

THE LAST BATTLE FOR EQUALITY?

GAY AND LESBIAN PARENTS-TO-BE

The last three years have seen an extraordinary leap from legal invisibility to equality for same sex couples, but an important area of discrimination remains for couples conceiving a family. It seems that the government's measures to tidy this up through its new Human Fertilisation and Embryology Bill are not going to get through parliament without a rocky ride. **Natalie Gamble**, solicitor with top south coast law firm Lester Aldridge LLP, has been speaking out in favour of the changes. As a leading specialist in fertility law same sex couples and legal adviser at the lesbian-friendly fertility centre the London Women's Clinic, she has helped many gay couples conceiving children to navigate the law. She is also herself raising two donor-conceived children with her same sex partner. So, what is the new bill all about and how will it affect gay parents?

The changes proposed by the government are designed to give same sex couples the same legal treatment as heterosexual couples.

So for example two men who conceive with the help of a surrogate mother will have the same rights as a married couple to apply for a 'parental order' after the birth, which will ultimately give them a birth certificate in their own names. At the moment, this route is not open to men conceiving through surrogacy, so they must either go abroad to conceive, leave themselves legally unprotected after their child is born or pursue the alternative route of adopting their own child after surrogacy, which is fraught with difficulty and even potentially criminal.

Similarly, where two women conceive through donor insemination they will both be able to be named on the birth certificate, just like straight couples who conceive with donor sperm. In practice, lots of lesbian couples are already conceiving by sperm donation. But at the moment, women need to go through various legal hoops to protect the rights of the non birth mother (including making wills, acquiring parental responsibility and adopting their own children). These new rules will make all this unnecessary by giving both partners automatic recognition as parents.

Even assuming the bill does go through parliament, the new law probably won't be in force for at least a couple of years. For now, it remains crucial for gay and lesbian couples starting a family to get specialist legal advice to ensure their family is protected.

The other change proposed by the government - and the one which has captured the tabloid headlines - is the deletion of the legal obligation on fertility clinics to 'consider the need for a father' before offering treatment.

Actually, this is just housekeeping. The



Natalie works for Lester Aldridge LLP, a dynamic law firm with over 140 specialist lawyers and other professionals. Lester Aldridge LLP gives high quality specialist advice to wealthy same sex couples and can help with:

- advice for same sex couples starting a family by donor conception, co-parenting or surrogacy
- civil partnership advice and pre-partnership agreements
- help with relationship breakdowns
- specialist wills
- expert trusts and tax planning advice, including offshore trusts and advice for foreign domiciliaries
- claims against estates and disputes over wills and trusts
- probate, including international probate

requirement to 'consider' the need for a father has never barred fertility clinics from treating lesbian couples, but it has in the past given legal sanction to clinics who wish to refuse treatment on the grounds of sexuality. This is no longer consistent with the rest of UK law. The anti-discrimination regulations introduced earlier this year made it illegal for Catholic adoption agencies to discriminate against same sex prospective parents. Those same laws also apply to fertility clinics, and this makes the obligation to single out lesbian couples for special consideration unworkable in practice.

The changes are about equality. But the logic of what the government is trying to do seems to be lost on its opponents, and sadly the debate has prompted an ugly resurgence of prejudice against same sex parents.

The proposed changes are being hotly contested in the House of Lords by various peers and members of the church. Amendments to the bill are being proposed which will undermine the new rights for same sex couples, and the Lords will vote on these before the bill moves on to the House of Commons. And it is by no means certain that the bill will get an easy ride in the Commons either. Though Gordon Brown has promised to require Labour MPs to support the changes, there are murmurs of backbench dissent, and David Cameron is likely to allow Conservative MPs a free vote allowing them to oppose the changes. Though this government has an excellent track record of championing gay rights legislation in the face of parliamentary opposition, it is by no means certain that these proposed legal changes will become law.

Gay conception, it seems, is our last battle for legal equality, and even at this late hour it is clear that the principle of equality still needs defending.