

The Irish Times - Tuesday, January 18, 2011

The forgotten parents



Orla Howard, Daire Courtney, Grainne Courtney and Clare O'Connell: Grainne is Clare and Daire's biological mother and 'came out' as a gay woman after she split up with their father. Orla moved in eight years ago. Photograph: Brenda Fitzsimons



Denise Charlton and Paula Fagan, from Dalkey, Co Dublin, have two boys, aged four and one. Photograph: Brenda Fitzsimons

Although the civil partnership legislation that came into force on January 1st recognises same-sex couples for matters such as tax, pensions and inheritance, it does not acknowledge they might have children, writes **SHEILA WAYMAN**

PAULA FAGAN'S partner was working abroad when their eldest, asthmatic son became ill. She brought him to the GP who advised her to take him to the emergency department straight away.

"All the way in I was so worried that I was not going to be able to sign a form for his treatment," says Paula, who as the partner of his biological mother is the boy's other parent, though she has no legal recognition of her relationship with him.

"In the end I just didn't tell them. He was calling me 'Mummy' so they didn't pass any heed, but it was very stressful for me, which was ridiculous because I am his other primary carer." At the hospital X-rays showed the boy had pneumonia.

Day-to-day parenting for same-sex couples is no different from that of most other families – until questions such as parental consent arise. Generally people are very positive, says Paula, who lives in Dalkey, Co Dublin, with her partner, Denise Charlton, and their two boys, aged four and one.

“Once people get to know you, they realise you are a parent but you have that underlying anxiety,” says Paula, who is the biological mother of the younger boy. For instance, in the older boy’s Montessori school, where parents have to sign forms, “it is at their discretion whether they let me sign”.

Paula and Denise were in their thirties when they moved in together eight years ago and both were keen to have children. As Denise was the eldest, she went first. One child was conceived with sperm from a known donor – he and his partner are both “friendly uncles” to the two boys – and an anonymous sperm donor was used for the other.

But Paula is frustrated that under law she and Denise are not treated the same as heterosexual parents in a similar situation. “We planned the pregnancies together; we went through the treatment together. It is like any other opposite sex couple who may use donor sperm if there are fertility issues but then the male partner is recognised as the parent.”

Although the civil partnership legislation that came into force on January 1st recognises same-sex couples for matters such as tax, pensions and inheritance, it does not acknowledge they might have children.

Chunks of existing family law were replicated for the civil partnership legislation but any mention of dependent children was deleted, says Moninne Griffith of the campaigning group Marriage Equality. For example, the section that deals with dissolution of civil partnership – the equivalent of divorce for heterosexual couples – covers maintenance of adult partners but there is no provision for dependent children.

Although civil partnership does nothing to change the parenting status of a non-biological parent, it is encouraging that the Law Reform Commission has recommended that civil partners should be able to apply for guardianship (or, as it will be called in the future, “parental responsibility”), says Sandra Irwin-Gowran of the Gay and Lesbian Equality Network.

Civil partnership has a few spin-off positive effects for the family, she points out. For example, being able to share tax credits may make it more affordable for one partner to stay at home full- or part-time. Also, given that pensions will pass to the civil partner, this will provide important financial security to a couple with children where one partner dies. “These might be considered small benefits,” she adds, “but for the individuals in question that could make an enormous difference.”

As far as marriage equality is concerned, the debate is not about whether gay or lesbian people should be allowed to have children. “What we are saying is they do have kids and what we are campaigning for is that these kids have the exact same rights as anybody else,” says Griffith.

There is legal opinion that the civil partnership legislation might be challenged in Europe as being in contravention of the UN Convention on the Rights of the Child. “It

stigmatises children of gay and lesbian parents in the same way that children born to unmarried parents were, prior to the Status of Children Act,” she suggests.

Last year, Marriage Equality published *Voices of Children*, in which young people aged 18-24 with gay parents talked about their childhood experiences. Their message to people who oppose gay marriage with the argument “you have to think of the children”, was “we are the children and we have grown up perfectly normal”.

Schools with a liberal ethos are regarded as crucial in supporting children of gay parents. Paula and Denise took a lot of care in researching pre-school groups and schools, to minimise the chances of their sons encountering prejudice. They had to be sure that staff were not just okay with their type of family but happy to embrace it.

“It took a while and I came across people who were just not aware that there are lesbian-headed families. At best it was that people did not know what to say and that’s okay, but I had a few instances where people were not great about it.”

The first Montessori school their son attended was “brilliant” and he dutifully went home with two cards for Mother’s Day. They are equally happy with the Montessori to which he moved last September

Although he is only four, the fact that he has same sex parents has already come up among his peers in the neighbourhood. “When new kids move in, at first they are curious and, as they get to know us, ‘two Mums’ nearly becomes a badge of honour,” says Paula.

Paula and Denise are not planning to become civil partners. “For us the primary concern is around the children and the recognition of our relationship to them, so that won’t be helped by civil partnership,” Paula points out. “It is actually kind of insulting because of the way they treated the children in it.”

But she is hopeful that it will not be too long before they will be able to get married here, having been heartened by *The Irish Times* opinion poll last September which found that just over two-thirds of people (67 per cent) believed gay couples should be allowed to marry. Although just under half (46 per cent) said that gay couples should be allowed to adopt children, she thinks this is quite progressive.

“I think the public are ready,” she adds, “but the politicians lack the political will and courage around it.”

'All the research shows that children raised by gay parents are not at any kind of disadvantage. In fact, some of the research shows we are at a bit of an advantage'

Their family life is the same as everybody else's, Gráinne Courtney and Orla Howard are at pains to stress, "except for the external perceptions".

"For some reason people think being gay parents is different to being straight parents," says Orla, sitting at a long table in the L-shaped kitchen-dining area of their semi-detached home in Drumcondra, north Dublin.

But they go through rough and smooth times like most families and their teenage daughters can be "a pain in the ass" like most teenagers.

Gráinne is the biological mother of Clare O'Connell (19) and Daire Courtney (16) and "came out" as a gay woman 11 years ago, three years after she split up with their father. She lost her first lesbian partner to breast cancer and then, eight years ago, Orla moved in.

We speak on a Saturday morning just after Daire has been dropped at Dublin airport to return to boarding school in Costa Rica, where she is on a scholarship at the United World College. (It is having a sister at school in Costa Rica which, Clare later suggests, is the only "bizarre" thing about her family life.) "I had no conception of what a big deal it was getting involved with parenting children," admits Orla. Having grown up with eight siblings in west Clare, "I thought it was going to be a very small step but it was a much bigger thing". It took a while for her to adapt, "but it has been fantastic for me – I always wanted children in my life".

The girls see themselves as having three parents and can work that to their advantage. "When the kids want something, or particularly want to do something that they think I might not let them do, they very often text her or ring her, rather than ringing me," says Gráinne. "They think she is an easier touch than I am."

It is clear that the question of civil partnership is a bit of a dilemma. "We do need it but we don't want it," explains Gráinne. They would be glad of formal recognition of their relationship for tax, pension and property purposes. They are very unhappy that civil partnership gives no rights to the non-birth mother over the children, or vice versa. With the girls' "fantastic" father very involved in their lives, what Gráinne and Orla would like to see is "second parent rights".

Gráinne points out how Orla has lived with her daughters for the past eight years "and to have her rights fully extinguished if anything happened to me would be absolutely awful. It is unlikely because of the ages of our children but for people with small children it is a huge issue".

If a birth mother in a lesbian couple who had used donor sperm died, her family could exercise legal rights to custody of the child, while the co-parent would be regarded as a "stranger" in law. Not only does civil partnership not do anything for children in regard

to recognising their relationship with their non-biological mother but, in certain circumstances, it could have negative repercussions.

If Gráinne and Orla became civil partners and Gráinne were to die first without making a will, two-thirds of her estate would go to Orla, the remainder to the daughters (although the daughters could contest that in court). But on Orla's death, everything she might will Clare and Daire would be subject to inheritance or gift tax after a threshold of just €20,740 (on 2010 rates), compared to a threshold of €414,799 if they had inherited directly from Gráinne or if they were Orla's step children through marriage.

For Clare, a second-year medical student at Trinity, the introduction of marriage for same-sex couples would mean that everybody would be "forced to recognise us as a family, whether they truly believe we are or not. We believe we are and anybody who has met our family could not say it was anything else but a family."

She is grateful for the way she was brought up and thinks that she and her sister are more open-minded than many of their peers. "All the research goes to show that children raised by gay parents are not at any kind of disadvantage, psychologically, socially or developmentally. In fact, some of the research shows we are at a bit of an advantage.

"Only in the past two years have I identified with myself as being a child of a gay parent. I just thought of myself as an ordinary child."

It was when she became aware of how many rights Gráinne and Orla were being denied, that she realised how their family is part of a marginalised group in society. 'Irish society is more tolerant than some people think'

Architect Vivian Cummins and his partner, Erney Breytenbach, felt they could provide a stable, loving home to a child and while adoption as a gay couple is not possible in Ireland, fostering is.

When they applied to be assessed as potential foster carers in 2004, they thought they might encounter prejudice as a same-sex couple. But they did not come across any animosity – then or since.

"When we had our first short-term foster child, we got a lot of support from neighbours with help where they could and toys. It was really wonderful," says Breytenbach, a former South African diplomat.

After two short-term placements, they have had a boy living with them in south Co Kildare for the past five years, who is now 11. "It has been a very good experience for us. We have a very exceptional child at the moment."

The couple, who were married in South Africa in 2009, are applying for further rights as carers of the boy (such as being able to sign for medical care, a passport or school outings), which all foster parents are entitled to do after five years. They can apply for

these equally as a fostering couple.

In response to a query on the percentage of foster carers who are same-sex couples, a spokeswoman for the Health Service Executive says it recruits foster parents based on their parenting capacity and does not discriminate or collect data on the sexual orientation of foster carers.

In summing up what has been a wholly positive experience, Breytenbach says: “I think Irish society is actually more tolerant than some people think when it comes to social issues.”