householder status ripped away by the state as soon as any old breadwinner appears on the scene. The cohabitation rule perpetuates societal inequality at every turn.

Having addressed my research questions, I now want to discuss the wider implications of this UK study.

The Value of Lone Parent Status

The starting point for this study was the lone parent benefit fraud count. Lone parenthood is a bureaucratic welfare construct. The flip side is cohabitation. When a lone parent is said to have committed LTAHAW fraud, it is equivalent to saying, they are *not* a lone parent.

Lone parent status is not about parenting which may continue after partnering or re-partnering. Given what we know about the continuing gendered division of labour within the home, many women are parenting alone even in cases where they are married to their children's father. Where fathers work away from home, women have little choice but to parent alone. Perceptions of gendered roles, "she the housewife, he the earner" (Jamieson, 1998, p. 138) also contribute to women bearing an unequal burden in the home. The disproportionate value placed on earning and the concomitant underrating of work in the home are reinforced by the cohabitation rule.

Reliance on means-tested benefits is an important part of the context within which lone parents or couples are organising their finances. *Ad hoc* measures are easily mistaken for or portrayed as irresponsible money management, reinforcing images of the feckless poor. In the stories participants told me they reflected the difficulties organising finances on a low income. Having a partner move in could provide an opportunity for a better standard of living because of an additional income and contributions towards bills. Some found that for the first time they were able to develop efficient financial systems. This advantage is lost when a cohabitation rule determination is made. On the contrary, a woman could find herself much worse off if forced into financial dependence on an undependable partner. Retaining a householder claim for an independent income was viewed as essential by women who had unreliable partners or had bad experiences of financial dependence or who feared the relationship consequences of being forced into a dependent position. Historically, the withdrawal of householder status is underpinned by the notion that women and children in households with a Beveridgean male breadwinner have no further need for the protection of the state. It is based on gendered and class-based attitudes to 'dependency' and 'work' which determine citizenship rights. Care work is ignored *as* work. So in a couple it is the one who is actively seeking work who thereby earns the right to claim benefit while his partner who may doing all the work in the home is entitled to nothing in her own right.

There is compelling evidence in this study that the *value of lone parent status*, cannot be seen purely in terms of opportunism but must be viewed as the only way that a woman who is the full-time carer of her children can be recognised as a citizen in her own right.

Child Support

There is a tension between child support policy and the cohabitation rule which has not been given enough attention. The cohabitation rule places the financial responsibility for dependent children on a bureaucratically identified breadwinner regardless of biological parentage. Even where a new partner has no social parenting role, is still expected to provide financial support for children in the household. This thesis shows that it is unsafe to assume that a relationship with the mother also means a relationship with the children or that a new partner who has a good relationship with the children in the household will accept or be expected to take financial responsibility for them (Chapter 6 and 8). This was thrown into sharp relief in this study. A participant told me she was forced to rely on a new partner for financial support for her child from a previous relationship while the CSA had failed to get payment from the biological father.

Not all participants in this study wanted to co-operate with the CSA because a non-resident father's provision of financial support came at a price. Consequent disputes about co-operation with the CSA or the mother's spending priorities were potentially demeaning and could destabilise post-separation relationships (sometimes with the threat of violence) which were seen as essential for the well-being of children.

Although they involve potentially conflicting approaches to financial responsibility for children, the cohabitation rule and child support legislation share important similarities in that both are attempts by governments to regulate personal obligation. The failure of child support legislation has undermined government claims that it is prioritising the interests of children and questions have been asked about the CSA's administrative systems but there is little policy interest in re-examining the principles

upon which child support legislation is based. Like child support legislation, the cohabitation rule also has implications for children who are caught up in the sometimes turbulent circumstances of their parents' personal relationships. In this study, questions are raised about the principle of state regulation of personal obligation as well as the practice. The CSA is currently under review but it is suggested here that a review must look beyond administrative failings to the basic principles underlying child support policy, taking full account of the gendered nature of parent-child relationships.

Cohabitation Rule Fraud

The LTAHAW rule institutionalises hierarchical power in the home, reinforces gender inequality and is based on unreliable assumptions about the formation of and obligations involved in couple relationships and child support. Despite changes in the seventies that stopped adjudicators from asking about sex, the cohabitation rule was still seen by participants as an outrageous infringement of privacy and the association between sex and financial dependency comparable to prostitution. Some participants felt guilty about lying and about coaching their children to lie but felt they had no choice. I have argued here that the cohabitation rule cannot be justified either in principle or in practice and this undermines the LTAHAW statistics and suggests that far from being a reflection of irresponsible attitudes and behaviour, the avoidance of the cohabitation rule is related to claimant concern about trust, disputed obligation, resistance to dependency, a loss of personal identity, restricted choices and the need to protect the resources necessary to be responsible householders and parents. These are reasonable concerns which should be respected in law, not criminalised.

In theory, scrupulous adjudication procedures might show that some of the cases in this study were not LTAHAW. However, ignorance of the law, the consequences of immediate withdrawal of benefit until the case goes to appeal and the fear of not being believed were all reasons to lie rather than challenge decisions. Since distrust of claimants' own accounts is institutionalised in the cohabitation rule and how the

guidance will be applied in practice is unpredictable, there are reasonable grounds for caution.

My UK research convinced me that benefit entitlement should be individualised as it is in Denmark so that LTAHAW fraud would not longer exist. However, my Danish research gave me a new perspective on the cohabitation rule and led me to a fundamental re-think on the issue of family welfare. In the next section I deal with the findings and implications of my Danish research.

Social Security and Families: Learning From Denmark

The UK interviews provided evidence which allowed me to answer my research questions. The Danish component of this study (Chapter 9) provides a different lens through which to view the cohabitation rule. It provides additional evidence which I have used to support my UK conclusions. More importantly, it draws attention to the fact that more generous benefits and a different policy construction of the obligations of cohabitants are not necessarily enough to prevent cohabitants lying about their relationships while some form of household assessment is still in place.

It has been argued that Denmark does not have a cohabitation rule (Eardley et al, 1996). In this study, I show that it does. Lone parents who start to cohabit lose money. This is the result of a *reelt enlig* or really single rule. Although more universalised and individualised support means that the *reelt enlig* rule has a much lesser impact on claimants, it also means that the rule impacts on women from a wider range of economic backgrounds. I singled out three stories in particular and discovered that lone parent status was just as important to these women as it was to UK women. I discovered that they were dealing with the same sort of relationship issues that women in the UK deal with and that understanding these issues helps to make sense of their determination to hold on to their lone parent status. Women were making decisions within the context of a network of personal relationships, mostly focussed around what was best for their children. There was a need to separate the emotional security which women valued in a relationship from

responsibility for parenting which participants were doing alone because their partner was either unwilling or incapable of sharing that parental responsibility with them. Participants wanted a partner but not necessarily a father for their children or they wanted a partner but not a marriage-style financial union, valuing their financial autonomy because it gave them more control over their lives and over the resources they needed to fulfil their parental obligations. This study also adds to the literature which shows that, despite greater gender equality in Denmark, there is still a long way to go before women with children enjoy the same economic advantages as men.

In Denmark, participants trusted the benefits authorities more, claimant surveillance was less of an issue and 'solidarity' seemed to be a functioning concept. However, identifying cases of 'no longer single' and 'living together as husband and wife' was done in the same way and involved the same problems. In both countries the bureaucratic understandings of cohabitation might be very different from personal experience of a relationship.

Assumptions about mutual support obligations in marriage which underpin the cohabitation rule are absent in Denmark. Although the *reelt enlig* rule is not a living together as husband and wife rule and married couples are not assumed to have a mutual financial support obligation, a lone parent loses money if she starts to cohabit. The withdrawal of housing support on cohabitation makes sense because it is based on the fact of living together and not couple status as such. The loss of lone parent benefits when a new partner is not a parent is much more difficult to understand.

There are two related issues here. The first is the construction of lone parent status. This study exposes the fact that a) lone parent status is about the absence of financial support and that b) it is based on unreliable assumptions about financial support. The withdrawal of lone parent benefits exposes similar attitudes to the meaning of lone parenthood in both the UK and Denmark, drawing relatively well-off claimants in Denmark into committing benefit fraud. Basing lone parent status on the fact of parenting and not on the absence of financial support would make more sense and might begin to erode cultural and highly gendered attitudes to care work in both

countries. However, if that were the case, lone parent status would be as difficult to establish as *reelt enlig* is now. Far more thought needs to be given to the question of appropriate support for parents with care which does not reinforce gender role stereotyping and gender inequality and which at the same time does not involve intrusive surveillance procedures based on highly ambiguous bureaucratic concepts.

The second issue is means-testing. Individualised and universalised benefit entitlement is far more prevalent in Denmark than in the UK. However, in both countries women bear a disproportionate burden of care work and are over-represented in the means-tested benefit statistics. In Chapter 3, I drew attention to the state's own role in perpetuating inequality and argued that treating benefit claimants as lesser citizens because of their benefit dependency tends to silence criticism of bad rules and ineffective systems. The increased use of means-testing, the most costly and stigmatising of all systems of 'administrative checking' (Rowlingson, 20003, p. 25) is a political decision and wide open to the allegation that it is used as a means of social control. It is also the welfare approach most likely to encourage people to commit benefit fraud. In a consumer culture in which new needs are being created every day, arriving at a consensus in relation to what counts as adequate financial support is impossible. However, it is possible to ignore this reality in the politics of welfare by encouraging the belief that poverty is self-induced and berating a something-for-nothing culture. This is at its most unreasonable in the stigmatization of lone parents. Referring to lone parent households entirely dependent on Income Support as "workless" (Secretary of State, 1998) is equivalent to discounting care work in the home as work and is a complete denial of the significance of gender. The cohabitation rule compounds this failure in the system, only recognising a lone parent's right to claim state support for herself and her family if there is no breadwinner. In Denmark, there is policy support for the positive value of two parents to a child's upbringing but lone parenthood is a relatively accepted and non-stigmatised family form. However, the withdrawal of lone parent status on cohabitation suggests a similar approach to the value of child care as is evident in the UK.

It is suggested here that benefits should be individualised in full recognition of the citizenship status of individual family members, as Child Benefit is currently ring-fenced for children. Secondly, parental benefits should not be means-tested but paid as of right in recognition of the responsibilities and work involved in parenting. This would allow mainly women, in or out of relationships, to be properly compensated for carrying the multiple burdens involved in working both at home and outside the home, in proper recognition of the benefits to societies of the work they do. If work in the home was given its proper value, there is reason to think that more men would be prepared to share the burden of care. This is not to underestimate the problems involved in the payment of parental benefits. In the short-term they should probably be made automatically to the mother in recognition of existing gendered norms (as Child Benefit is currently). There could be an option to share the benefits if the couple really do share the care and possibly even pay the father instead of the mother, based on social parenting rather than breadwinner status.

New Ways of Living Together: Relationships and the State

There has been a great deal written about the remarkable changes to families which have taken place since the birth of the welfare state and what these changes mean in terms of individual and societal well-being and in particular what they mean for children. At the same time the changes highlight and call into question the role of the state in “regulating family affairs” (Wasoff and Dey, 200, p. 16).

At least three issues explored in this study are relevant to these debates. Firstly, there is the question of definition. In Chapter 2, some of the operational problems involved in determining cases of cohabitation were described and in Chapter 6, I explored this empirically. There are problems in establishing cases of LTAHAW and thus identifying relationships which are sufficiently marriage-like to justify a financial support obligation. Questions are raised about whether or not relationships can be categorised when they are so varied and personal in nature and what dangers are inherent in trying to regulate on the basis of murky definitions.

Secondly there is the highly gendered nature of the cohabitation rule and the feminist critique which has historically accompanied the assumptions that underlie the rule. The cohabitation rule reinforces structural inequalities under the auspices of being gender neutral and raises questions about other forms of state regulation of relationships.

Thirdly, in policy documents, governments have been explicit about the importance of choice and the value attached to people's choice *not* to get married. The cohabitation rule forces people on the margins of society to accept marriage-like obligations and seems incompatible with the rhetoric of choice. The cohabitation rule, which accepts a construction of cohabitation solely in terms of its likeness to marriage, is out-of-step with modern relationship aspirations and policy. Those who see personal autonomy in this context as synonymous with selfish individualism are likely to see state regulation as a counter-balance to modern trends, forcing people to accept greater responsibility for their behaviour. This view of personal autonomy can be contrasted with the individualism which is seen as a precondition of the smooth running of a market economy. As has been shown, these two positions have been reconciled historically by separating out the public and the private worlds along gender lines. There is also a class dimension as restricted resources means restricted choices. Recently, a case has been made for the possibility of steering a course somewhere between respect for personal autonomy and responsibility for others but a failure to address the effects of pre-existing inequalities undermines that case. Furthermore, there is a suspicion voiced here that underlying these middle or third way accounts of personal responsibility is a failure to appreciate that having personal autonomy does not mean doing exactly what you want, regardless of others. The obligations a couple recognise towards each other are inseparable from the nature and stage of that relationship within a whole network of relationships of more or less significance and from the specific contexts within which each relationship takes place.

The significance of recognising different forms of relationship is the extent to which they weaken the foundations of a rule which still relies on marriage as a benchmark

for identifying relationship commitment and obligation. Equal respect for different relationship choices might suggest parity in law and this might support the continued use of the cohabitation rule which makes no distinction between different types of cohabitation. However parity in law could mean a legal framework which undermines personal choice all over again. It is difficult to imagine how parity could be achieved in a way that would satisfy everyone²⁷. Respect for the personal nature of relationships may mean only subjecting relationships to rules if people choose to have their relationships regulated, for example, through marriage or some form of civil partnership agreement.

However, there is an argument which might militate against this approach. Regulation of relationships is often justified for reasons of *protecting* rights. Marriage protects spouses' housing and property rights and some have argued that vulnerable cohabitants whose relationships are just as committed as marriage require the law to protect their interests (Barlow and James, 2004). I suspect that this approach to protecting rights is based on an assumption that women are living in men's houses. This thesis draws attention to the fact that increasingly that is not the case. Men are living in women's houses. The fact that women are increasingly becoming householders in their own right suggests that regulation to protect the woman who has no stake in her partner's home might not hit the spot if the claim for a share in the assets is made against a woman with children. Fairness depends on consistency across cases but that is not easy when every case is different and where it may be difficult to assess the value of different and often gendered contributions that cohabitants make to their relationship and to the creation of wealth. This study throws a light on these issues because in the majority of cases where there is resistance to the regulation of relationships within the social security context, women are the *original householders*.

²⁷ It is significant that a proposed amendment to the recent Civil Partnership Bill which would have allowed partnership agreements to be extended to other relationships of choice, specifically other family relationships was viewed as an attempt to wreck the passage of the new legislation (www.lagla.org.uk/partnership.htm)

Conclusion

In Figure 9 I have summarised my findings systematically and the reader may find this helpful.

Because means-tested benefit claimants are cast as lesser citizens, they are excluded from a post-modern celebration of individual agency and choice. There is no policy interest in protecting the public law rights of claimants to make up their own minds about their personal financial obligations in the way that such choices and decisions are respected in private law. Because means-tested benefit rules are based on the presumption that all claimants are potentially knaves, the assumption is that giving claimants the right to decide would inevitably lead to irresponsible behaviour. This is a claim I explored in interviews with cohabitants affected by the cohabitation rule, drawing renewed attention to what we know already: that the cohabitation rule is based on unreliable and gendered assumptions about the personal obligations involved in cohabitation.

I have looked at the decisions and choices cohabitants make in relation to financial matters and at the way the cohabitation rule itself impacts on these decisions *and* on relationships. The rule is found to have negative consequences for women, the formation of stable couple relationships and for children. On the basis of government claims that stable families are a pre-requisite for stable communities, I conclude that there is no adequate justification for its retention. Research in Denmark confirms the significance of lone parent status and the urgent need for a re-evaluation of unpaid care work. I have used it to call for a new approach to social security provision for families.

This study of the cohabitation rule is timely precisely because of its recent extension to same-sex couples and the Child Support Agency review. Problems with the enforcement of a financial support obligation may be wrongly ascribed to administrative failure rather than a failure of principle or unsustainable assumptions about personal financial support obligation. This study provides evidence to support

a re-examination of the principle of state regulation of personal relationships in the case of the cohabitation rule and in UK law more generally.

Figure 9 A critical study of the cohabitation rule

RESEARCH QUESTIONS	ANSWERS TO RESEARCH QUESTIONS	ADDITIONAL FINDINGS	UNDERSTANDING LTAHAW FRAUD	DENMARK – A DIFFERENT LENS	WIDER FAMILY POLICY IMPLICATIONS
How can cohabitants' attitudes/behaviour towards money be understood?	<p>Attitudes towards money are part of complex couple relationship negotiations and relative to stage/ type and personal circumstances/responsibilities. No fixed assumptions possible.</p> <p>LTAHAW rule affects money negotiations, reinforcing inequality and may delay/prevent development of mutual financial support.</p> <p>Cohabitation is not a single relationship form and so cannot be satisfactorily defined.</p> <p>Obligations will depend on stage/type/circumstances of actual relationship unlike marriage which has fixed obligations and fixed beginning and end</p> <p>LTAHAW rule changes relationships and risks family stability and well-being of individual family members.</p> <p>Societies are diminished by gender inequality which LTAHAW rule perpetuates.</p> <p>Stable and responsible relationships are important to society. LTAHAW rule makes building stable relationships and responsible living together more difficult, whether LTAHAW applied or not.</p> <p>Children caught up in parents' relationship experiences which made more difficult by the LTAHAW rule</p>	<p>The Value of Lone Parent Status</p> <p>Should be viewed not as opportunism but in terms of citizenship recognition.</p> <p>Child Support</p> <p>Child support assumptions of CSA and LTAHAW in potential conflict.</p> <p>Child support assumptions in LTAHAW put children at risk</p> <p>LTAHAW like CSA undermines government claims that they are putting children's interests first.</p> <p>Time to re-visit principles underlying child support policy.</p>	<p>LTAHAW rule institutionalises hierarchical power in the home, reinforces gender inequality, is based on unreliable assumptions so legitimacy of LTAHAW fraud undermined</p> <p>Claimants' concerns about trust, personal identity, family responsibility in avoidance of LTAHAW should be respected in law, not criminalised.</p> <p>Scrupulous adjudication procedures might show cases not LTAHAW but ignorance of the law, consequences of withdrawal of benefit, murky definitions and institutionalised distrust of claimants' own accounts means claimants have reasonable grounds for caution.</p>	<p>Supports UK findings</p> <p>More generous benefits and different attitudes to obligations of cohabitation not enough to prevent benefit fraud</p> <p>Thesis supports new approach to family benefits. They should be non means-tested, value parenting and care work as work and be individualised to reflect equal citizenship status of individual family members,</p>	<p>Problems with definition and interpretations of the significance of different types of contribution make regulating for fairness in personal relationships unfeasible</p> <p>Paternalistic regulation may miss the spot because women are often the 'original householders'.</p> <p>Thesis supports opt-in not opt-out regulation of relationships</p>
How should 'cohabitation' be understood?					
Does the cohabitation rule have social costs?					

APPENDIX 1

PARTICIPANT CHARACTERISTICS

The following sections provide further information about the characteristics of my participants.

Sex

In my UK sample, there were 14 women and 6 men. I interviewed 5 couples. In the Danish sample, there were 6 women and 2 men (1 couple) although in my analysis I concentrated on the stories of three women (see Chapter 5).

Age

UK

	Under 22	23 - 29	30 - 39	40 - 49	50 +
Women	2	3	5	3	1
Men	0	1	2	1	2

Denmark

	Under 25	23-29	30 -39	40 +
Men	0	0	1	1
Women	1	2	3	0

Ever Married

UK

Men	2
Women	4

Denmark

Men	1
Women	3

Of the three women on whose stories I focussed in the Danish sample, 1 had previously been married.

Location

All of the UK participants I interviewed lived in Scotland. Of the couples I interviewed, 1 'household'²⁸ was located in a rural area, 1 was located at the limits of the city boundaries, 1 couple lived in a small town location and 2 couples lived near to or in city centre locations. Of the other participants, 1 lived in a rural location, 5 lived in large city housing schemes, 3 lived in or near the city centre, 2 lived in housing estates in towns between 10 and 15 miles outside the city centre. As noted in Chapter 5, in some cases, participants' stories related to previous relationships or previous stages in their relationships which may have been played out in different locations. For example, one participant moved from a rural location to an inner city location during the lifetime of her relationship.

²⁸ By 'household', I mean to that these figures relate to the main home where the relationships tended to be played out. In fact one partner might have another, 'false' or seldom used property which are not included here.

Of the three women whose stories I focussed on for my analysis of my Danish data, two lived in housing schemes at the outer limits of a city and one lived in a small town location. I also interviewed one couple who lived in an inner city location, a man who lived in the city suburbs, a woman who lived in a small town location and finally, a woman who lived in a rural area.

Housing

	Owner Occupier	LA/HA ²⁹ Rented	Private Rented	Lives in partner's home but has separate <i>official</i> address	Living in partner's house but hidden ³⁰	Householders whose partner stays for part/all of week but no/little ³¹ financial contribution
Men	1	0	1 ³²	2	2	0
Women	2	7	4	0	1	7

²⁹ LA/HA – landlord is local authority or housing association
³⁰ In these case, regular contributions were made by the hidden partner
³¹ 'Little' means no regular payments although there may be some ad hoc contributions
³² In this case at the time of interviewing the couple were living together in private rented accommodation

APPENDIX 2

Interview Pack

This is an example of an interview pack sent out in advance to all UK participants. Amendments were made to the original piloted version, for example, in the later versions I replaced 'Dear informant' with 'Dear Participant' (see Chapter 5).

Dear Participant,

Research project: The Cohabitation Rule

Thank you for agreeing to let me interview you. The time and place of the interview is as follows.

I have attached a few notes about the research and about the interview process. I hope that you will find them helpful. Please contact me at the above address or telephone number if you have any further questions or concerns.

Best Wishes

Sue Kelly
(Research student)

What the research is about

As you know, I am a research student at the University of Edinburgh. I am carrying out research on a social security rule called the 'living together as husband and wife' rule. The rule is often referred to as the 'cohabitation rule'. This is the rule that treats unmarried cohabiting couples as if they are married when they make a claim for a means-tested benefit such as Income Support, Income-based Jobseekers Allowance, Housing Benefit, Council Tax Benefit). It is assumed that cohabiting couples will provide financial support to each other. If it is decided that a man and a woman are cohabiting, then they can no longer make separate claims as individuals but one of them must make a claim for both of them and for any dependent children. In order to work out how much benefit the couple and their children are entitled to, the incomes of both the man and the woman are taken into account. Where either the man or the woman is working full-time, Income Support or Income-based Jobseekers Allowance is not payable. In other cases, the inclusion of a partner's income might take a couple over the income threshold in which case no benefit is payable.

By carrying out this research I hope to learn more about how unmarried couples manage their money and about the effects of the cohabitation rule on people's lives and relationships. I want to know whether or not the assumption that cohabiting couples will give financial support to each other is a correct one. I will speak to both men and women.

I intend to carry out some of my research in Denmark. In Denmark there is no cohabitation rule and benefit is paid to the individual rather than to couples. However, even in Denmark a lone parent's benefits can be affected when they enter a new relationship. It will be interesting to compare experiences in both countries.

What will happen to the research

This research is part of a PhD degree. Interviews will be tape-recorded. Each interview tape will be listened to by the researcher (that's me) and copied down on paper. At the end of this process the interviews will be analysed in depth to see what can be learned from them. Then the whole exercise will be written up in a very long essay or thesis. Quotations from interviews will be used to illustrate my conclusions. This thesis will then be examined by experts who will decide whether or not to award me a degree.

It is possible that myself, my supervisors and the examiners will be the only people who will read the finished thesis. However, I will send you a summary of my findings and anyone who would like to read the whole thesis will be able to borrow a copy. If the thesis is of a sufficient quality and importance, it may be published and

its conclusions publicised. This means that things which you have said may appear in print but no names will be used. Every precaution will be taken to ensure that participants cannot be recognised from the quotations.

The Interview

I hope that you will find the interview enjoyable.

Please remember there are no right or wrong answers. I want to hear about your experience. Obviously I have my own thoughts and beliefs about the cohabitation rule but I could be wrong. I will listen carefully to what you have to say and try at all times not to put words into your mouth. Sometimes I will ask you to clarify what you have said. Please let me know if you think that I have misunderstood what you are trying to tell me.

Sometimes people feel uncomfortable about the tape recorder in the beginning. Please speak to me about any concerns you may have.

I have attached an interview guide with the main areas I want to talk about. You may find it helpful to have looked over the guide before coming to the interview. Don't worry if you are unsure about the meaning of any question. I will have a few prompts with me. There may also be some follow-up questions. Any further questions you might have can be asked at the time. If at any time you feel that you are unhappy about the questions or feel that you do not want to continue with the interview, please say so.

Throughout the interview I will keep my interview guide in front of me to make sure that I do not miss out anything important. I might also take a few notes.

Before the interview starts I will go over these points again to ensure that you understand what is expected of you and what will happen to the information you provide.

Confidentiality and Anonymity

Every effort will be made to ensure that no-one giving an interview can be identified. If you have any concerns about this, please raise them with me before the interview begins.

Where I am interviewing couples and comparing responses, there is a danger that someone I have interviewed who reads the finished thesis might recognise elements of the conversation I have had with their partner because of shared experience. If you have any concerns about this, please discuss them with me.

Below is the interview guide I sent out in advance to participants. It only listed the main questions and at interview I also used prompts and follow-up questions. For instance, under Section C, depending on initial responses to the first question, I might prompt on whether or not couples believed their relationship was stable and what that meant to them, whether they believed they were cohabiting and what that meant to them and whether they felt that their relationship was marriage-like.

INTERVIEW GUIDE

SECTION A Preliminaries

The interviewer will go over what the research is about and talk about the interview itself. There will also be a sound check. You can ask questions or raise any concerns about the interview at this point or at any other point throughout the interview.

The following sections contain the key questions you will be asked during the interview. The interviewer will also come along to the interview with a list of prompts and may ask some follow up questions. There should be no surprises but if you are unhappy about any of the questions, you do not have to answer them.

SECTION B Context

Yourself

- Are you/have you been married?
- Are you working at the moment and if so what type of work ?

Children

- How many children do you have?
- How old are they?
- Do they live with you?
- Do your children have contact with their other parent?

Housing

- Do you pay rent on your home or do you have a mortgage?

Household

One of the things that affects how much benefit you receive is the number of people living in your household.

- Who is in your household?

SECTION C Relationship

Relationship

- How would you describe your relationship?

Sexual Relationship

- *One* of the things which the Department for Work and Pensions (formerly the DSS) or Job Centre or Benefit Offices look at when determining if a couple are 'living together as husband and wife' is whether or not they are having a sexual relationship. How do you feel about that?
- Is there a sexual component to your relationship?
- Do you think having a sexual relationship also means that a couple have obligations towards each other? If so, what sort of obligations do they have?

Stability

In official Guidance on whether or not a cohabitation exists, 'stability' is measured by looking at the sorts of things couples do with or for each other.

- What do you do with/for each other?

Relationship with children

- If you have children, how does the person you are having a relationship with get on with your child(ren)?
- If the person you are having a relationship with has children, how do you get on with them?

How you are perceived in public

Another issue which is looked at when determining whether or not a cohabitation exists is whether or not other people see you as a couple.

- How do you think other people see your relationship?

SECTION D Money

Income

- Where does your income come from?

Child Support

- Do you/your partner receive or pay child support?
- Can you tell me how these child support arrangements are working out?
- How do you feel about claiming/paying child support?

Organising Household Finances

- How do you organise your household finances?
- Why do you organise your money in the way you do?
- How important has money been in the relationship?
- How do you think people in your situation *should* organise their money?

Financial support

- How do you feel about your partner providing financial support to you/
your children
OR
- How do you feel about providing financial support to your partner/their
children?

SECTION E The Cohabitation Rule

You will remember that a very important part of the purpose of these interviews is to study the cohabitation rule because it treats people who are cohabiting as if they are married and as such assumes that cohabiting couples will financially support each other.

- What do you know about the cohabitation rule?
- What is your experience of the cohabitation rule?
- How do you feel about the cohabitation rule?

SECTION F Closing the Interview

- Is there more you want to tell me about the cohabitation rule?

If you do think of anything at a later date or on thinking about what we have said here today, you decide that you want to describe things differently, please get in touch with me. This is where you can get in touch with me (address and telephone number provided).

- How do you feel the interview has gone?
- I may want to contact you again to clarify certain points, would that be OK and, if so, how can I contact you?

I have prepared a short leaflet about the cohabitation rule and your rights. At the end there is a list of organisations which can provide you with further advice or may be able to act on your behalf.

Thank you very much for letting me interview you.

APPENDIX 3

THE COHABITATION RULE AND LEISURE ACCESS SCHEMES IN SCOTLAND

In Chapter 8, I described Sharon's experience of losing her leisure access status as a result of a cohabitation rule determination. I decided to see whether this was happening elsewhere in the country.

I logged onto several Scottish Councils' websites and called in to my local swimming baths to enquire about the local scheme. The outcome of this small additional piece of research was astonishing. In my local swimming baths I was told that the partners of claimants could claim in their own right but they would need proof that they were the partner of an eligible claimant, a letter from their benefits office perhaps. Some of the local authorities did not mention partners of claimants at all. Others only mentioned that *spouses* could also claim but there was no provision for those living with the claimant *as husband and wife*. In one case (South Ayrshire Council), spouses were mentioned in an 'N.B.' at the end of the list of entitlement criteria, as if it were an afterthought.

NB The spouses of Leisure Card Holders are eligible for a leisure card if they are not wage earners

The wage earner proviso is also problematic because there are specified hours of work that are compatible with a claim for Jobseekers Allowance (under 16 for the claimant and under 24 for the claimant's partner) although if wages take you above the threshold, then benefit stops. If taken literally, the above rule means that the claimant can work part-time and still be eligible for the leisure access card so long as he is still in receipt of Jobseekers' Allowance but if her/his spouse works (remember

to get Jobseekers Allowance, a couple still have to satisfy the joint income criteria for benefit), s/he will not be eligible for a leisure card. This rule is either inaccurate or indirectly discriminatory on the grounds of sex since it is mainly women who will be affected by this.

Aberdeen Council stated that other members of a claimant's family could take advantage of their scheme. Although explanation of provision for family members appears as a footnote, it was clearly signposted. However, a look at the small print revealed that family members could not claim in their own right.

In some instances, family members may also be eligible – please ask a member of staff for further details. The person in receipt of the benefit/allowance or eligibility criteria must complete the application form as the main cardholder and also receive a card.

I emailed this Council and confirmed that the above criteria means that the partner of a claimant cannot get a card unless the claimant also has one.

I notified the relevant local authorities that their rules were discriminatory and a couple did respond positively and promise to do something about it/look into it. However, in Aberdeen they were adamant that they had got it right and that it was not discriminatory. This suggests that women who challenge their rule might find they have a fight on their hands.

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