



Children in **LGBT** FAMILIES

All over Ireland there are children growing up in diverse families, some with lesbian and gay parents. Despite civil partnership being introduced in 2011, the State still does not treat these children equally and there is still no legal mechanism for them to have all their parental

relationships recognised and protected which leaves them in vulnerable legal positions in relation to everyday things such as medical consent, passport applications and even school trips.

What are some of these legal gaps that affect LGBT parent and child relationships?

Adoption Civil partners cannot apply to adopt jointly as a couple, even if the proposed adoption application is in relation to a same-sex parent wishing to adopt their partner's biological child.

Guardianship Guardianship rights have not been extended by the Civil Partnership Act nor has any other equivalent regime been introduced. Therefore, the situation remains that there is no way to confer parental rights or responsibilities on a civil partner who is not the biological or adoptive parent of a child but is in fact parenting a child or children within their family unit.

Custody & Access The right to make an application to the court regarding custody has not been extended to include a civil partner who is not the biological parent of the child. The process of applying for access has not been brought into line with access applications by legally recognised parents and as such can be very complicated.



Maintenance References to dependent children are omitted from the provisions governing maintenance in the Civil Partnership Act. A maintenance order cannot be made against a civil partner, who is not the biological parent, for the support of a dependent child. Such an order can be made against a heterosexual step parent.

Dissolution of a Civil Partnership There is no legal requirement that proper provision is made for any dependent children in respect of dissolution of civil partnership where the parents' relationship has irretrievably broken down. The court dealing with the dissolution is not required to ensure that proper provision is made for any children who are dependent on the civil partner. This protection is available to a dependent child of a heterosexual step parent.

Inheritance The Civil Partnership Act does not extend inheritance rights to a non-biological child of a deceased civil partner parent. This means that such children are excluded from the rules of inheritance that apply where a person dies without making a valid will. Where a parent does leave a will, the right to challenge it for failing to provide adequately for a child does not apply to non-biological children even when the deceased civil partner was in fact parenting that child.



Outline of research on same sex parenting and the outcomes for their children

For four decades researchers have been comparing the development of children with gay and lesbian parents and children with heterosexual parents. These studies, including longitudinal research from the US stretching over 25 years, have found no significant developmental differences between the two groups in their intelligence, psychological adjustment, social adjustment, popularity with friends, development of social sex role identity or development of sexual orientation.

A recent study in this area comes from Cambridge University's Centre for Family Research¹. This research into the experiences of adoptive families headed by same-sex couples suggests that children adopted by gay or lesbian couples are just as likely to thrive as those adopted by heterosexual couples. It also reveals that new families cope just as well as traditional families with the big challenges that come with taking on children who have had a poor start in life.

It is also worth noting that while research in an Irish context is scarce, a small scale study undertaken by Marriage Equality , provides valuable insight into the experience of children with LGB parents living in Ireland. This research² entitled 'The Voices of Children' found that the children had experienced significant support from family, friends, the LGBT community and progressive schools. However lack of legal recognition and protection of their families had caused considerable problems and frustration for them. A more recent and larger Irish study into the experiences of LGBT parents published by LGBT Diversity³ confirms these findings, with almost 50%

of parents reporting that they had experienced discrimination in the past 5 years, citing lack of legal recognition as the main cause of discrimination.

In response to the body of research evidence which now exists, many medical and child welfare bodies have adopted formal policies recognising that sexual orientation is not relevant to parental ability. These professional bodies have urged their members to be cognitive of this research evidence that demonstrates that LGBT people are just as capable of being good parents as heterosexual people and that their children are just as likely to be healthy and well-adjusted. In a U.S. and a U.K. context professional bodies include; the American Psychological Association, the American Academy of Paediatrics, the National Association of Social Workers and the Royal College of Nursing.

In an Irish context the Irish Association of Social Workers (IASW) and the Irish Institute of Mental Health Nurses, have both issued guidelines to this effect. The IASW in its guidelines calls on social workers working with gay and lesbian parent families and those involved in the assessment of LGB adults as potential foster or adoptive parents to be particularly mindful of this body of research.

MARRIAGE EQUALITY

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In research carried out by Marriage Equality (Voices of Children) the children involved who had been raised in same-sex headed households, provided many real life examples of how the lack of legal recognition of their relationship with their non-biological parents had significant impact on their lives. In the end what mattered most to the children in this study, was that their family relationships be recognised and protected, and that no other generation of children with LGBT parents, should experience the pervasive homophobia that they had experienced.

“It should be borne in mind that this is not a hypothetical problem. The omission of robust protections for the children of civil partners will have real consequences for the young people concerned and it is in their interests that the law reflect and provide for the reality of their lives.”

(Ombudsman for Children, July 2010)

The Children and Family Relationships Bill currently going through the houses of the Oireachtas proposes to address these legal gaps faced by children in non-traditional families including children with lesbian and gay parents.

Research references

1. Cambridge study reference - Laura Mellish, Sarah Jennings, Fiona Tasker, Michael Lamb and Susan Golombok, *British Adoption and Fostering*, 2013.
2. Voices of Children research reference - Iris Elliott, Marriage Equality, 2010.
3. LGBT Diversity reference - Jane Pillinger + Paula Fagan, *LGBT Diversity*, 2013.