



December 2009 marks the fourth anniversary of the introduction of the Civil Partnership Act. Family lawyer **Melanie Hay** reminds us of its implications.



# FAMILY VALUES

This month marks the fourth anniversary of the introduction of the Civil Partnership Act. As well as providing a legal basis for lesbian couples to make a lifelong commitment to each other, the Civil Partnership Act has resulted in huge steps forward in terms of equality and in social attitudes towards gay people.

As a family lawyer, I have seen a growing number of inquiries from lesbian couples – and we don't just get consulted when things go wrong. Increasingly we are asked to advise on pre-partnership agreements (the gay equivalent of a pre-nup) and on issues relating to children. Admittedly, children are not top of every lesbian's Christmas list but there is clearly a growing demand for information and services aimed at lesbians in this area.

Since the Act, where a lesbian couple have a child and are in a civil partnership, the biological mother can confer parental responsibility on the non-biological parent in the same way that an unmarried heterosexual mother can grant it to her child's father. Parental responsibility is a legal status which brings with it all the rights and responsibilities that a parent usually has for a child. The position is not as straightforward where a known donor is used.

In terms of equality, the news for would-be lesbian parents is even better following the introduction of the Human Embryology and Fertilisation Act 2008. From April this year, the female partner of a woman having donor insemination or IVF has the right to be regarded as a legal parent and can enter their name on the child's birth certificate. This gives the non-

biological lesbian parent the same legal status as fathers. From the end of 2005, lesbians have been able to adopt children jointly whereas previously only one partner could be the legal parent. I speak from experience – my civil partner and I now have two beautiful children. I would never have thought that all of this would be possible 10 or even five years ago.

There has also been progress towards equality with changes in the law relating to benefits, immigration and tax since the introduction of the Civil Partnership Act. Couples in a civil partnership are now treated the same as married couples in relation to inheritance tax and capital gains tax. This means that civil partners will be exempt from inheritance tax if one partner dies leaving their estate to their partner and they can also transfer assets between them without paying capital gains tax.

Obviously, these changes have also resulted in responsibilities. Where parents of a child in a civil partnership separate, the non-biological parent has to pay maintenance for the child. Upon dissolution of a civil partnership the courts can make all the same orders that it can make upon divorce – for example, orders related to transferring property, awarding maintenance, or sharing a pension.

All of the laws that apply to married couples now apply equally to civil partners. There is, however, one difference to the procedure for divorce or dissolution and that is that a civil partnership cannot be dissolved on the grounds of adultery. Rumour has it that parliament did not want to enter into a debate about the definition of lesbian sex! Instead, this would form one of the examples of unreasonable behaviour for the purposes of a dissolution.

## useful info

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### Bindmans...

... is a firm of lawyers committed to fairness and equality, with extensive experience of working with gay and lesbian clients. To celebrate the introduction of the Civil Partnership Act, Bindmans set up a dedicated website which brings together everything couples should think about before tying the knot.

The website can be found at [www.civilpartnershiplaw.co.uk](http://www.civilpartnershiplaw.co.uk)