

The Remarkable Journey towards Equality and Civil Marriage for Lesbian and Gay People in Ireland



GLEN briefing note on equal access to civil marriage

In a democratic republic based on equal citizenship, civil marriage should be open to all citizens, including lesbians and gay men. The fact that our Constitution and its provisions relating to marriage have been interpreted by the courts to exclude same-sex marriage is deeply regrettable.

The move to civil marriage for same-sex couples now is not a massive legislative leap; it is an incremental step building on powerful civil partnership legislation and on the enthusiastic general welcome by Irish people for the civil partnerships that have already taken place.

In April the members of the constitutional convention overwhelmingly recommended that a referendum be held to allow lesbian and gay people equal access to civil marriage. In November the government accepted these recommendations.

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Summary

- The issue of equal access to civil marriage for lesbian and gay couples has been the subject of considerable debate, analysis and consultation in Ireland over the last 10 years.
- From these debates support for equal marriage has grown consistently across society and across every political party in the Oireachtas.
- The Constitution has however, been perceived and interpreted as a barrier to the achievement of this equality goal.
- In enacting civil partnership legislation the government, supported by all parties in the Oireachtas, sought to provide a model of legal recognition as close to marriage as the prevailing understanding of constitutional limits would allow.
- Almost fifteen hundred couples have registered and celebrated their civil partnerships which have been treated as weddings by family, friends and neighbours across every county in Ireland.
- Civil Partnerships have been a major advance. However, they fall short of full constitutional equality which is critical for the status, standing and dignity of all lesbian and gay people and for lesbian and gay headed families.
- There is currently no legal recognition for lesbian and gay headed families. This urgent issue needs to be addressed through legislation to provide equal protections for these families.
- The move to civil marriage for lesbian and gay couples now is not a massive leap; it is an incremental step building on powerful civil partnership legislation and on the enthusiastic general welcome by Irish people for the civil partnerships that have already taken place.
- The achievement of equality in marriage would be yet another step in Ireland's remarkable journey towards equality that has made it one of the most accepting and inclusive countries for lesbian and gay people in the world.



Teresa Quigley and Eleanor Newe celebrate their civil partnership in June 2011 with their fathers Michael Quigley and Gerard Newe.

Introduction

In April of 2013 the Constitutional Convention was asked to consider the issue of equal access to civil marriage for lesbian and gay couples. They overwhelmingly recommended that there be a referendum to change the law to allow lesbian and gay couples to get married. The vote was 79 – 19 in favour. The Convention also recommended that legislation be introduced to ensure equal legal protections for lesbian and gay headed families. The vote was 81 – 12 in favour.

GLEN –Gay and Lesbian Equality Network – strongly welcomes the overwhelming recommendation by the Constitutional Convention to hold a referendum to allow for civil marriage for lesbian and gay couples and changing the law to ensure full and equal status for their families. GLEN also strongly welcomes the decision of the cabinet in November to support the recommendation and to propose recommend holding such a referendum in 2015.

EXTENDING CIVIL MARRIAGE TO INCLUDE SAME-SEX COUPLES IS CRITICALLY IMPORTANT TO SAME-SEX HEADED FAMILIES AND TO LESBIAN AND GAY PEOPLE MORE GENERALLY. EXTENDING EQUAL CONSTITUTIONAL PROTECTION COUPLED WITH ALL THE RIGHTS AND RESPONSIBILITIES AND STATUS AND STANDING THAT ARE PART OF CIVIL MARRIAGE SENDS OUT A POWERFUL SIGNAL THAT SAME-SEX RELATIONSHIPS ARE OF VALUE AND EQUAL TO OTHERS.

Inclusive civil marriage will be yet another significant step towards equality, building on almost two decades of progress that has transformed Ireland into one of the most welcoming and accepting countries for lesbian, gay and bisexual people in the world. This includes decriminalization in 1993 and the enactment of powerful equality legislation that put Ireland into the forefront internationally in terms of legal protections for lesbian and gay people.

There is a considerable body of analysis, debate and consultation on the question of civil marriage and legal recognition of same-sex couples that has taken place in Ireland over the past decade. Of particular significance in this respect have been the extensive debates in the houses of the Oireachtas on the passage of the Civil

Partnership legislation in 2010 and the work of the ‘Colley Working Group’ and the Law Reform Commission on which this legislative reform is based. The All Party Oireachtas Committee on the Constitution also provided an earlier but briefer analysis of the issues relating to legal recognition of same-sex couples in its 10th Progress report published at the beginning of 2006.

In the debates on civil partnership, a considerable consensus evolved around providing a model of civil partnership with legal protections and obligations as close to marriage as the prevailing understanding of the Constitutional limits would allow. This was achieved with the enactment of the Civil Partnership and Certain Rights of Cohabitants Act in 2010, with the support of every political party in the Oireachtas.

OVER THE PAST TWO YEARS, ALMOST FIFTEEN HUNDRED COUPLES HAVE CELEBRATED THEIR CIVIL PARTNERSHIPS WITH FAMILY, FRIENDS AND NEIGHBOURS ACROSS EVERY COUNTY IN IRELAND. WITH THIS, PUBLIC SUPPORT FOR FULL EQUALITY IN CIVIL MARRIAGE HAS CONTINUED TO GROW AND ALMOST ALL POLITICAL PARTIES HAVE COMMITTED PUBLICALLY TO EXTENDING MARRIAGE TO INCLUDE SAME SEX COUPLES.

This document draws on the substantial body of public analysis and consultation in Ireland to illustrate the case for marriage and for the reform of family law more broadly to provide same-sex headed families with equal status and protections.



Michael Murphy and Terry O'Sullivan celebrate their civil partnership in June 2011.

Report of the all Party Oireachtas Committee on The Constitution 2006

In 2006, the All Party Oireachtas Committee on the Constitution published its Tenth Progress Report focused in this instance on the Constitution and the Family. In its formal presentation to the Committee. In 2005 GLEN stated:

“Based on the principle of equality of rights, duties and responsibilities, we are asking now that the law on civil marriage be amended so that it is open to any two people, irrespective of gender. It should be stressed that civil marriage is quite separate from religious marriage and that what GLEN is calling for is marriage in the eyes of the State in a Registry Office as distinct from a religious marriage ceremony in a church. We make no comment or any request about the codes that apply to religious marriage ceremonies”

(Report of the All Party committee on the Constitution, 2006: 78).

In response to this and other submissions, the Committee stated the following:

“Provision for same-sex marriage would bring practical benefits. But it would require a constitutional amendment to extend the definition of the family. However, legislation could extend to such couples a broad range of marriage-like privileges without any need to amend the Constitution (as has been suggested in the case of cohabiting heterosexual couples)”

(Report of the All Party committee on the Constitution, 2006: 78).



Chris Robson and Bill Foley celebrating their civil partnership, March 2013

'Colley' Working Group: Marriage the Equality Option

The 'Colley' Working Group (named after its Chair Anne Colley) was established in 2006 by the Minister for Justice, Equality and Law Reform to examine in detail and present options to Government on the reform of the law in relation to different categories of relationship and partnerships outside of marriage, including same-sex couples.

Members of the Group included the Registrar-General and senior officials from the Office of the Attorney-General, the Department of Finance, the Department of Justice, Equality and Law Reform, the Department of Social and Family Affairs, the Office of the Minister for Children and the Equality Authority. Members also included a representative from the Family Lawyers Association, a representative from GLEN and also a senior economist and social policy analyst.

After extensive analysis and public consultation, the Working Group reported to Government at the end of 2006. In its report it highlighted access to civil marriage as the only equality option for law reform relating to same-sex couples. The Group stated that:

“THE INTRODUCTION OF CIVIL MARRIAGE FOR SAME-SEX COUPLES WOULD ACHIEVE EQUALITY OF STATUS WITH OPPOSITE SEX COUPLES AND SUCH RECOGNITION THAT WOULD UNDERPIN A WIDER EQUALITY FOR GAY AND LESBIAN PEOPLE IN IRELAND”.

'Colley' Working Group, 2006

The view of the Colley Group at this time was that access to civil marriage would be “vulnerable to constitutional challenge” and with this in mind recommended to Government a “full civil partnership model” that would extend to same-sex couples who registered as civil partners the same rights and duties of marriage.

The Working Group noted that lack of legal recognition of same-sex couples had two critical effects:

- First, it “has direct consequences for same-sex families, because they are excluded from the protections and legally enforceable obligations that are available to opposite sex couples through civil marriage” and
- Second, it “has implications for the status and standing of same-sex families and for lesbian, gay and bisexual

people more generally, contributing to perception that their relationships lack value and meaning and are unequal to others”. In other words, that ***denying same sex couples the title and dignity accorded to marriage implies that society places a lesser value on the love and commitment of lesbian and gay partners.***

It was for these reasons that Colley put forward just two options: marriage or a model of legal recognition as close to marriage as it believed possible within the perceived constraints of the Constitution. Nevertheless, the Group noted that although 'full civil partnership' would provide for many urgent issues for same-sex couples (and in its view was less vulnerable to constitutional challenge):

“FULL CIVIL PARTNERSHIP FALLS SHORT OF FULL EQUALITY FOR SAME-SEX COUPLES AS IT EXCLUDES SUCH FAMILIES FROM THE PROTECTION IT GIVES TO THE FAMILY IN THE CONSTITUTION”.

'Colley' Working Group, 2006

The analysis of Colley was to provide the basis for subsequent legal reform.



Sandra and Marion Irwin-Gowran celebrating their civil partnership, May 2011.

‘Marriage-based’ Civil Partnership Legislation Enacted

IN 2010 THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS OF COHABITANTS ACT WAS ENACTED WITH THE SUPPORT OF ALL POLITICAL PARTIES IN THE OIREACHTAS. IN LINE WITH THE ‘FULL PARTNERSHIP’ MODEL PROPOSED BY COLLEY GROUP, THE ACT CREATED A SUBSTANTIAL AND EXTENSIVE FORMAL UNION FOR SAME SEX COUPLES SIMILAR IN MANY RESPECT TO MARRIAGE.

As one legal analyst has put it:

“In one single Act, one finds the equivalent of several family law statutes on the family (or shared) home, maintenance, pensions, housing, domestic violence, annulment, dissolution and remedies on dissolution as well as statutory provisions on succession and equality. Other contemporaneous Acts have followed suit, extending taxation and social welfare law to place civil partners in substantially the same position as spouses for these purposes, while official immigration policy now treats civil partners the same manner as spouses”.

Dr. Fergus Ryan 2012.¹

Introducing the legislation, Dermot Ahern TD, the then Minister for Justice and Law Reform, stated that in providing for an extensive legal model:

“I believe this Bill is as comprehensive as possible consistent with the requirements of the Constitution”.

Dermot Ahern TD, Minister for Justice, Equality and Law Reform

The view that the legislation was designed to be as close to marriage as the prevailing understanding of Constitutional limits would allow was echoed in the debates by Alan Shatter TD, now Minister for Justice, Equality and Law Reform:

“If, instead of using the formula ‘civil partnership’, the Bill referred to marriage simpliciter, there would have been a serious risk of a constitutional challenge to the legislation and therefore a substantial delay in its enactment. The Minister therefore had no choice other than to use the formula in the legislation. In other words, the relationship is marriage in everything but name”.

Alan Shatter TD, now Minister for Justice and Equality, speaking in the debates on the Civil Partnership and Certain Rights of Cohabitants Bill, 2010.

The sense of civil partnership as being a stepping stone to full equality was also noted by Equality Authority during the debates on the legislation:

“The position of the Equality Authority is that Civil marriage for gay and lesbian couples is the Full Equality solution, but we welcome the Civil Partnership Bill as it will provide immediate solutions to the many urgent and pressing problems which gay and lesbian couples face in the absence of legal recognition of their relationships”.

Angel Kerins, Chair, the Equality Authority, 2010.²

Zappone and Gilligan v. Revenue Commissioners (2006)

Katherine Zappone and Ann-Louise Gilligan who married each other in Canada sought to have their marriage recognised in Ireland as a valid legal marriage. The High Court refused to recognise the marriage, saying that a marriage in Irish law is a union confined to two people of the opposite sex. The judge concluded that the term ‘marriage’, as used in the Constitution, meant only a heterosexual union. She noted that other judges had consistently said that marriage in Irish law was a union of one man and one woman. She also pointed out that a 2004 Act had restated that in current Irish law marriage can only be between two people of the opposite sex. The Court ruled that there was no constitutional right to enter into a same-sex marriage.

¹ Dr. Fergus Ryan (2011). Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. Dublin: Round Hall.

² Angela Kerins, quoted in the Irish Times, 30/6/2010.

Addressing the Exclusion of Children

One major divergence between the civil partnership legislation and the recommendations of the Colley Working Group has been lack of recognition of children being parented by same-sex couples in civil partnership legislation. The Working Group had outlined in some detail the negative impact for children of same-sex couples of not having the opportunity to establish a joint legal connection to both their parents and had proposed that same-sex couples should be eligible to be considered as joint adoptive parents.

The impact of the exclusion of children from Civil Partnership legislation carries significant consequences, and was set out in a GLEN submission to the Law Reform Commission. In a nutshell, while there are some exceptions, a child's relationship with the civil partner of his or her parent is not generally recognised in law. This means that the child is denied certain important rights in respect of the parent's civil partner that he or she would otherwise have in respect of a parent. For example a child:

- cannot seek maintenance from their non-biological parent if the parents' relationship breaks down, even if that person had taken on responsibility for all financial support.
- does not have any right to claim inheritance from their non-biological parent
- is ignored in the context of protections that apply to the shared or family home.
- Is largely ignored in arrangements, especially financial arrangements such as maintenance, on breakdown of a civil partnership, unlike in divorce.
- is denied access to the security of a legally recognised family that adoption offers, as the child cannot be jointly adopted by the child's biological parent and his or civil partner, even if they would be suitable adopters

In response to this the Law Reform Commission recommended changes in the law relating to guardianship, custody and access that would be inclusive of civil partners parenting children.³

The Programme for Government 2011 has committed to addressing omissions in the Civil Partnership legislation, "especially those relating to children". In line with this, the Minister for Justice and Equality Alan Shatter T.D. has announced his intention to introduce the Family Relationships and Children Bill to the Oireachtas before the end of 2013.

Highlighting the need for such reform the Minister stated:

"I AM ACUTELY AWARE THAT WE NEED TO REFORM FAMILY LAW TO SECURE EQUAL CITIZENSHIP FOR LESBIAN AND GAY PARENTS AND THE BEST INTERESTS OF THEIR CHILDREN. THIS REFORMING FOCUS MUST ALSO ENSURE THAT CHILDREN IN LESBIAN OR GAY FAMILY UNITS ARE ABLE TO FORM A LEGAL CONNECTION WITH THEIR NON-BIOLOGICAL PARENT AND THAT KINDRED RELATIONSHIPS FLOW FROM SUCH LEGAL CONNECTION. REFORMS ARE ALSO NEEDED IN THE AREAS OF GUARDIANSHIP, CUSTODY AND ACCESS, AND TO ENSURE MAINTENANCE AND INHERITANCE RIGHTS FOR THE CHILDREN OF CIVIL PARTNERS".

Alan Shatter, TD. Minister for Justice and Equality. 2012.⁴

GLEN has strongly welcomed the government's commitment to address these issues in the upcoming family, relationships and children's Bill. However, even when in place, exclusion from marriage will mean that the children of same-sex couples will not have the opportunity to be part of the only Constitutionally recognised family, i.e. the family based on marriage.

McD. v. L. (2009)

The Supreme Court ruled that a lesbian couple and their child were not a family under the Constitution. The court acknowledged the loving and caring environment in which the child was being raised but stated that, for constitutional purposes, a family that is not based on marriage is not recognised under the Constitution.



Aisling Deignen and Clare Dowling and their daughter celebrating their civil partnership in 2011.

³ See Report on Legal Aspects of Family Relationships, 2010. http://www.lawreform.ie/_fileupload/consultation%20papers/cpFamilyRelationships.pdf

⁴ The Minister made these comments in a speech to the Fine Gael LGBT Group, November 2012. <http://www.justice.ie/en/JELR/Pages/SP12000321>

Momentum and Support for Marriage Continues to Grow

With civil partnership in place, the momentum for marriage has increased, spurred by the hundreds of couples across the country who have registered their civil partnerships.

BY MARCH 2013, ALMOST FIFTEEN HUNDRED COUPLES FROM ALL COUNTIES IN IRELAND HAD REGISTERED THEIR PARTNERSHIPS.

Many more couples who have married or entered civil partnerships/unions abroad with similarly extensive legal protections have had those relationships accorded the same legal protections as Irish civil partnership.

The public has enthusiastically welcomed civil partnerships being celebrated throughout the country. As an editorial in the Longford Leader stated:

“FOR MANY PEOPLE THE TERM ‘CIVIL PARTNERSHIP’ HAS BECOME INTERCHANGEABLE WITH THE TERM MARRIAGE. AS FAR AS THEY ARE CONCERNED THEY ARE ATTENDING THE ‘WEDDING’ OF THEIR GAY OR LESBIAN FRIENDS. THE REALITY IS THAT THE TIDE OF PUBLIC OPINION HAS JUST SHIFTED TOWARDS AN ACCEPTANCE OF GAY MARRIAGE.”

Editorial, July 13th, Longford Leader.

In April 2013 the constitutional convention overwhelmingly called for a referendum on equal access to civil marriage for lesbian and gay couples and for reform of the law to ensure lesbian and gay headed families would have equal status and protections in law.

In November 2013 the government accepted the recommendation of the Constitutional Convention and will hold a referendum on civil marriage for lesbian and gay couples in 2015.

The Taoiseach, Enda Kenny T.D. announced his support for the proposal and his intention to campaign for a yes vote in the referendum.

Extensive public support for marriage has been matched across all parties in the Oireachtas.

“I personally believe that a democratic republic that professes a commitment to the principle of equal

citizenship should not continue to prevent same-sex couples from entering into a legal partnership that is legally recognised and designated as being a marriage”.

Alan Shatter TD, Minister for Justice and Equality, speaking at the launch of GLEN's Progress Report 2008-2013.

“This Republic has been on their own remarkable journey in relation to the rights of lesbian and gay people. There is a generation of young Irish people, for whom the Ireland of twenty or thirty years ago would be almost unrecognisable. That journey is still incomplete. As I have stated elsewhere, the right of same-sex couples to marry is not a gay rights issue, it is a civil rights issue, and one that I support”.

Eamon Gilmore, TD, Tanaiste ⁵.

“As a republican and as a believer in equality, I firmly believe that same sex couples should be able to marry. More people willing to enter into the commitment of marriage is something that strengthens and not weakens our society and reinforces the respect we have for the institution of marriage”.

Micheál Martin, TD. Leader of Fianna Fáil.

“Sinn Féin has a longstanding position of support for LGBT equality in all dimensions of life and law, including the equal right to civil partnership, legal recognition of same-sex marriage, and the equal right to found a family including by adoption.”

Gerry Adams TD, Leader of Sinn Féin

A growing number of local Councils have also passed motions of support for extending marriage to lesbian and gay couples. These include County Councils such as Kerry, Wexford, Louth and Fingal; City Councils such as Dublin, Waterford and Cork; and town Councils such as Mullingar and Castlebar.



Martina Malone and Deidre Judge celebrating their civil partnership in July 2011.

⁵Speaking in advance of the ILGA Europe Annual Conference, October 2012.

Building on Two Decades of Progress for Lesbian and Gay People

THE MOVE TOWARDS EQUALITY IN MARRIAGE BUILDS ON 20 YEARS OF PROGRESS FOR LESBIAN AND GAY PEOPLE IN IRELAND.

1993 Equality based legal reform that abolished old criminal laws on homosexuality

Unfair Dismissals Act updated to protect lesbian and gay workers

1996 Ireland becomes one of the first countries in the world to offer explicit protection from persecution to lesbian and gay people in Refugee Act

Irish Government support ensures inclusion of sexual orientation protections in EU Amsterdam Treaty,

1998 Lesbian and gay employees protected in all aspects of employment and recruitment in Employment Equality Act

2000 & 2004 Protection for lesbian and gay people in the provision of all goods and services in Equal Status Act

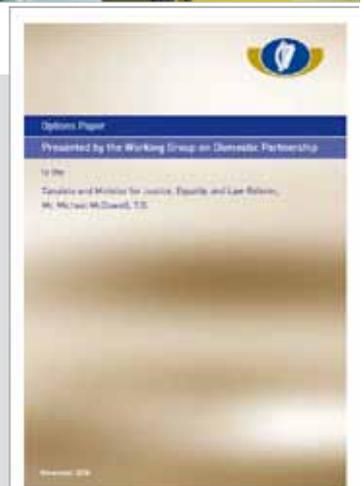
Senator David Norris introduces Civil Unions Bill to Seanad

2006 Then Taoiseach Bertie Ahern TD, launching GLEN's strategic plan says that 'All citizens regardless of sexual orientation stand equal in the eyes of our laws. Sexual orientation cannot and must not be the basis of a second class citizenship'. Ireland's laws "have changed and will continue to change to reflect that principle".

Government Working Group (Colley Group) identifies civil marriage as the only equality option for lesbian and gay couples. Says if marriage not possible for constitutional reasons only other option should be full civil partnership closely based on marriage.

All Party Oireachtas Committee on the Constitution says civil marriage for lesbian and gay couples would require a constitutional amendment and that legislation could extend to such couples a broad range of marriage-like privileges without any need to amend the Constitution

Case taken by Katherine Zappone and Ann-Louise Gilligan to have their Canadian marriage recognized does not succeed in the High Court on Constitutional grounds.



2006 & 2007 Labour Party produces Civil Unions Bill providing same protections as marriage, modelled on the Colley Group marriage-based civil partnership option.

2007 New Fianna Fáil/Green government commit to civil partnership based on Colley group marriage-based option

2009 Civil Partnership Bill published & launched by Minister John Gormley (June)

Civil Partnership Bill introduced into the Dáil (December)

2010 Civil Partnership and Certain Rights and Obligations of Cohabitants Act passes the Dáil with the support of all parties and passes the Seanad by a vote of 48 to 4 (July)

Social Welfare Act which treats civil partners the same as married couples in all social welfare provisions passed the Dáil and Seanad (December)

Law Reform Commission recommend extension of guardianship of children to civil partners.

2011 1st January. Civil Partnership Act takes effect. First couple recognised on 11th January for immigration purposes.

New Programme for Government commits to complete tax aspects of Civil Partnership and to addressing any omissions, especially those relating to children (February)

First public civil partnership to very widespread positive coverage across the media (April)

Dáil and Seanad pass Finance (No. 3) Act introduced by Minister for Finance Michael Noonan which treats civil partners the same as married couples in the tax codes (July)

Minister for Justice Alan Shatter amends citizenship provisions to provide equality for civil partners.



2012 Fianna Fáil Ard Fheis supports marriage for lesbian and gay couples, joining Labour, Sinn Féin and the Green Party in supporting moves to marriage. Fine Gael Ard Fheis passes motions to prioritise marriage in the Constitutional Convention.

Minister for Justice Alan Shatter announces he will bring forward a bill with comprehensive parenting reforms for lesbian and gay families

Chief Justice of Ireland launches guides to Civil Partnership in the Four Courts.

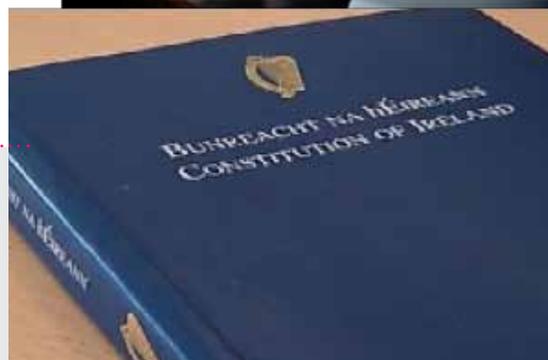
2013 1,088 Civil Partnerships to June 2013 across all counties.

Constitutional Convention discusses marriage for lesbian and gay couples

The Constitutional Convention overwhelmingly called for a change in the law to ensure equal status for lesbian and gay couples and their families and for a referendum to be held on equal access to civil marriage (April)

The Cabinet accept the recommendation of the Convention and commit to holding a referendum in 2015 (November)

The Department of Justice and Equality publishes a briefing note on the Family Relationships and Children Bill 2013 which aims to create a legal structure to underpin diverse parenting situations and to provide clarity on parental rights and duties in diverse family forms (November)

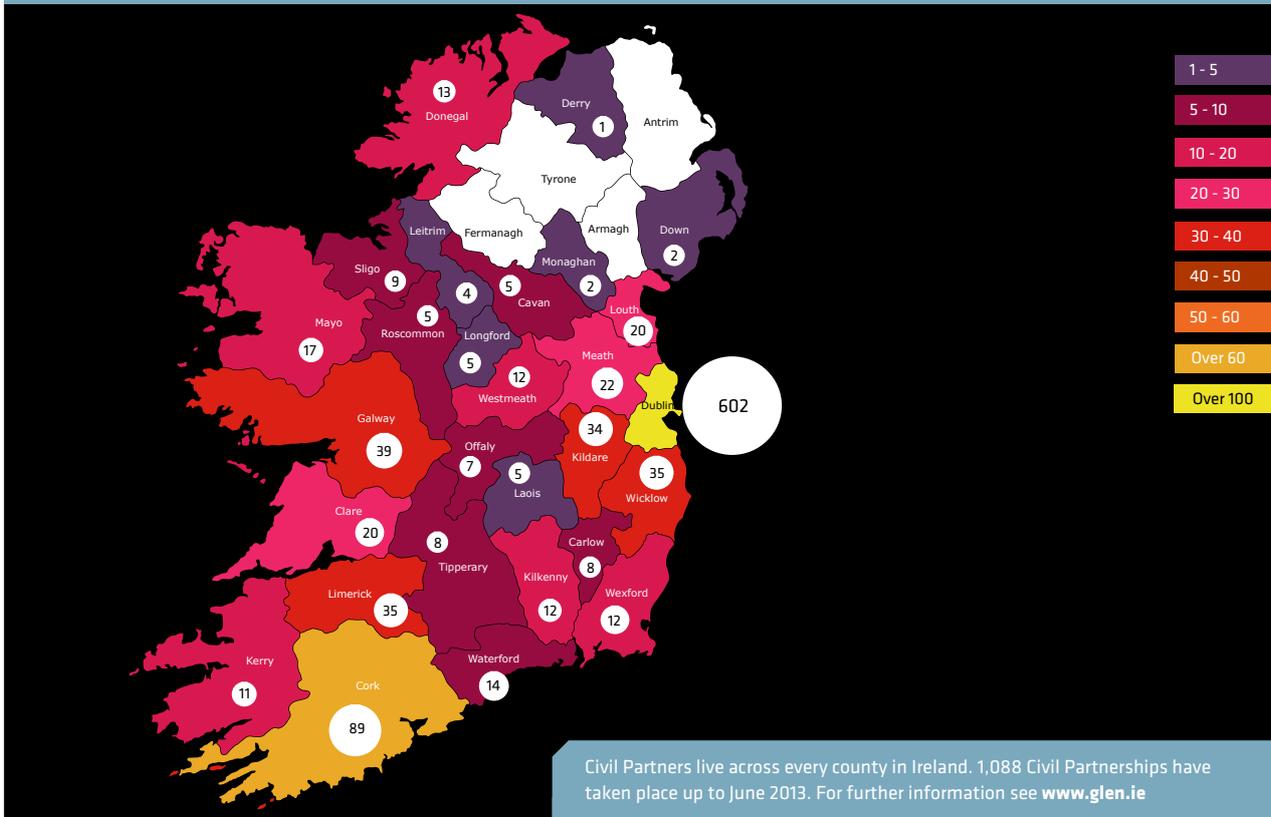


Ireland has played a central role internationally in supporting equality for lesbian and gay people. Ireland was instrumental in supporting progress in Europe by ensuring that sexual orientation was inserted in the Amsterdam Treaty. This has helped to ensure that lesbian and gay workers across the European Union now enjoy the legal protections that exist in Ireland.

There has also been major progress in public and private sector policy relating to lesbian and gay people. This has included the launch in 2013 by the Minister for Education of a comprehensive strategy to make schools safer and more inclusive of lesbian and gay students.

In the private sector, more and more large employers have developed policies inclusive of lesbian and gay workers, viewing such diversity policies as critical to their capacity to nurture, attract and retain key skills. The economic value of Ireland's success in accommodating diversity in this respect has also been highlighted by a range of bodies including the ESRI, the Irish Management Institute, Dublin City Council and major national and international employers.

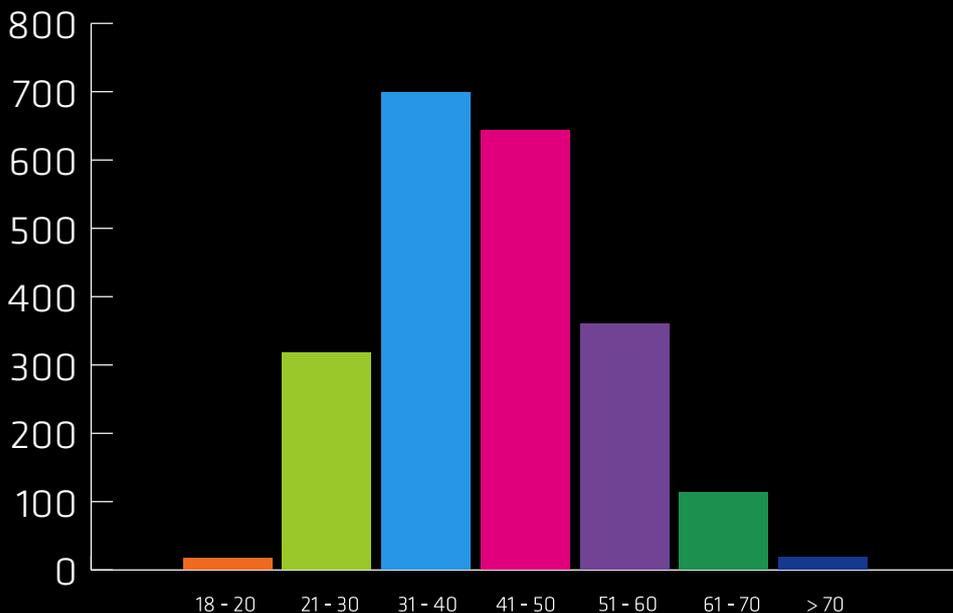
Civil Partnerships 2011/13 Where couples live



Civil Partnerships Statistics 2011/13 – AGE GROUPS

Ages of the 2,176 people entering Civil Partnerships in Ireland

TOTAL April 2011 to June 2013



AGE GROUP	TOTAL
18 - 20	16
21 - 30	318
31 - 40	702
41 - 50	646
51 - 60	362
61 - 70	114
> 70	18
TOTAL	2,176

Comparison of Civil Partnership and Civil Marriage

UNDER CURRENT IRISH LAW SAME SEX COUPLES CANNOT MARRY AND SO THEIR FAMILIES ARE EXCLUDED FROM CONSTITUTIONAL RECOGNITION AND PROTECTION. HOWEVER, CIVIL PARTNERSHIP WAS INTRODUCED IN 2011, AND PROVIDES MANY OF THE SAME RIGHTS AND OBLIGATIONS THAT APPLY TO MARRIAGE.

The following table, taken from the GLEN/ICCL *Know Your Rights* publication on civil partnership, summarises the main *statutory* similarities and differences between civil partnership and marriage.



Chief Justice of Ireland the Hon Mrs Justice Susan Denham and GLEN Chair Kieran Rose at the launch of *Know Your Rights*

	Marriage	Civil Partnership
Eligibility	<ul style="list-style-type: none"> • Couple must be of opposite sex • Both aged 18 or over (unless exempted by a court) • Not closely related by blood or marriage • Not in an existing marriage or civil partnership • Mentally competent • Full, free and informed consent 	<ul style="list-style-type: none"> • Couple must be of same sex • Both aged 18 or over (no exceptions) • Not closely related by blood • Not in an existing marriage or civil partnership • Mentally competent • Full, free and informed consent
Notification requirements	<ul style="list-style-type: none"> • 3 months' notice (unless exempted by court) • Must make formal declaration of freedom to marry 	<ul style="list-style-type: none"> • 3 months' notice (unless exempted by court) • Must make formal declaration of freedom to enter a civil partnership
Registration	<ul style="list-style-type: none"> • Before a registrar of marriages or registered solemniser • Celebrant may be a religious minister • Must take place in presence of at least two adult witnesses • Must take place in a place open to the public • Must take place in an approved venue (if celebrant is a registrar of marriages) • Must exchange declarations • Must sign marriage registration form 	<ul style="list-style-type: none"> • Before a registrar of civil partnerships • Celebrant may not be a religious minister • Must take place in presence of at least two adult witnesses • Must take place in a place open to the public • Must take place in an approved venue • Must exchange declarations • Must sign civil partnership registration form
Maintenance	<ul style="list-style-type: none"> • Obligated to support spouse • Each spouse obliged to support own children • Spouse A to support Spouse B's children if: <ul style="list-style-type: none"> > Spouse A knows they are not his or her children; and > Spouse A treats them as children of the family 	<ul style="list-style-type: none"> • Obligated to support civil partner • Each civil partner obliged to support own children but not children of civil partner

Marriage

Civil Partnership

Children

Biological or adoptive parent(s) have full rights and obligations in respect of child

- Spouses are joint and equal guardians of children if they are both parents of the children
 - Step-parent can be obliged to maintain spouse's children if step-parent accepts the child as a child of the family
 - Step-parent cannot seek guardianship or custody (but can be made guardian on death of parent or removal of guardian)
 - Step-parent can seek access, if in a parental role
 - Step-parent not obliged to provide for spouse's child in will
 - Step-parent treated as a parent for purpose of gift and inheritance tax
 - Couple can jointly adopt
- Spouses enjoy various tax exemptions, and share income tax credits and the standard rate income tax band

Biological or adoptive parent has full rights and obligations in respect of child

- Only biological or adoptive parent is guardian
 - Civil partner of parent not obliged to maintain child
 - Civil partner of parent cannot seek guardianship or custody (but can be made guardian on death of parent or removal of guardian)
 - Civil partner of parent can seek access if in a parental role
 - Civil partner of parent not obliged to provide for child in will
 - Couple cannot jointly adopt
 - Civil partner treated as a parent for purpose of gift and inheritance tax
- Same as marriage in nearly all cases. Remaining technical differences are being amended in legislation

Shared/ family home protection

Restrictions on selling, mortgaging or leasing family home – a spouse must get prior written consent from the other spouse (but a spouse who has been deserted does not have to get consent)

- Restrictions on disposal of household effects such as furniture
- Spouse can take over payment of some debts in respect of the home

- Same as marriage except a deserted civil partner must get consent
- Family home of civil partners is called ashared home

Succession

- Legal right share to specified portion of deceased spouse's estate regardless of what the deceased's will says
- Priority claim over family home
- Right to succeed where spouse dies without making a will

- Same as marriage except that civil partner's child has rights in respect of the deceased's estate that in exceptional cases may prevail over the right of the surviving civil partner

Domestic violence

- Can seek barring orders, safety orders and protection orders

- Same as marriage

Pensions

- Depends on relevant pension scheme

- Same as marriage – civil partners must be treated the same as spouses

	Marriage	Civil Partnership
Judicial separation	<ul style="list-style-type: none"> • Available 	<ul style="list-style-type: none"> • Not Available
Dissolution	<ul style="list-style-type: none"> • Must be living apart for 4 of the previous 5 years • No reasonable prospect of reconciliation • Must provide properly for spouses & children 	<ul style="list-style-type: none"> • Must be living apart for 2 of the previous 3 years • Must provide properly for civil partners
Remedies available following dissolution	<ul style="list-style-type: none"> • Property adjustment • Pension adjustment • Financial compensation • Family home orders • Orders for sale of property • Claims against deceased's estate 	<ul style="list-style-type: none"> • Same as marriage
Immigration	<ul style="list-style-type: none"> • General right to apply to be joined in Ireland by spouse • No automatic legal rights, unless you are the spouse of an EU national, exercising free movement rights under EU law 	<ul style="list-style-type: none"> • Same as marriage
Taxation	<ul style="list-style-type: none"> • Spouses enjoy various tax exemptions, and share income tax credits and the standard rate income tax band 	<ul style="list-style-type: none"> • Same as marriage in nearly all cases. Remaining technical differences are being amended in legislation
Social welfare	<ul style="list-style-type: none"> • Spouses are treated as a couple • Entitled to various social welfare payments on death of spouse 	<ul style="list-style-type: none"> • Same as marriage
Pensions	<ul style="list-style-type: none"> • Spouses may have entitlements to a workplace pension scheme, including death-in-service benefits 	<ul style="list-style-type: none"> • Same as marriage
Protection from discrimination	<ul style="list-style-type: none"> • Equality law protects spouses from discrimination in employment and in the provision of goods and services 	<ul style="list-style-type: none"> • Same as marriage • The 'marital status' ground in equality law has changed to 'civil status' to protect civil partners and former civil partners from discrimination
Next of kin	<ul style="list-style-type: none"> • Not defined in law, but generally assumed that the spouse is the 'next of kin' 	<ul style="list-style-type: none"> • Civil partners must be treated the same as spouses, and this includes 'next of kin' situations

GLEN is a Policy and Strategy focused NGO which aims to deliver ambitious and positive change for lesbian, gay and bisexual people (LGB) in Ireland, ensuring full equality, inclusion and protection from all forms of discrimination.

GLEN's work focuses on delivering change across a series of areas: equal access to civil marriage; protection and support for LGBT relationships and families; education, mental health and well being; physical and sexual health; workplace equality and community development.

GLEN has been instrumental in achieving a range of legislative and policy change including: decriminalisation in 1993; recognition of sexual orientation in refugee law in 1996; inclusion in Employment Equality in 1998; Equal Status in 2000; and most recently, comprehensive Civil Partnership in 2010.

