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Same-Sex Couples and the Impact of Legislative Changes, 2007-2009

USER GUIDE

Same-Sex Couples and the Impact of Legislative Changes

Authors: Martin Mitchell, Sarah Dickens and William O'Connor

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Executive summary

Here we set out a summary of the findings contained in each chapter. The more time pressured reader may wish to begin here.

Chapter 1 – Introduction and methodology

In February 2007 the Qualitative Research Unit (QRU) at the National Centre for Social Research (NatCen) was awarded funding through the Economic and Social Research Council's (ESRC) small grants scheme to undertake a qualitative study looking at the way in which same-sex couples reacted to three key recent legislative changes:

- the Civil Partnership Act (2004) created the legal status of 'civil partner' and enabled same-sex couples for the first time to obtain legal recognition of their relationships and to gain a number of specific rights and responsibilities;
- the Employment Equality (Sexual Orientation) Regulations (2003) enacted in UK law the sexual orientation provisions of the Framework Equal Treatment Directive of the European Union (2000/78/EC) and made it unlawful for employers to discriminate against an individual on the basis of their sexual orientation;
- the Adoption and Children Act (2002) came into effect in December 2005 and made it possible for the adoption orders to be made in favour of single people, married couples and, for the first time, unmarried couples and same-sex couples.

Same-sex couples, as opposed to individuals, were focused on specifically because many aspects of the legal changes apply to the recognition and rights of couples. Key aims of the research were to explore:

- how effective the legislation was perceived to have been in terms of increasing the sense of social inclusion amongst same-sex couples, by enabling access to new rights and responsibilities and reducing discrimination based on sexual orientation;
- the views of same-sex couples towards the involvement of the state in defining their relationships after the implementation of the legislation.

The research was qualitative in design and consisted of 47 in-depth interviews with members of same-sex couples. The term same-sex couple was used in order not to exclude people who did not identify as lesbian, gay or bisexual either through choice or stigma. As this was a qualitative study, the rationale in selecting people to take part was not to achieve a sample that was statistically representative of all same-sex couples but rather to ensure diversity of coverage across certain key demographic factors and experiences. These were: partnership status or intentions in relation to civil partnership; gender; age; length of relationship; experience of parenting and adoption; experience of employment rights or discrimination; ethnicity; socio-economic status; disability; and geographical location. All those included had at least two years experience of being a couple in order to ensure that discussion of circumstances and commitment could facilitate consideration of the legal recognition of the relationship or other family commitments. Fieldwork was conducted between June 2007 and January 2008. Verbatim interview data was comprehensively and systematically analysed using the computer-aided qualitative package *FrameWork,* which uses a matrix based format to allow for the thematic and case based interpretation of data.

Chapter 2 – Literature review

This chapter sums up the relevant existing literature in relation to the three pieces of legislation considered by the research, as well as in relation to public attitudes towards gay and lesbian people more broadly. A lot of work has been done around the context in which the pieces of legislation operate – for example, around same-sex relationships prior to the Civil Partnership Act,

experiences of discrimination in employment amongst gay and lesbian employees, and around gay and lesbian parenting issues. There has also been research to find out the views of same-sex couples about civil partnership *prior* to and *during* the implementation of the Act. Research about the *impacts* of the legislation has been limited however, and what there has been has taken place only shortly after the implementation of the different pieces of legislation or has not contained sufficiently diverse samples to include the views of all same-sex couples in terms of whether they want to become civil partners or not. This study therefore plays an important role in exploring in-depth views about the impacts of the legislation following a period of 'bedding down' and giving a more comprehensive account of the range of views about the legislation.

Chapter 3 – General understanding of and attitudes towards the legislation

The Civil Partnership Act
There was a general understanding that the Civil Partnership Act enabled same-sex couples to have their partnership legally recognised in a way that was similar to marriage, and that it conferred a number of legal rights. Knowledge differed as to exactly what these rights and responsibilities were and whether and how civil partnership differed from marriage. There were also some specific misconceptions; for example that civil partnership entailed a commitment to monogamy, or that it conferred *automatic* parental responsibility for the other partner's children.

Unsurprisingly a number of civil partners and those considering civil partnership were well informed about the institution, having looked into the details to inform their decision-making. This was not always the case however, particularly where the attraction of civil partnership was as a means of demonstrating love and commitment and/ or making a public statement about the nature of the relationship.   Knowledge also varied amongst those who had decided not to become civil partners; some had rejected it on broad political or personal grounds without looking into the detail whilst others were well-informed, either in order to inform their personal decision-making or out of a broader curiosity in politics and current affairs. Where information about civil partnership had been accessed, the most highly valued sources were: Registrars; LGB sources (press, internet sites, helplines); and mainstream sources (television, quality press, official internet sites).

Where the legislation was welcomed, several different reasons were given. One was that it conferred 'real' legal rights on same-sex couples for the first time compared to previous local authority or mayoral schemes. It was also embraced for signalling that gay and lesbian couples had moved towards greater equality with heterosexual couples and greater acceptance in society; this in turn was felt likely to bring about greater social recognition and validation amongst friends and family. The state backing for lesbian and gay relationships was also strongly welcomed in some quarters; the feeling here was that by signalling that same-sex relationships were normal and legitimate, this would help *'drag up'* the moral standards of society in terms of their views about same-sex relationships.

There were also a number of reservations about the legislation – sometimes expressed by those who also held some positive views. One was that it was a political *'cop out'* in that it did not represent full equality with heterosexual marriage. Conversely, another was that civil partnership reproduced or reinforced traditional heterosexual concepts about relationships and marriage and that by signing up to it, same-sex couples were in danger of losing the sense of liberation and creativity involved in the ability to define relationships for themselves. There were concerns too that the introduction of civil partnership might put pressure on couples who were not ready to enter the institution, and about the fact that the legislation had negative financial impacts on cohabiting couples receiving tax credits and means-tested benefits regardless of whether or not they had

signed up to civil partnership. Finally, it was felt that the legislation might result in a reduction of 'privacy' about one's sexuality, because of the perceived need to declare the relationship to certain public and private service providers.

Employment Equality (Sexual Orientation) Regulations

Awareness of the Employment Equality (Sexual Orientation) Regulations (EERs) ranged from detailed knowledge through to lack of awareness that they had come into effect. In the middle were people who were generally aware that the EERs meant employers could not discriminate against employees on the grounds of sexual orientation, but who were unsure about the detail. The most well informed tended to be those who had learned about the regulations through their paid or voluntary work. There was a strong sense in relation to this area of people having a 'need to know' attitude; for example, those who were self-employed, or working for what they described as 'gay-friendly' employers, sometimes said that they had not felt the need to find out much about the EERs.

Positive responses to the EERs were to welcome them for bringing about equal rights and protection at work for gay and lesbian employees. They were also welcomed by those with more detailed knowledge for making discrimination in breach of the law specifically. Others had reservations about what they viewed as the 'singling out' of gay and lesbian employees, arguing that it was unnecessary and could result in a backlash. There were also concerns about how responsive employers were likely to be to the legislation, how easy it would be to prove that harassment or discrimination had occurred on the grounds of sexual orientation and how likely employees would be to use the legislation in practice, given that doing so was thought to leave them open to feeling marginalised at work.

The Adoption and Children Act

Knowledge and awareness of the Adoption and Children Act varied considerably, from people who were unaware of the legislation at all, through to those with a detailed knowledge of its content and scope. There were common misconceptions about the legal framework for adoption both before and after the Act, particularly around the rights of couples versus individuals to apply. Unsurprisingly, detailed knowledge was most usually associated with those who had experience of applying to adopt or foster.

The legislation was usually broadly welcomed as an important step for lesbian and gay couples in terms of human rights and as a symbol and harbinger of cultural change. Some also felt that it brought benefits for children, widening the pool of potential adoptive parents. Where there were reservations around the Act, these were based around doubts about the suitability of same-sex couples as parents. This feeling was not based on concerns about the potential quality of their parenting, but fear that children of same-sex couples would find themselves in a difficult situation on account of anticipated stigma and prejudice.

In terms of how the three pieces of legislation were perceived and discussed comparatively, a number of themes were evident – these were:
- the desirability of
  - perceived differential treatment for gay and lesbian people versus according them legislative parity and equality to heterosexuals
  - having the civil liberties of gay and lesbian people protected from the state versus trusting and welcoming state intervention;
- the extent to which it was desirable to give gay and lesbian people greater social recognition, versus the feeling that doing so involved some risks;

- distinctions between legislation introducing concrete new rights (civil partnership, adoption), versus directing people towards a certain type of behaviour (EERs);
- the need for the legislation to be backed up by further work to shift societal attitudes towards gay and lesbian people in a positive direction;
- the potential negative impact of the 'religious lobby' in relation to all three pieces of legislation;
- the need for easily accessible and understandable information about the legislation and its implications.

Chapter 4 – Decision-making about whether to enter a civil partnership

Decision-making in relation to whether or not to become a civil partner was complex and often involved weighing up a number of different factors. These are set out in the bullet points below. Rather than particular factors being linked to becoming a civil partner, rejecting civil partnership or remaining undecided, each could be *interpreted differently* by participants to produce different outcomes. It was also the case that the weight of the different factors in the decision-making process were often different for different participants; for example, whilst concerns about how family members would react could be a significant deterrent for some, there were others who went ahead with civil partnership in spite of such concerns because they thought there were other compelling reasons to do so. It was also the case that feelings could be complex and nuanced, for example with participants expressing mixed views about one individual factor (e.g. generally welcoming legal rights and recognition while not welcoming this in all respects). Finally it was true too that reasons for decisions about whether or not to become civil partners were often intimately intertwined; for example, there was usually a strong association between the attraction of gaining legal rights with feelings about the commitment and security of the relationship.

- **Certainty of love and commitment**
  The desire to demonstrate love and commitment to a partner was sometimes given as a reason for entering a civil partnership; in this context it was seen by some as a 'natural' step once a certain level of commitment had been achieved. Others said that they were so sure of each other's love and commitment anyway that this had not played a significant part in their decision-making process. Feelings could be complex in this area though, for example with some participants feeling, on the one hand, that civil partnership was a means of demonstrating love and commitment but, on the other, that they had done this through other means anyway.
- **Support and acceptance from families**
  Whilst some did not take family responses into account at all, in other cases anticipated family responses could influence decision-making. One reason for having a civil partnership was a desire to make a statement to family about the importance of their partner and/ or to gain greater family recognition of the relationship. Conversely, anticipated negative responses of family could act as a deterrent to going ahead with civil partnership – usually where there were also felt to be other reasons for not going ahead.
- **Gaining legal rights and responsibilities**
  The package of legal rights and responsibilities offered through civil partnership was a key reason for entering civil partnership in cases where relationships were committed and stable both in terms of their practical and symbolic significance. However, this did not always act as a positive factor in decision-making processes. This was particularly the case where: existing legal arrangements to secure the partnership had already been put in place; there was a strong desire for arrangements to be self-defined and negotiated, rather than imposed by the state; and where there was uncertainty about whether to commit to a partner in the long term.

- **Financial incentives and disadvantages**
  The feeling that becoming civil partners would have significant financial advantages was sometimes expressed, for example in relation to inheritance, taxation and pension rights. However, this was usually one factor of several in the decision-making process so did not automatically lead to the decision to become civil partners. Being treated as a couple for the purpose of means-tested benefits and tax credits was not usually a deterrent to becoming civil partners given that this part of the legislation was applied to all cohabiting couples and not just civil partners. The exception to this was where couples had sought to avoid the implications of the Act by reducing their visibility as a same-sex couple.

- **Financial inter-dependency**
  In some cases the prospect of financial inter-dependency was welcomed. In others this could act as a deterrent or a factor that complicated decision-making, usually alongside other deterrents. Examples of where this was the case were where: financial inter-dependency could entail one partner having a claim on money or assets that held a specific personal meaning to the other partner; one partner had significantly more financial assets than another; there was dislike of the idea of loss of financial independence.

- **Social recognition and validation**
  The prospect of gaining social recognition and validation through civil partnership was in some cases an important reason for entering civil partnership. In particular, there was a desire to gain public recognition of love and commitment, to make a statement to society about the quality and long-lasting nature of the relationship and to gain legal and social acceptance for the relationship. Conversely others expressed the view that external sources of validation were unnecessary because their relationship already worked successfully outside of state-imposed frameworks.

- **Equality with marriages and freedom of self-definition**
  Where civil partnership was equated with marriage, this could affect the decision-making process in different ways. For some the perceived similarity was an attraction, because they regarded civil partnership as an important step in moving towards equality with heterosexual couples. For others it was a deterrent because they associated marriage with undesirable heterosexist assumptions and loss of freedom to self-define relationships. Viewing civil partnership as different to marriage could also act as an incentive and deterrent. An incentive where it was believed that civil partnership in its current form was more attractive than marriage; a deterrent where its lack of equality with marriage was felt to be a reason for not having anything to do with it.

- **Sameness and difference**
  Decisions about civil partnership were also sometimes related to feelings about whether same-sex couples were the same as or different from heterosexual couples. Some participants saw little difference in the everyday patterns of their lives, so did not think that becoming more like heterosexual couples was a reason against civil partnership. In other cases there was a conscious desire to become part of the 'mainstream' or demonstrate through civil partnership that same-sex relationships were no different to heterosexual ones. Conversely, the view that same-sex couples were different sometimes acted as a deterrent to entering civil partnership; for example that monogamy (not in fact part of the civil partnership commitment) or financial inter-dependency were undesirable.

An additional factor which sometimes played an important role in the decision-making process was whether or not a couple was 'out'. This needs to be set apart from the others because whilst being 'out' did not really play a role in the decision-making process (apart from in some cases making it easier), it was always the case that those who were not 'out' in certain significant contexts (amongst family, in their local community) said that this was one reason for not considering civil partnership. It was also the case that where one partner had only recently come 'out', decisions

about entering a civil partnership were put on hold; this was because it was felt to be too soon for the partner to be ready to make an overt statement about their sexuality through civil partnership.

A number of other factors had a secondary role in the decision-making process. The first had been the desire in some cases to wait until the legislation had 'bedded down' more before making a decision, in particular to see how well it seemed to be working, and whether it was possible to become civil partners without media intrusion. Second, some talked about delaying the decision until they had found out more about civil partnership or had more time to weigh up the information that they had. Third, civil partnership was sometimes delayed because there were felt to be other more pressing financial priorities in a couple's life (e.g. buying a home). In other instances though, couples went ahead anyway but in a modest way.

Chapter 5 – Experiences of the civil partnership registration process

Views about registration service

A number of factors influenced how positively registration services were viewed. The first was the quality of registrars, particularly the extent to which they were perceived to have been respectful, competent, knowledgeable and welcoming. The second was whether the ceremony was regarded as having been treated with equal dignity and *'validity'* to a heterosexual wedding. Third was the quality of information and advice received prior to the ceremony, particularly in relation to what to expect during the ceremony, what the options were in terms of how the ceremony was conducted, the robustness of the legislation and whether it was possible for couples to withhold their address from the public register of civil partnerships. The final factor was the degree of control couples felt that they had been given to personalise the service to their own requirements.

The ceremony

Whilst some chose to use a form of words suggested by Registrars, others created their own. Reasons for the former were wanting a degree of formality to the service, or a feeling that the words were appropriate. Where the vows were customised, reasons were: wanting to say something personal and meaningful; and wanting to avoid unwanted aspects of the traditional heterosexual marriage ceremony (for example, references to 'fidelity' or use of the word 'obey'). Rings were not exchanged where they had been exchanged in previous commitment ceremonies or where they were regarded as a symbol of the loss of independence. Where they were exchanged, this was because they were seen as a symbol of commitment and togetherness that other people could understand.

Ceremonies described ranged from small to large. Smaller ceremonies were preferred where the individuals involved were private people, felt nervous about a big public commitment, wanted a modest ceremony financially, did not want the 'fuss' of a big occasion and/ or where the couple had had a previous commitment ceremony involving more people. Larger ceremonies occurred where the couple wanted to make a significant public declaration and wanted to involve many friends and/ or family members. The importance of involving families in the ceremonies varied. For some the importance of including family and/ or a desire to gain greater acceptance for their relationship could lead to family members being invited even where it was felt they disapproved. Another response was for the couples to limit invitations to those people who they knew loved them and approved of them.

Even where the main reasons for entering civil partnership prior to the ceremony were said to have been rational rather than emotional ones (for example legal, financial, making a public statement), couples were sometimes overwhelmed by the emotional nature of the ceremony itself. Couples

who from the outset had viewed the ceremony as a means of publicly demonstrating love and commitment were also sometimes surprised by the strong emotional impact the ceremony had had on them.

Amongst those who were not religious, the inability to include a religious element to the ceremony was not a personal concern, and even in some quarters welcomed because of the perceived hostility of certain religious institutions to same-sex relationships. However, these participants sometimes expressed a sense of injustice on the part of religious couples. Religious participants who had had a civil partnership had reached their own form of accommodation with the situation. This happened in three ways: having the relationship blessed prior to the civil partnership (a possibility in particular where participants belonged to congregations or religions that recognised same-sex couples); finding religious leaders who were willing to bless the relationship, where a particular religion did not officially recognise same-sex couples; and/ or feeling that they had received blessing through their personal relationship with God, regardless of the official position of their Church.

Language used to describe civil partnership
In relation to the terminology used to describe civil partnership, religious beliefs, political beliefs and beliefs about the gender implications of different words could all play an influencing role:

- **Religious beliefs** could direct participants both towards the use of the term civil partnership and marriage. Christian views could lead to a preference for the term civil partnership on the grounds that civil partnership was a civil/ legal institution whereas marriage was a religious one. By contrast other Christian participants said they hoped by using the term marriage to show that same-sex relationships were similar to marriages in terms of their reflection of love and commitment between partners.
- **Political beliefs** could result in a preference for the term civil partnership and partner over marriage and husband/ wife where the view was held that same-sex relationships were different from or better than heterosexual ones and/ or that same-sex couples should have a separate identity. The terms marriage and husband/ wife were preferred where the similarity between the commitments of same-sex and heterosexual couples were emphasised, where there was a desire for civil partnership to be equal in all respects to marriage.
- **Beliefs about gender implications:** some used the term partner rather than husband or wife out of a clear sense that partner was associated with more egalitarian same-sex relationships. Conversely, others felt that partner was an ambiguous term that disguised the gender of their partner more than if they described them as a husband or wife.

Despite the views held above, there was universal agreement that the language of civil partnership did not lend itself to developing an everyday vernacular that was elegant or easy to use. As a result, participants said that they and their families often resorted to the more familiar and easier language of 'marriage' and 'weddings'. Other influencing factors on which language was used were: how well the participant felt that the person they were talking to knew them and therefore to what extent they felt it necessary and/ or desirable to clarify the gender of their partner; whether they were in a formal or informal context (civil partnership being more likely to be used in formal ones); and whether or not they felt that they were in a comfortable and accepting environment. This latter factor could work in different ways. Some said that they would deliberately use civil partnership as distinct from marriage in potentially less accepting contexts, to stave off hostile responses. Others said that they might deliberately use the term marriage to challenge the concept that same-sex couples were different, and to make a political statement.

Chapter 6 - The impacts of the civil partnership legislation

Those who had entered civil partnerships overwhelmingly spoke about the impacts of the legislation in positive terms. Even where less positive impacts were mentioned – notably reductions in entitlements to tax credits or means-tested benefits and loss of privacy over disclosure – these were tempered by acknowledgement there were also benefits to these (greater equality with heterosexual couples and normalisation). In some cases the impacts people had experienced as a result of their civil partnership tied in with what they had anticipated in their decision-making processes (Chapter 4). There were also instances where people had been pleasantly surprised by having experienced unanticipated positive impacts, for example positive changes to their relationship or to their relationships with their own or their partner's family. There were instances too where people's concerns prior to entering a civil partnership had been less significant after the event. For example, in some cases reticence about being viewed as a married couple and losing the ability to self-define had in fact been tempered by the realisation that there were advantages to being viewed as a legitimate 'married' couple and/ or that it was possible to adapt civil partnership to fit a couple's personal needs and outlooks within a broad framework.

A number of negative impacts of the legislation were mentioned by those who had not entered civil partnerships, particularly loss of individual entitlement to means-tested benefits and tax credits, feeling that their relationship was contrasted negatively with civil partnerships and in some cases feeling under pressure from some quarters to enter a civil partnership. However, there were also a number of positive impacts including most significantly feeling more accepted by society as a same-sex couple, feeling more confident about being open about the nature of their relationship and experiencing greater respect, understanding and acceptance for their relationship from some official bodies/ service providers.

Impacts of civil partnership in relation to each specific area are now set out below:

- **Impacts on the commitment, stability and security of relationships**
  Where no real impacts on commitment were felt to have occurred, this was amongst people who felt that they had already incontrovertibly demonstrated this by other means; for example, shared financial commitments, the length of their relationship, previous ceremonies or working through difficult times together. Another set of civil partners - including people who had been in long-term relationships prior to the civil partnership - said that they had felt more settled as a result of their civil partnership and had gained greater comfort and stability in their relationship. This feeling stemmed from having: committed to each other for life; been prompted by civil partnership to reflect on why they wanted to be together; and made the relationship public and legitimate in other people's eyes. Where negative impacts were experienced, this was amongst the non-civil partners on means-tested benefits who felt that their loss of individual entitlement had put a strain on their relationship with their partner.
- **Impacts on the organisation and conceptualisation of finances**
  Whilst in some cases civil partnership had made no difference to the organisation of finances, in others becoming civil partners had prompted the amalgamation of household accounts, or the setting up of joint accounts. Related to this, civil partnership sometimes impacted also on the way people conceptualised their household finances, with participants talking for example about feeling more *'financially secure'* as a result of the partnership - particularly in relation to rights on dissolution and access to inheritance and survivor pensions - and as a result, having a more *'relaxed'* approach towards who paid for what.
- **Impacts on household income**
  In some cases civil partners felt that they gained financial advantages through civil

partnership, notably automatic rights to inheritance and survivor pension rights, ability to benefit from travel insurance as a couple and some specific advantages in relation to taxation. In relation to disadvantages, the main impact of the legislation talked about by both civil partners and non-civil partners was reduction of household income as a result of cohabiting couples being assessed jointly rather than individually for entitlement to means-tested benefits and tax credits. Although this sometimes created difficulties for civil partners, none felt that the loss had had negative repercussions on their attitudes towards civil partnership. This was because all had had strong alternative reasons for becoming civil partners and also in some cases accepted the previous situation had been a *'loophole'*. Non-civil partners were more negative about the loss, particularly given that they regarded it as something imposed on them by the legislation rather than something they had signed up for. There was evidence in particular that reduction or the prospect of reduction of one or both of the partner's income put strains on the relationship and/ or placed restrictions on the couple's perceived ability to be open about the status of their relationship.

- **Impacts on rights and responsibilities**
  Amongst civil partners, gaining access to inheritance rights, survivor pension rights, legal entitlement to take the partner's name, entitlement to work-related benefits, formal recognition of next of kin status and the ability to apply for parental responsibility for their partner's children were positively received both in terms of achieving equality and respect for their relationship and in terms of the practical significance in their lives. Impacts were less marked in this respect where the couple had already drawn up prior legal arrangements, where they felt they were still denied rights which were important to them (for example recognition of civil partnership overseas) or where not all of the rights were necessarily wanted (for example where there was a desire for a relative to be named as a survivor pension beneficiary). There was some perception amongst non-civil partners that the legislation had had a positive impact on public service providers' attitudes towards them, through making same-sex relationships more publicly acceptable and recognised.

- **Impact on feelings about equality**
  One perspective amongst civil partners was to feel that they had gained a similar status in society to marriage and that this had increased their sense of belonging and validation. Another was to feel less sure about the desirability of being equated to married couples, but simultaneously to feel the advantages of being viewed in this way, particularly around social acceptance and legitimacy. There were also civil partners who said that whilst the outside world might view them as married couples, they had in reality found that they were able to use their civil partnership as an opportunity to consolidate their own definitions of their relationship.

- **Impact on visibility of same-sex relationships**
  The legislation was felt to have made no difference to participants' comfort about visibility where they were already comfortable about being unreservedly open about their relationship or, less positively, where their fear of discrimination or hostile responses in certain contexts - for example amongst other parents, or around showing affection in the street - continued. Another perspective - which included some non-civil partners as well - was that the legislation had been the cause of a greater propensity to be open about their relationship with public/ private service providers and more generally. One reason for this was the feeling that the legal endorsement of same-sex relationships by the legislation gave same-sex couples protection from public displays of intolerance. Another was that because of the legislation, same-sex relationships were now better understood by the public, particularly as it was felt to have given people a more easily accessible language than they had previously had to employ when talking about same-sex couples. However, some concern was also expressed, both by civil partners and those considering civil

partnership, that the perceived need to inform certain public/ private service providers about the nature of the relationship had resulted in a loss of privacy and control over disclosure. This concern was usually tempered by acknowledgement of the advantages of greater visibility.

- **Social recognition by family**
  In some cases, becoming civil partners had made no difference because families already recognised and endorsed the relationship. In others civil partners talked about feeling their civil partnership had helped to *'validate'* the relationship in the eyes of some family members, knock-on effects of which were they and/ or their partner achieving *'higher status'* in family circles, being more openly discussed and being treated - albeit sometimes subtly - in a more welcoming way. These changes were felt to have occurred because civil partnership had placed the relationship in a context which family members could identify with, reassured them about the stability and long-term nature of the relationship, given the relationship enhanced legitimacy (through state backing) and given relatives an official set of terms they could use to describe the relationship. Less positively, whilst some non-civil partners said that they had come under no pressure from family to become civil partners, others felt that they had felt obliged to explain to family why they were not doing so. Concern was sometimes expressed in this respect that their relationship was felt to lack the status and legitimacy that civil partnerships had.

- **Social recognition and validation by friends and wider social circles**
  Impacts were less marked amongst friends although there was a sense amongst some civil partners that becoming civil partners had provided them with a positive reaffirmation of their relationship, and frame of reference. The exception was where lesbian and gay friends were opposed to civil partnership on political grounds. In wider social circles too, there was a sense that becoming civil partners had provided people with an opportunity to acknowledge the relationship; for example their children's school or neighbours.

- **Social recognition and validation by the state**
  Positively, civil partners spoke about having gained a strong sense of legitimacy now that they were formally recognised which was sometimes an unanticipated result of civil partnership. Conversely, some non-civil partners felt that as a result of the existence of civil partnership there was a danger that their relationships would be viewed as less valid by society and state. This feeling of being on the *'outside'* was particularly resented by those who felt they had worked hard over the years to successfully define, establish and sustain their relationships without state support.

- **Impacts on experiences of discrimination**
  The legislation was felt to have reduced discrimination and the potential for discrimination by giving same-sex couple access to new rights and responsibilities and by signalling that same-sex couples were normal and acceptable. An important knock-on effect for some was a greater predisposition to stand up against intolerance or discrimination and to assert their rights. Less positively there were also civil partners who felt that they had continued to experience discrimination in some areas following their civil partnership (e.g. in public services, when completing forms relating to 'marital' status, etc). There was also sometimes a concern that informing certain bodies and service provides about civil partnership status could provide their staff with a mechanism for displaying discriminatory attitudes; this said, those who expressed such concern also talked about ways they felt discrimination had been reduced by the legislation.

- **Impact on attitudes towards gay and lesbian people in society more widely**
  There were differences in nuance between different participants over the extent to which the civil partnership legislation itself was responsible for bringing about attitudinal shifts, versus the extent to which the legislation had ridden on the back of other changes and was therefore more of an indicator than cause of these shifts. Where it was attributed with

some role in changing attitudes, this was in three main ways: by normalising same-sex relationships; by helping to increase knowledge and understanding of same-sex couples, thereby dispelling stereotypes; and through the conferral of legitimacy, signalling that intolerance was unacceptable.

Chapter 7 - Experiences and impact of the Employment Equality (SO) Regulations

Impact on discrimination

One set of participants had experienced no discrimination at all at work. They attributed this to working in sectors with other gay/ lesbian employees, the existence of progressive employment policies on the part of their employer, or the willingness of their employer to accommodate their needs informally. Whilst some of these said that they had actively chosen to work in environments which were tolerant of gay and lesbian employees, others said they had been *'lucky'* to end up working in such environments.

Amongst those who did perceive themselves to have experienced discrimination, several different types were mentioned: harassment at work on the grounds of sexual orientation; discrimination in an organisation's recruitment processes as a result of the applicant's sexual orientation; barriers to career progression; unfair dismissal; discrimination on the part of employer's policies; and uncomfortable workplace cultures. Where action had been taken prior to the EERs, this had included invoking an organisation's complaints procedure, or taking the issue to a manager or a union. Responses had ranged from good to negative. Where people had taken no action, they attributed this to factors such as lack of legal back-up, the difficulty of proving that discrimination had been on sexual orientation grounds, dislike of conflict, perceived lack of support in their personal lives, lack of commitment to the job or conversely a desire to stay in the job.

There were only four cases in which action against perceived discrimination had occurred following the implementation of the EERs; therefore further research amongst such employees would be needed to confirm the degree to which their experiences were typical. Of the four cases described, one felt that the comments made were too small to justify action; another was informally resolved by a line manager; and a third had chosen not to follow up an internal complaint out of a feeling that it would be *'more trouble than it was worth'*. None of these cases had been aware of the EERs. In the final case the employee had been well-informed about what the EERs entailed but had not taken a perceived case of discrimination in career progression further, out of the belief that it would be hard to prove that sexual orientation had played a role. They had also believed that the process would lead to them feeling *'disengaged, disenfranchised, and marginalised'*.

There was an association between being 'out' at work and working in what were perceived to be comfortable environments, notably where there were other gay employees, where there was a culture of toleration, and where there were forward looking Equal Opportunities policies. Other factors also influenced decisions about whether to be open about sexual orientation at work, such as seniority or rank, whether they were out in private, and their attitudes more generally to personal disclosures. Some explicitly worried about coming 'out' before colleagues had got to know them and their abilities, for fear of being subjected to stereotyped judgements. Whilst there was a view that the EERs made little difference to their feelings in this respect, others felt that the legislative backing might mean they would be more likely to be open with colleagues from the outset about their sexuality than they had been in the past.

Impact on employment conditions

In relation to entitlements at work, some said that they had benefited from organisational changes which they attributed to the EERs; for example access to 'paternity' leave, pension rights, being granted time off to care for a partner. There was also sometimes anticipation of increased confidence in demanding these rights should an employer deny them. Others said that there had been no difference in this respect because their employers had already offered them a comprehensive package of rights.

In terms of security at work, one response to the EERs was to feel better 'protected' from harassment and discrimination as a result, and to feel that the EERs would be used if necessary. However, there were also a number of strong concerns about actually employing the EERs in response to discrimination or harassment cases, notably the fear of being labelled *'trouble makers'* within an industry, fear that it would be difficult to prove, and concern that taking action would in practice be likely to be an arduous and acrimonious process, which would leave the employee marginalised and unhappy at work whether they won or not. For these reasons, some felt that they would only take action if the discrimination or harassment was *'blatant'*, if they had strong back-up, and if they had a lot to lose. Others said that they would be unlikely to take action at all, feeling instead that they would be better off simply looking for a more comfortable and tolerant working environment.

Impact on employer practice

No one was aware of their organisations having done anything to promote the new EERs, other than those in senior positions or working in HR. Those whose employers already had good Equal Opportunities policies speculated that this was because they were already doing what they needed to do, or more. No employees were aware of Trades Unions promoting the changes to them, or of colleagues being aware of the changes. There was a strong strand of feeling that doing more to promote awareness and understanding of the EERs amongst employers would encourage them to put policies preventing discrimination in place – for example, improving grievance procedures and making clear through organisational policies and practices that harassment in the workplace was unacceptable.

Chapter 8 - experiences and impact of the Adoption and Children Act

Views about and willingness to adopt

In some instances, the Act had had no impact on people's feelings about adopting either because they did not want children or because they preferred a different family structure - notably having a child through donor insemination or applying for one of the partners to have parental responsibility for the other civil partner's child rather than applying to adopt. However, others felt the Act had made the idea of adopting more appealing; this was because of the concept of joint responsibility for the child enshrined in the Act and/ or the perception that lesbian and gay couples would now be treated equally by the system.

Another perspective was that whilst the Act made the process of adopting less daunting, concerns remained. These were that: the process of adoption was time consuming and costly; that cultural attitudes lagged behind the letter of the Act, meaning that they or their children might still be exposed to prejudice; and that lesbian and gay couples would still be likely to be placed with more *'difficult'* children.

Experiences of adoption

Where people had applied to adopt (all female couples) or foster following the Act, experiences had been broadly positive. None had experience of previous application however, so were unable to

compare their experiences to the situation prior to the Act. Positively these couples talked about professionals and adoption panels having been sympathetic, and having been repeatedly assured that they would receive no differential treatment. Less positively, there was some sense that perhaps being lesbian or gay still meant having to work harder to prove parenting capability. There was the perception too that courts and professionals still lacked expertise in this area and, (for one participant with an adoption background), that the new requirement of the Act for relationships to be sustained with birth parents might work against lesbian and gay adoptions because of the anticipated hostility of some birth parents.

Impact on same sex couples

There was no real sense of the Act having brought about significant changes in people's experiences of being same-sex parents, although there was a sense that perhaps this piece of legislation alongside the Civil Partnership Act and other societal shifts were helping to normalise gay relationships in people's eyes and therefore by implication gay parenthood. There was a feeling amongst gay and lesbian parents however that it still involved *'more effort'* than being a heterosexual one. Health professionals and education/ childcare providers were still sometimes felt to lack knowledge of and sensitivity about the issues. Further, there was a sense that being a same-sex parent required active 'addressing' of issues, for example in terms of considering which other parents to tell and how to communicate with schools and health professionals. Common amongst same-sex parents was a feeling of negotiating a difficult balance between being open with children and adults on the one hand and on the other preventing their children from experiencing stigma or marginalisation. There was a hope that this situation would become easier the more same-sex parents there were, and the more social attitudes continued to progress.

Chapter 9 - Future changes to legislation, policy and practice

The broad consensus was that rather than there being a need for additional legislation at this point in time, the priority was to allow the current legislation to bed down and to accompany this process by working in other ways to improve knowledge about and attitudes towards same-sex couples. In particular, there was felt to be a need for continuing work: in schools to address homophobia; with the media to tackle any residual prejudice; and with both public and private institutions and service providers to ensure that they understood the implications of the legislative changes, and took them on board in their practices. In terms of changes to the legislation itself or improvements to the context in which they operated, the main suggestions were:

Civil Partnership Act
- make civil partnership fully equal to marriage;
- maintain the separate entities of civil partnership and marriage, but open up civil partnership to heterosexual couples as well.

Employment Equality (Sexual Orientation) Regulations
- raise awareness of the legislation amongst employers – in particular encourage them to see the value of work to prevent discrimination and of appropriate and workable equal opportunities policies and grievance procedures;
- encourage employers to educate their staff about the nature of the regulations, in order to reduce incidents of harassment and discrimination;
- shift the burden of proof from the employee to the employer; i.e. make it the employer's responsibility to prove that discrimination had *not* occurred rather than the employees to prove that it had;
- removing the religious exemptions to the legislation.

Adoption and Children Act

- continue to educate professionals working in this area about the likely issues and concerns faced by same-sex parents looking to adopt;
- ensure that existing systems encountered by same-sex parents (hospital procedures, birth certificate regulations, the donor insemination process) have the flexibility to recognise alternative models of parenthood to the heterosexual two parent norm.

Chapter 10 - Conclusions

The conclusions first consider the impact of the legislative package on feelings about social inclusion and discrimination amongst gay and lesbian couples and employees. They go on to discuss the impact that state involvement in the areas of life set out by the legislation had on the self-definition of members of the gay and lesbian community.

Impact on social inclusion and discrimination
The research strongly suggests that the package of legislation has had some significant positive impacts around improving the sense of social inclusion and reducing perceived discrimination amongst members of same sex couples, notably:

- providing a concrete and visible set of rights, significant in increasing participants' sense of *'belonging'* to and *'legitimacy'* in, society;
- signalling to society that discrimination against gay and lesbian couples, parents and employees is unacceptable in the eyes of the law, providing some with greater confidence about being open about their sexual orientation;
- helping to 'normalise' gay and lesbian relationships and parenthood, thus gradually dispelling unhelpful stereotypes, and reducing the likelihood that gay and lesbian men will be defined by society by their sexuality alone;
- increasing the sense of stability of some gay and lesbian relationships and families; both through the *'bonding'* and '*reaffirming'* impact of civil partnership on the couple, and through the positive impacts it was often perceived to have had on their relationship with and recognition from family and wider society.

Positive impacts were sometimes strongly felt by those who had not become civil partners as well as those who had. They were also strongly experienced by some of those who had been in relationships for ten years or considerably longer, suggesting that the impacts do no stem from longevity alone, but are in some sense boosted by the legislation.

However, the research has also shown that in a number of areas the legislation has also posed a threat to participants' sense of social inclusion, most notably:

- the negative impact on the finances, emotional life and propensity to be open about the nature of the relationship, of certain non-civil partners affected by being treated as couples for the purpose of means-tested benefits and tax credits;
- the sense amongst some that civil partnership, through its difference to marriage, actually perpetuates inequality for same-sex couples;
- the fear that the legislation - by bringing attention to same-sex couples and lesbian and gay employees - might provide certain service providers/ employers with an already unsympathetic disposition towards gay men and lesbians with a *mechanism* through which to express their disapprobation;
- the feeling that important ways of behaving towards one another as couples in terms of more equal and negotiated relationships may be eroded by civil partnership.

It has also described the perception that social attitudes had a long journey to make before lesbian and gay couples and parents felt uniformly accepted and recognised; for example, able to display

affection in public, or be confident that children would never experience harassment or stigmatisation. There was a broad consensus that the impacts of the legislation around increasing sense of social inclusion would be enhanced with further work to improve attitudes towards gay men and lesbians in society, as set out in Chapter 9.

Views of couples towards the involvement of the state in defining their same sex relationships

There was no single perspective on the involvement of the state in defining same-sex relationships and the lives of LGB people. Rather views differed according to the extent to which participants viewed same-sex relationships as different from or similar to opposite sex relationships; their views about the value of creating and preserving new forms of same-sex relationships where they *were* perceived to be different; and the extent to which they viewed anti-discrimination legislation as necessary. There were four main perspectives on these issues:

1. One perspective was that state intervention in civil partnership – and sometimes also in employment law – as an unwanted 'imposition' from the state. From this view, it was argued that the absence of state involvement had enabled people to create their own definitions and parameters for their relationships and working life.
2. Another rejected state involvement in same-sex relationships, but welcomed it in the sphere of employment law and/ or adoption. Whilst the former was viewed as imposing a set of definitions on pre-existing relationships, the latter were felt to be introducing important new rights and outlawing discrimination.
3. A more fluid perspective was held by those who had had some concerns about loss to self-definition through civil partnership but went ahead with it anyway for other reasons. One subsequent response was to feel with hindsight that the benefits of greater social recognition and legitimacy outweighed any concerns about the loss of freedom to self-define. Another response - sometimes felt in tandem - was to feel in any case that it is possible to choose the form of civil partnership one wants to adopt and therefore maintain the 'egalitarian ideal' seen by some commentators as being under threat by civil partnership.
4. Finally, there were those who firmly regarded themselves as part of the mainstream already, or saw civil partnership in particular as providing an important opportunity to become part of the mainstream. For these participants, 'normalisation' was not regarded s as a negative (as anticipated by some commentators) but in fact embraced.

The research also shows that a wider set of factors were taken into account, and experienced as impacts, by participants entering civil partnership than anticipated in some earlier research. It has shown that entering and experiencing civil partnership was not just about practical and legal ramifications for some couples, but about a far wider set of factors, including gaining social recognition and validation, a sense of legitimacy and an increased sense of security in the relationship. This again shows how 'normalisation' and legitimacy under the state umbrella was in fact welcomed by some same sex couples. This said, strong discomfort remained in some quarters with the continuing gap between civil partnerships and marriages. Opening up both institutions to gay, lesbian and heterosexual couples appeared to be the solution that had the best fit with the diverse set of views described above. This was regarded as a means of increasing equality between all types of couples as well as choice about which institution best suits a relationship, if any at all.

1 Introduction and methodology

This chapter sets out the background of the study and its aims and objectives. It also gives an overview of the methodology employed.

1.1 Origin of the study and legislative background

1.1.1 Origin of the study

In February 2007 the Qualitative Research Unit (QRU) at the National Centre for Social Research (NatCen) was awarded funding through the Economic and Social Research Council's (ESRC) small grants scheme to undertake a qualitative study looking at the way in which same-sex couples reacted to a number of recent legislative changes (outlined in Section 1.1.2 below), specifically the impact of these changes on their lives, experiences of social inclusion and discrimination and attitudes towards state involvement.

Whilst the impact of these legislative changes on lesbian, gay and bisexual individuals is likely to constitute an important piece of research in the future, it was felt that a focus on the impact on couples was justified for three reasons. First, many of the legal changes, including civil partnership, the adoption legislation, and aspects of employment terms and conditions, apply specifically to the recognition and rights of couples. Second, taking up these rights is likely to increase the visibility of same-sex couples, both as individuals (e.g. in the workplace) and as a couple (e.g. civil partnership registration, formal recognition of partners as co-parents). While this may produce positive outcomes in terms of increased social recognition of same-sex couples, there are also attendant risks of increased overt or covert discrimination. Third, the hope by government that the legal recognition of 'marital-type' relationships among same-sex couples will result in greater tolerance and acceptance in relation to lesbians, gay men and bisexuals suggests that the experience of same-sex couples will be important in terms of examining the early impact of the anti-discriminatory and socially inclusive aspects of the legislation.

It was felt that beginning fieldwork in mid-2007 – over a year and a half after the implementation of the Civil Partnership and Adoption and Children Acts, and over three years after the implementation of the Employment Regulations – would enable investigation of early experiences of problems and of positive impacts. This investigation could also act as a benchmark for possible policy changes and further research in this field.

1.1.2 The Legislative Background

Civil Partnership Act (2004)

The Civil Partnership Act (2004) came into effect in December 2005. It created the legal status of 'civil partner' and enabled same-sex couples for the first time to obtain legal recognition of their relationship and to gain a number of rights and responsibilities (Women and Equality Unit, 2005). Key rights and responsibilities enshrined in the Act include:

Rights
- equal treatment with heterosexual married couples for taxation and life insurance purposes (e.g. a civil partner does not have to pay inheritance tax or capital gains tax);
- recognition equivalent to a married heterosexual partner under the intestacy rules, viz. where one partner dies without leaving a will the other partner is given priority in terms of

inheritance and other rights associated with death (e.g. right to register the partner's death);

- eligibility for bereavement benefits such as claims for fatal injury compensation;
- the requirement for survivor pensions to be paid to civil partners in the same way as for married couples, although back dating of the calculation of benefits can still mean that surviving civil partners can receive less than if they were married at the discretion of trustees[1];
- ability to apply for parental responsibility where a partner is not the biological parent of the child;
- formal recognition as next of kin, preventing denial of visiting rights in hospital, and access to information and involvement in medical decisions about the treatment of an incapacitated partner;
- right to succeed a local authority or housing association tenancy;
- recognition of civil partners for immigration and nationality purposes, particularly the right to remain in the UK for non EEA citizens whose partnership subsists for two years or more and for some partnerships akin to UK civil partnership to be recognised in the UK;
- exemption from testifying against one's partner in a court of law.

Responsibilities

- a duty to provide reasonable maintenance for a partner and children that are part of the family, which continues after a partnership is dissolved in cases where a child has been legally adopted by a non-biological partner or a civil partner has applied for parental responsibility;
- joint treatment for income-related benefits (e.g. Job Seekers Allowance, Working Tax Credits, etc.), which has also been extended to unregistered cohabiting same-sex partners in the same way as for unmarried, cohabiting heterosexual partners;
- liability for funding of a partner who enters higher education;
- to provide evidence of irretrievable breakdown of the relationship in order for the partnership to be dissolved (the civil partnership equivalent of divorce).

Although civil partnership is often referred to as 'marriage' - particularly in the media (Weeks, 2007 p. 197) - it is not equivalent to marriage. The main differences are essentially in terms of names for different aspects of the process of becoming a civil partner compared to becoming married (e.g. officially a civil partner *registers* their partnership rather than becoming *married*); the procedures involved in becoming a civil partner; the fact that a civil partnership is not marriage recognised in a religious sense ; that civil partnership does not require consummation; and that 'adultery' does not necessarily constitute grounds for dissolution (e.g. where a couple agreed to an open relationship) (Harding, 2008 p. 753; Weeks, 2007 p. 189; Women and Equality Unit, 2003b).

Employment Equality (Sexual Orientation) Regulations (2003)

The Employment Equality (Sexual Orientation) Regulations came into force on 1st December 2003 enacting in UK law the sexual orientation provisions of the Framework Equal Treatment Directive of the European Union (2000/78/EC) (Fitzpatrick, 2007). They make it unlawful to discriminate against an individual on the basis of their sexual orientation, whether they are oriented to people of the same-sex, opposite sex or both sexes (Acas, 2005). The Regulations cover areas such as recruitment procedures (e.g. wording of advertisements), terms and conditions (e.g. carers leave entitlements, free travel, etc.), promotions, transfers, dismissals and training. They also cover vocational training that is not directly in an employment context. Since the Civil Partnership Act any

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1 For further information on pension rights and civil partnership, see UNISON (2007) Protect Our Pensions: Pension Briefing, June 2007, http://www.unison.org.uk/file/2007%20Pensions%20Briefing%20Civil%20Partnerships%20(May%2007).doc

employment benefits that are extended to married couples must also be extended to civil partners, although they do not have to be extended to same-sex couples who are not civil partners unless they are also extended to unmarried heterosexual couples. The only exemptions allowed under the regulations are if there is a 'genuine occupational requirement' for a job (e.g. a gay man might be employed to counsel young men who are coming out or to head a gay rights campaigning organisation) or for the 'purposes of organised religion' (discussed in the literature review in Chapter 2, below).

The regulations cover direct discrimination (e.g. stating that they employer will not employ LGB people) and indirect discrimination (e.g. only inviting married partners to social functions), harassment and victimisation of people who attempt to use their rights under the regulations. Harassment on the grounds of sexual orientation means violating a person's dignity or creating an intimidating, hostile or offensive environment and has proved particularly significant in cases of sexual orientation discrimination. Notably, anything done by a person in the course of their employment is treated under the regulations as done by the employer. This applies whether or not the harassment was done with the employer's knowledge or approval, although it is a defence for the employer to show that they took steps as were reasonably practicable to prevent the harassment, either directly by the person doing the harassing or in the course of their work (see Fitzpatrick, 2007).

Useful summaries of the regulations have been produced by the Labour Research Department (2003) and Acas (2005, 2006)[2], with the later Acas booklet also taking into account changes to the regulations arising from the Civil Partnership Act (2004).

Adoption and Children Act (2002)

Although in the past there was no law preventing adoption or fostering by same-sex couples, there was no specific right for them to apply and be considered as adoptive parents and there was no legislation preventing discrimination against same-sex couples or LGB prospective parents. LGB people could only technically apply to adopt as individuals and not as couples. The Adoption and Children Act (2002), which came into effect at the end of December 2005 made it possible for adoption orders to be made in favour of single people, married couples and, for the first time, unmarried couples and same-sex couples (Creegan et al., 2007). This part of the Act came into effect in December 2005. A key reason for making the changes was to try to broaden the pool of prospective adoptive parents, although attempts to recognise LGB relational rights in the context of the other legislation discussed above also played a part. In making these changes the Act went a long way to recognising that lesbians, gay men and same-sex couples could be suitable parents. However, if a person enters a civil partnership with a biological, or existing adoptive parent of a child, they do not automatically become the parent of the child. As with a heterosexual relationship he or she becomes a step-parent and must apply for parental responsibility or to adopt the child in order to gain full legal rights as a parent[3.]

Equality Act (Sexual Orientation) Regulations (2007)[4]

This act, which came into force in April 2007, outlawed discrimination on the grounds of sexual orientation in the provision of goods, facilities, services, education, the disposal and management

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2 Acas (2004) Sexual Orientation in the Workplace: A guide for employers and employees; Acas (2006) Sexual orientation and the workplace: A guide for employers and employees

3 For further information on parental responsibility and civil partnership see Citizens Advice Bureau information, http://www.civilpartnerships.org.uk/parentalresponsibility.htm

4 These Regulations were not specifically covered by the research or in the topic guide, unlike the first three pieces of legislation. However, they were touched on a number of times in the interviews. The decision to omit the regulations from the research was because it was too early after their implementation to realistically assess their impact.

of premises and in the exercise of public functions (DCLG, 2007). It therefore prevents discrimination in areas such as health, education and training, housing, financial services, entertainment and recreation, local authority provision, etc. Although an important piece of legislation that was mentioned by our participants, it was not specifically included in the research as it had not been enacted at the time of the research proposal and it was considered to be too early to assess its impact at the time of the fieldwork. Nonetheless, we did not prohibit discussion of the regulations where participants specifically raised them.

1.2   Aims and objectives

The overall aim of the research is to examine the impact of recent legislative changes relating to sexual orientation and same-sex partnership: (a) on the experience of social inclusion or discrimination against members of same-sex couples and their families; and (b) in relation to whether previously mixed attitudes to involvement of the state in the lives of same-sex partnerships have changed or remained the same post-implementation.

1.2.1 The experience of social inclusion or discrimination

The legislative changes described above provide important new rights and responsibilities for same-sex couples, but do so in a context where anti-discrimination legislation and socio-cultural change in attitudes to same-sex relationships remains uneven and unpredictable (Weeks, Heaphy and Donovan, 2001). The government has made it clear that one of the purposes of the legislation described above is to create a social and cultural environment in which discrimination against people on the basis of sexual orientation is no longer acceptable. It is also hoped that the legislation will produce a shift in social-cultural attitudes to lesbian, gay and bisexual people and to same-sex relationships (Women and Equality Unit, 2003b). Commentary outside the UK has already begun to suggest that social recognition of same-sex relationships will produce greater social acceptance of these relationships (King and Bartlett, 2006). Yet, at the same time, there is growing concern that the increased public visibility that may occur through exercising same-sex partnership rights or through becoming a civil partner may have the reverse effect by creating new forms of overt and covert discrimination (Women and Equality Unit, 2003b; Wheelan, 2005). For example, there continues to be exemptions from the Employment Equality Regulations for the 'purposes of organised religion' (Acas, 2004). Prior to legislation prohibiting discrimination on the grounds of sexual orientation in the provision of goods and services there was growing evidence of discrimination against same-sex civil partners (Minto, 2006). Some local authorities were also openly hostile to the introduction of rights for same-sex couples (Grosz, 2006), whilst past research had shown that homophobia in local authorities could be institutionalised and covert (Age Concern, 2002). Even where employers, local authorities and other public bodies have positively embraced legislative changes, they have been found to place new demands on them in circumstances where they are not always sure how to respond (Heaphy, Yip and Thompson, 2003).

The research therefore enabled a timely exploration of the experiences and views of same-sex couples in terms of the effectiveness of the legislative changes. Particular areas for consideration were how effective the legislation was perceived to have been in terms of increasing a sense of social inclusion, enabling access to new rights and responsibilities, and reducing discrimination based on sexual orientation. Key aims and objectives in relation to these areas were to explore:

- awareness and understanding of the legislative changes and how they affect same-sex couples;
- attitudes towards the legislative changes, including the extent to which they are welcomed for improving social inclusion/ reducing the potential for discrimination;

- decision-making amongst members of same-sex couples about whether to access the new rights and responsibilities conferred by the legislation;
- the perceived impacts of the new rights and responsibilities on feelings of social inclusion and feelings about visibility;
- experiences of discrimination pre and post the legislative changes including the perceived early impact of legislative changes in promoting institutional and wider socio-cultural acceptance of same-sex couples;
- where same-sex couples have become visible through the exercise of new rights, whether this has led to experiences of increased social recognition and acceptance or increased overt and/ or covert discrimination;
- how well employers, local authorities, and other service providers are perceived to have responded to the new rights afforded to same-sex couples, their needs, and patterns of intimate relationships and family life among them;
- the impact of the legislative changes on the experience of a wider culture of social acceptance of same-couples, including any improved relationships with work colleagues, family and kin, and other members of the wider community;
- the processes, mechanisms and responses that lead to positive and negative experiences of increased social recognition or negative experiences of prejudice and discrimination
- key problems, difficulties or omissions in the legislation, including suggestions for revision and change.

1.2.2 The impact of socio-legal recognition of same-sex couples on attitudes to civil partnership, partnership rights and definition of commitment

In addition to attempts to reduce discrimination, the legislative changes described above also represent a change in the relationship and form of involvement by the state in patterns of intimate and family life for same-sex couples (Weeks, 2007). Ostensibly, there has been a move away from repression, exclusion and discrimination against same-sex couples towards greater validation, inclusive citizenship and regulation (Weeks, 1998). A host of benefits have been suggested arising from the social recognition of same-sex couples, including improved self-respect for lesbians, gay men and bisexuals, improvements in mental and physical health, greater stability in relationships, closer relationships between partners and family and kin, and reduced social exclusion (King and Bartlett, 2006; Rauch, 2004). Part of the embrace by the British government of civil partnership and adoption by same-sex couples is related to the idea that such changes will reinforce patterns of relationships and family life that increase social stability through emotional and financial commitment between couples. They are also expected to provide better security for the upbringing and care of children (Women and Equality Unit, 2003a; Home Office, 1998).

Yet, for many same-sex couples this new involvement by the state in the shaping of same-sex relationships and family life raises tensions between the desire for equality, social recognition and social validation on the one hand, and the desire for self-defined and negotiated commitments on the other (Harding, 2008; Peel and Harding, 2008 p. 660; Weeks, 2007 p. 788). Prior to the legislative changes described above there was an emphasis in research and commentary on the way in which same-sex couples had to form their relationships largely 'outside' heterosexual social and legal structures, with this leading to greater individualization, reflexivity and democratisation in patterns of same-sex relationships (Giddens, 1992; Weeks, Heaphy and Donovan, 2001). In the past, same-sex couples often constructed their commitments in direct contrast to heterosexual structures of marriage and family life (Weeks, Heaphy and Donovan, 1999, 2001). In particular, there was commitment to an 'egalitarian ideal' in which commitments should be negotiated between the individuals concerned, rather than pre-defined by an external authority such as the church or the state (Weeks, et al., 2001; Mitchell, 2004). These tensions were particularly

encapsulated in the mixed feelings that same-sex couples documented towards the idea of same-sex marriage and partnership, with the embrace of the idea of civil partnership mainly reflecting the practical issues and concerns involved (Weeks, Heaphy and Donovan, 2001). However, they have also been reflected, more recently, in concerns about the uncritical acceptance of heterosexual or heteronormative patterns of relationships and family life (Auchmuty, 2004; Harding, 2008). Such concerns have included the extension of assumptions about inter-dependency and dependency to all same-sex couples whether or not they choose to register their partnership (e.g. in relation to individual assessments for income-related benefits) (Knights, 2006; Young and Boyd, 2006); the possibility of continuing or new forms of discrimination between married/ registered and unmarried/ unregistered partners (Donovan, 2004; Harding, 2008); and the prioritisation of private or neo-liberal couple commitments over other wider, social possibilities for intimacy and caring (e.g. families of choice, the community) (Polikoff, 2003; Tatchell, 2005; Young and Boyd, 2006).

An additional theme of this research was to explore the views of same-sex couples towards the involvement of the state in defining their relationships after implementation of the legislation. Key aims and objectives in relation to this theme were to explore:

- views about civil partnership, 'gay marriage' and other aspects of partnership rights pre and post legislative change, including any attempts to establish or reinforce commitments (e.g. through financial arrangements, local authority registration schemes, commitment ceremonies or blessings, etc.);
- reasons for deciding whether or not to register a partnership and/ or to take advantage of other partnership rights such as employment benefits or recognition as an adoptive parent;
- the extent of continuing tensions between the desire for equality and social recognition on the one hand and self-definition and negotiated commitments, on the other;
- the way in which any continuing tensions are worked through in practice, particularly in relation to emotional and financial commitments, and specific new partnership rights and responsibilities such as employment benefits, income-related benefits, next of kin relationships, co-parenting responsibilities, etc.;
- possible positive impacts from legislative change, including any experience of reduced discrimination, increased feelings of social inclusion and citizenship, personal feelings of security and stability, personal validation, etc.;
- possible negative impacts from legislative changes, including any experience of reduced self-definition, increased unwanted financial inter-dependency, discrimination against couples who choose not to register their partnership, failure to recognise other important intimate relationships, etc.
- overall factors facilitating or preventing further take up of civil partnership and other partnership rights, including possible changes needed to the existing legislation.

1.3   Methodology

The research involved 47 in-depth interviews with individual members of same-sex couples. The use of in-depth interviews facilitated the exploration in detail of individual views and experiences and gave voice to particular issues and concerns from the point of view of the participants. The focus of the sample was on members of *same-sex couples* in order to avoid exclusion of participants who might not choose to identify as lesbian, gay or bisexual through choice or fear of stigma (see also Demo and Allen, 1996; Robertson, 1998; Heaphy et al., 1998 p. 457).

1.3.1 Ethical approval and informed consent

The research received ethical approval through NatCen's own ethical review process. Prior informed written consent was sought for all interviews to be digitally recorded and transcribed verbatim and to be archived at the ESRC data archive. Recording was essential for interviews to be able to give full concentration to the accounts of the participants, for full depth and exploration of accounts during the interview and for detailed, systematic and rigorous analysis. Consent for the data to be archived was discussed before the interview but only confirmed after the interview once the nature and content of the discussion was known by participants. Where both members of a couple took part in an interview, consent for recording and archiving was gained from both parties.

1.3.2 Sample and recruitment

As this was a qualitative study, the rationale in selecting people to take part in research was not to achieve a sample that was statistically representative of all same-sex couples, but rather to ensure diversity of coverage across certain key demographic factors and experiences (McManus, 2003 p. 24; Ritchie and Lewis, 2003). However, attempts were made to avoid the tendency in some research on same-sex couples to exclude certain aspects of diverse experience (e.g. people from minority ethnic groups, disabled people, people living in areas with less visible lesbian, gay and bisexual communities) or to include only the views of people who are part of established community groups and social networks (Platzer and James, 1997; Robertson, 1998). In this respect participants were purposively selected according to various 'social and cultural positionings' (Heaphy, Donovan and Weeks, 1998). Minimum and maximum quotas were established for a number of sampling criteria and monitored in order to achieve them across the life of the project.

Key sampling criteria were partnership status or intentions in relation to civil partnership, gender, age, length of relationship, geographical location, households with and without children, level of joint household income, employment status (e.g. working, receiving benefits, retired or student), ethnicity and disability. All those included had at least two years experience of being part of a couple in order to ensure that discussion of circumstances and commitment could facilitate consideration of legal recognition of the relationship.

In order to recruit the sample, we followed the recommendation of previous researchers in this field and used a variety of strategies, including contact with local social groups, organisations and services targeted at lesbians, gay men and bisexuals, advertising, and a limited amount of snowballing within the existing sample (Heaphy, Donovan and Weeks, 1998; Martin and Dean, 1993; Platzer and James, 1997). In a new development we also negotiated indirect access to same-sex couples who had registered their partnership through local authority Registrars. (e.g. providing leaflets for Registrars to hand out at the point of notification of registration, indirect mailing through registrars paid for from the project budget). Copies of recruitment materials used are contained in Appendix A. Areas prioritised for recruitment were identified on the basis of high, medium and low numbers of same-sex couples disclosed in the 2001 Census and similar numbers of civil partnerships notified by Registrars to the General Registrars Office. The identity of these areas has been withheld to protect the anonymity of participants and registration services that helped us with recruitment. However, they included large cities, medium and small-sized towns, rural areas and areas known for the presence or absence of visible LGB communities and 'scenes'.

The table below sets out the sample achieved in relation to primary and other key sampling and recruitment criteria. The strengths and limitations of the sample are discussed below.

Table 1.3.2 Sample composition in relation to key variables

Variable	Number of participants
Primary sampling and recruitment criteria	
Civil partnership status	Civil partners - 25
	Non-civil partners – 26
Gender	Female – 19
	Male - 28
Age of primary participant	Under 35 – 8
	36 to 49 – 23
	50 and over - 16
Length of relationship	2 to 10 years - 15
	11 to 20 years – 15
	21 to 30 years – 7
	Over 30 years – 6
Other sampling and recruitment criteria	
Households with children	8
Level of joint household income	Less than £25,000 – 9
	£25,000 to £49,999 – 14
	£50,000 to £75,000 – 14
	More than £75,000 - 10
Employment status	Working - 31
	In receipt of benefits - 8
	Student or retired - 8
People with a disability or long-term illness	11
People from minority ethnic groups	3
Experience of adoption or fostering	5

The sample contained respondents who had already become civil partners, and those who were not civil partners, with the later group comprising those who were intending to do so in the foreseeable future, those who were undecided about the prospect and those who had already decided against becoming civil partners. The decision to limit recruitment to people who had been in a relationship for two years may also have limited discussion of consolidation of a partnership as a reason for considering entering a civil partnership. Overall, however, the sample allowed a diverse representation of views and experiences of the civil partnership legislation.

Reasonably diverse samples were also achieved in relation to gender, length of relationship, level of joint household income. Quotas considered appropriate for households with children, people not in paid-work, living with a disability or long-term illness and experience of adoption or fostering were also met or exceeded.

Achieving the required degree of diversity in the sample was more difficult in relation to other important criteria. In particular, it proved more difficult to recruit younger members of same-sex couples, people from minority ethnic groups and people with direct experience of the Employment Equality (SO) Regulations; although some people from these groups were included. These shortcomings should be considered when drawing any inference about the experiences of younger same sex couples and those from minority ethnic groups.

1.3.3 Conduct of fieldwork

Fieldwork began in June 2007 and finished in January 2008. Depth interviews were conducted using a detailed topic guide that outlined the key themes and issues to be explored, with sufficient variation in questioning being allowed for issues that may face different sub-groups in the sample. Interviews were conducted using open-ended, probing and responsive questioning to ensure that all relevant issues were explored and to allow new themes to emerge. The topic guide is included in Appendix B.

While recognising that individual, rather than couple, interviews would limit revelation of dynamics between partners and discussion of shared histories (Smart, 2008 p. 764), our decision to primarily adopt this approach was based on two reasons. First, the finding that individual interviews allow members of couples to speak more freely about their thoughts and concerns than when partners are present (Weston, 1991; Mitchell, 2004), which we also found to be the case, Second, the fact that individual interviews had the advantage of easing recruitment in circumstances where both members of the couple did not necessarily have the time or inclination to take part in the research. To take account of the possible impact of the presence of partners on interview accounts, participants were therefore offered the option of being interviewed in their own home or at a suitable alternative local venue. However, in practice, some couples did want to be interviewed together and in order to retain flexibility we did not prevent couples being interviewed together where this was the case. 42 interviews were conducted with individuals and 5 with couples.

Consideration was also given to whether to match interviewers and participants by sexual orientation and/ or gender. It has been suggested that lesbian, gay and bisexual researchers can bring a unique perspective to research with LGB people and that their 'insider' status can have significant impact on the ease of access to participants and the ability to achieve a high degree of trust in qualitative interviewing (e.g. Platzer and James, 1997; Dunne, 1997). However, others have noted that 'perceived commonalities' between respondent and researcher can lead to research relationships that are misleading and exploitative (Heaphy et al., 1998 p. 456; Platzer and James, 1997 p. 631). Some researchers have found a preference for researchers of a particular gender among LGB people, particularly for women researchers among lesbians (e.g. Bradford et al., 2001; Spencer et al., 1998). However, little evaluation has actually been conducted of the value of matching (McManus, 2003; Mitchell et al., forthcoming). In practice the study adopted a balance between the practicalities of matching by sexual orientation and gender and satisfying the wishes of participants where possible. In two cases lesbian interviewees requested a female or gay male researcher and this requirement was met. Only in one case did a gay man comment that he would have felt more comfortable discussing some aspects of his relationship (e.g. degree of sexual exclusivity) with another gay man.

1.3.4 Analysis and reporting

Verbatim interview data was comprehensively and systematically analysed using the computer-aided qualitative analysis package, *FrameWork*, which has been developed within the Qualitative Research Unit at NatCen over a number of years. Framework uses a matrix-based format that allows for the thematic and typological interpretation of data. A series of thematic charts were established following preliminary review of the data. An overview of the thematic categories used in the analysis is included in Appendix C. These charts provided the basis of a thematic framework. The development of the framework was an iterative process involving all members of the research team at each stage in the process. Each chart related to a different substantive meta-theme. The columns in each chart represented the key sub-themes or topics whilst the rows

represented individual respondents. Following charting of the verbatim transcripts, the qualitative data was reviewed by theme and by case in order to explore the possible emergence of new themes, issues or typologies.

1.4   The use of qualitative data

Qualitative research was of particular value given the exploratory nature of the research. The interactive probing and questioning methods allowed flexibility in the structure and content of interviews, which facilitated exploration of individual circumstances and experiences in a way that was responsive to the accounts of individual respondents. This was essential for the detailed investigative approach that the study required.

However, it is important to note that qualitative research samples are not designed to be statistically representative of the research population, and this means that statements about incidence or prevalence cannot be sustained. Similarly it is not possible to determine statistically discriminatory variables from qualitative data. Where relationships are described between, for example, attitudes and behaviour, the purpose in doing so is to present explanations identified explicitly or implicitly by respondents and hypotheses for further research.

Throughout the report, specific terms or phrases used by respondents are embedded in the text in italics to illustrate the language used and the meanings attached to aspects of their experience. In addition, verbatim passages from transcripts and case illustrations are presented. To preserve the anonymity of respondents, specific details - such as names or places - which might identify respondents, have been omitted or changed. Each person interviewed in the study has been given a fictitious name that is used consistently throughout the report to aid reference to their experience.

1.5   The structure of the report

The remainder of the report comprises nine other chapters:

Chapter 2 sets a context for the main findings by providing a review of the relevant literature in relation to the research area.
Chapter 3 looks at participants' understanding of and attitudes towards the Civil Partnership Act, Employment Equality (SO) Regulations and Adoption and Children Act. It then sets out a number of overarching themes that emerged in relation to attitudes towards the legislative package as a whole.
Chapter 4 looks at the factors participants took into account when deciding whether or not to enter a civil partnership.
Chapter 5 describes experiences of and attitudes towards the civil partnership registration process. It also explores the types of language participants used when talking about civil partnerships, and the factors accounting for this.
Chapter 6 explores the impact of the civil partnership legislation predominantly on those who had become civil partners but also where relevant on those who had rejected civil partnership or who were still deciding. Particular themes are its perceived impacts on the relationship, financial circumstances, legal rights and responsibilities, social recognition and validation, visibility, experiences of discrimination and society's attitudes towards same-sex relationships.
Chapter 7 explores participants' experiences in employment, and the difference the Employment Equality (SO) Regulations were perceived to have had on perceptions of harassment, discrimination, security and access to rights at work.

Chapter 8 examines the impact of the Adoption and Children Act on participants' feelings about adopting, experiences of adopting and experiences of being same-sex parents.

Chapter 9 describes views about how the legislation, or the context in which the legislation operates, could be changed/ improved.

Chapter 10 sets out the main conclusions drawn from the research, with particular reference to the impact of the three pieces of legislation on social inclusion, discrimination and the self-definition of lesbian and gay couples.

2   Literature review

Chapter 1 has set out the main features of the three pieces of legislation focused on in this study – the Civil Partnership Act, the Employment Equality (SO) Regulations and the Adoption and Children Act. It has also discussed the research context in relation to views about the likely impacts of the legislation on social inclusion and visibility and the perceived benefits and drawbacks of socio-legal recognition for same-sex couples. This chapter now describes the remaining key literature around each of these pieces of legislation and the context in which they operate. It also describes the literature relating to general attitudes towards same-sex couples.

2.1   The Civil Partnership Act and its context

2.1.1 Recognition of relational rights

Until the Civil Partnership Act (2004) same-sex couples were only legally recognised in very limited ways using provisions of the Human Rights Act (1998) (e.g. nearest relative in the context of mental health, tenancy succession). Even in these cases such recognition was a response to legal campaigns by LGB people and not the act of a responsive state (Weeks, Heaphy and Donovan, 2001).

The Civil Partnership Act (2004), when it came into effect in December 2005, provided an important recognition and validation of same-sex couple relationships; with some commentators arguing that this was an important step in the direction of the human rights for same-sex couples and the beginning of the transition of LGB people from outsiders toward fuller citizenship (e.g. Josephson, 2005; Peel and Harding, 2008 p. 663) The government made it clear that one of the purposes of the legislation is to create a social and cultural environment in which discrimination against people on the basis of sexual orientation is no longer acceptable (Women and Equality Unit, 2003a). It is also hoped that the legislation will produce a shift in socio-cultural attitudes to lesbian, gay and bisexual people and to same-sex relationships (Women and Equality Unit, 2003b).

2.1.2 Take-up of civil partnership

The 2001 Census in England and Wales gathered data on people living with someone of the same-sex who they identified as their partner. This indicated that there were 78,523 of such households, with 75,747 in England and 2,776 in Wales. This represented 0.19% and 0.12% of all people aged 16 and over in England and Wales, for England and Wales respectively[5]. However, these figures need to be interpreted with care. The measure does not include 'those in partnerships but not co-resident and people who decline to disclose their relationship' (Aspinall and Mitton, 2008; Bindel, 2004; Carvel, 2004). Black et al. (2000) estimate that only a third of same-sex couples disclosed their relationship in this way.

Since December 2005 information has also been available about the number of civil partnerships in the UK. Early information published by the Office for National Statistics (ONS) revealed that there were 18,059 civil partnerships in the UK between December 2005 and December 2006, with 16,173 taking place in England, 1,131 in Scotland and 627 in Wales[6]. The most recent information published by ONS indicates that the 'total number' of civil partnerships formed in the UK since the Civil Partnership Act came into force is 26,787. Initially more men than women entered civil

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5 Office for National Statistics, Table UV93 Same-sex couples. England and Wales, London: ONS, 2004, www.statistics.gov.uk/StatBase/Expodata/Spreadsheets/D7534. xls, accessed via ONS's Neighbourhood Statistics.
6 http://www.statistics.gov.uk/CCI/nugget.asp?ID=1685&Pos=&ColRank=1&Rank=374

partnerships, although these percentages have more or less evened out over time. The average age of formation of civil partnerships in the UK in 2007 was 42.8 years for men and 41.2 years for women (ONS, 2008).

Differing interpretations have been put on these figures. Some commentators have taken the suggested positive impacts of civil partnership (see below) to argue for the popularity of civil partnerships among same-sex couples. For example, they have taken that fact that that the number of civil partnership registrations was likely to pass the government's own estimate of 22,000 by 2010, given early rates of registration (e.g. Ward, 2006), to suggest that this demonstrates a 'real appetite' for civil partnerships among LGB people (Curtis, 2006) or that same-sex couples are voting with their feet to take-up civil partnership (Weeks, 2007). However, others have been more cautious. Figures released by ONS for 2007 show a decline in the rate of civil partnerships by 46% between 2006 and 2007, with the number of civil partnerships formed in the UK falling from 16,106 in 2006 to 8,728 in 2007 (ONS, 2008). Research by the Local Government Association with 40 local authorities also indicated a 'average 55 per cent drop' in the numbers of civil partnerships in 2007 compared to 2006 (Local Government Association, 2008). The numbers of civil partnerships in the first years are likely to have been swelled by long-established couples who took advantage of the opportunity to have their relationship legally recognised because (ONS, 2008). However, Newling (2008) reports the view that rather than this demonstrating a decline in the popularity of civil partnerships, it is more likely to represent a logical tailing off and 'normalising process'. Nonetheless, early rates of civil partnerships are likely to be unreliable as a guide to the future take-up of civil partnerships (Campbell, 2008).

Others have also pointed to the prediction of low percentages of take-up of same-sex partnership rights akin to civil partnership in other countries. Although there are no reliable figures of the percentage of same-sex couples who have taken up civil partnerships in the UK, ONS observe that less than one person (0.7) per 1,000 unmarried adults aged 16 and over entered into civil partnerships in England, Wales and Scotland (ONS, 2008). Tatchell (2005) reports that less than 15% of same-sex couples have registered their partnerships in Denmark and the Netherlands where such rights were introduced earlier than in the UK[7]. Hickman (2006) also reports an Internet survey of 18,000 people via the gay dating website 'gaydar', which suggested that as many as one-quarter of gay men would say a definite 'no' to civil partnerships. There is also some evidence that a high proportion of same-sex couples who register their intention to become civil partners back out at the last minute (Local Government Association, 2008; Newling, 2008). However, there is still an urgent need for accurate statistical information on the number of LGB people and same-sex couple households in order to precisely access the popularity of civil partnerships in the UK. There is also a need for statistics about the number of civil partnership dissolutions to date (Newling, 2008).

Purdam et al (2007) argue that in order to provide statistics on civil partnerships, it is 'important that one relevant question on civil partnership status is included in national government surveys'. Significantly, the existing question on legal marital status will be expanded in the 2011 Census to include civil partnership categories and ONS have consulted with stakeholders and experts on the wording of such a question[8]. Information on 'same-sex civil partnership' and same-sex cohabiting relationships will also be gathered as part of a relationship matrix in the Census. However, because same-sex couples who are not civil partners may be less likely to disclose their relationship due to the lack of a visible legal status, it is still not likely to be possible to produce a completely reliable estimate of the percentage of same-sex couples who have registered their partnership.

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7 Although some care must be taken in interpreting this statement given the difficulties of accurately establishing the number of same-sex couples at a national level generally.
8 Communication with NatCen as part of our involvement in the Sexual Identity project

2.1.3 Civil partnership; the research context

Research to date on the impact of civil partnerships on discrimination and inequalities faced by same-sex couples has been relatively limited, principally because the legislation needed time to become sufficiently embedded. In this context most discussion of the impact of civil partnerships has been speculative, with supporters, sceptics and detractors from the legislation variously putting forward arguments to support their case. However, some qualitative research has been conducted, or is ongoing, that sheds light on the attitudes and experiences of same-sex couples relating to civil partnerships or same-sex 'marriage'. Key pieces of research have included that by Smart et al. (2005) and Smart (2008) exploring views and experiences of same-sex couples who had gone through commitment ceremonies before and during the implementation of civil partnership, and work by Harding (2008) describing critical views of civil partnership among people who had not become civil partners but who might consider doing so.

Research on same-sex relationships prior to the Civil Partnership Act

A body of research preceding the civil partnership legislation suggested that same-sex couples were less stable than heterosexual married couples and that such relationships were less likely to last (e.g. Modcrin and Wyers, 1990; Johnson, 1990). This research was criticised however for often not comparing like with like; for example, comparing married heterosexual couples with an undifferentiated category of same-sex couples, whereby some couples may still be forming their relationship, and where there was no possibility of same-sex 'marriage' at the time (Sarantakos, 1996). Others noted the survival of same-sex couples despite a lack of institutional support for them (Jamieson, 1999). More recent research has indicated that same-sex couples are prepared to invest a considerable amount of 'emotional labour' and 'discussion and negotiation' in terms of sustaining their relationships (Weeks, et al. 2001). Shipman and Smart (2007) also note that many people seeking recognition of their commitments through commitment ceremonies and civil partnership were already in long-term, stable relationships.

Other research has focused on the extent to which patterns of negotiated commitments influence such issues as sexual monogamy (e.g. Shernoff, 1995), money management (Burns et al., 2008) and household formation among same-sex couples (Mitchell, 2004). However, despite research that suggests that LGB people have a range of commitments, including long-term and stable commitments, the absence of reliable statistical evidence on same-sex couples means that it is impossible to say definitively whether same-sex relationships are any more or less long-term and stable than heterosexual relationships.

Research with same-sex couples prior to the Civil Partnership Act

Research and government consultation prior to the Civil Partnership Act showed that formal recognition of same-sex partnerships aroused 'mixed feelings' among gay men and lesbians (Women and Equality Unit, 2003b). Where same-sex couples embraced the idea of civil partnership this often reflected pragmatic concerns such as recognition for taxation or pension purposes or recognition as next of kin in the context of health and social care. In other circumstances involvement by the state in the lives of same-sex couples often raised tensions between the desire for equality, social recognition and social validation, on the one hand, and the desire for commitments that are self-defined and negotiated between partners on the other (Smart et al., 2005; see also discussion in Peel and Harding, 2008 p. 660; Weeks, 2007 p. 788).

Positive views about civil partnerships

A host of benefits have been suggested arising from the social recognition of same-sex couples. On the one hand, commentators have emphasised the importance of same-sex marriage or civil

partnership as a human right (e.g. Kitzinger and Wilkinson, 2004) or an important transition of lesbians, gay men and bisexuals from outsiders to full citizens (e,.g. Josephson, 2005; Weeks, 2007). On the other hand, they have emphasised the significance of socio-legal recognition for improved self-respect for lesbians, gay men and bisexuals, improvements in mental and physical health, greater stability in relationships, closer relationships between partners and family and kin, and reduced social exclusion (King and Bartlett, 2006). Part of the embrace by the British government of civil partnership and adoption by same-sex couples is related to the idea that such changes will reinforce patterns of relationships and family life that increase social stability through emotional and financial commitment between couples. They are also expected to provide better security for the upbringing and care of children (Women and Equality Unit, 2003a; Home Office, 1998).

A number of commentators and researchers have emphasised the importance of some way of affirming commitment between same-sex partners, and the significance of commitment ceremonies or partnership rights in this respect (Driggs and Finn, 1991; Uhrig, 1984; Berger, 1992; Marcus, 1992; Sullivan, 1995; Women and Equality Unit, 2003a; Eskridge, 1997).

By comparison, others have identified positive impacts from civil partnership for society and for LGB people although the impacts identified have sometimes been more speculative than supported by evidence. One key positive impact that has been suggested is that civil partnerships may increase stability and longevity among same-sex partners creating the conditions for improved mental and sexual health and greater security for children. For example, during the consultation exercise on the creation of civil partnerships, the Women and Equality Unit argued that civil partnerships would 'bring increased security and stability to those same-sex couples who register their partnership, and to their children' (Women and Equality Unit, 2003a). Similarly, King and Bartlett (2006) argue that the stability and better mental health associated with marriage may be transferred to civil partnerships, with knock on impacts of improved self-respect, reduced contacts with multiple sexual partners and improved sexual health (see also Sullivan, 1995, 1997). Other positive impacts that have been suggested have also included reduced stress and drug-taking arising from less social exclusion and less prejudice (King and Bartlett, 2006) and the potential for improved relationships with family members arising from increased visibility and support for the relationship (Petre, 2006).

Research on the actual impact of civil partnerships is limited but suggests that the legal and social recognition provided to civil partners is important to same-sex couples, to family members and possibly to the wider society. Smart et al. (2005) found that the couples that they interviewed were pleased with the civil partnership legislation although some wanted full equality and to be able to hold a religious ceremony. Couples were divided over whether it mattered that there are separate categories of civil partnership and marriage. They were aware that they might be criticised by their friends for 'selling out' and adopting heterosexual values by registering their partnership but thought that celebrating their commitment to each other was more important. When friends criticised them for 'marrying' this was experienced more as reserve in their enthusiasm rather than as outright hostility.

For couples who had undertaken gay 'weddings', Smart et al. (2005) also found a positive impact in that that this helped create 'new forms of kinship' with families of origin, with same-sex partners being seen as son-in-laws, sister-in-laws, etc. Partners were also put 'on a new footing' being 'absorbed into the wider family'. Qualitative research also suggests that civil partnership can have a positive impact on the acceptance of same-sex couples by people of faith where LGB people are seen to be demonstrating that they are living by similar principles implied in heterosexual marriage such as commitment or monogamy (Hunt and Valentine, 2008). Other same-sex couples who had

undertaken a ceremony by comparison felt that a positive impact of civil partnership was that becoming partners actually helped prevent unwanted interventions in their lives, either from family members or the state (e.g. taxation, immigration).

The evidence for an impact on commitment was less conclusive. Smart et al. found three sorts of commitment among the same-sex couples they interviewed, including (a) 'commitment as a promise for the future'; (b) commitment as an ongoing sedimenting process (over years); and (c) commitment as potentially fragile and as requiring external supports'. Most couples fell into the second category because they had lived together for some time and felt they had demonstrated their commitment in many and varied ways over time. They 'did not think their ceremony would, or had, made any difference to their level of commitment'. It remains to be seen whether civil partnership will have an impact on couples who are making a promise for the future or who feel their relationship is emotionally fragile and in need of external support. One piece of significant research that has recently been funded by the ESRC in this respect is that being undertaken by Heaphy and Smart (forthcoming) that will look at the experiences of young people under-35 who have entered civil partnerships.

Concerns about the negative impact of civil partnerships

Despite the possible positive impacts from civil partnerships, a number of commentators have been concerned that civil partnership can represent the extension of assumptions about monogamy, inter-dependency and economic dependence between partners based on traditional models of heterosexual marriage (Auchmuty, 2004; Brandzel, 2005; Donovan, 2004; Tatchell, 2005). From this perspective civil partnership represents a reduction in the possibility of widespread reform of marriage, increased regulation of lesbians, gay men and bisexuals and a surrender or assimilation of same-sex couples into 'heteronormativity' (see discussions in Weeks, 2007; Harding 2008). There have also been concerns that civil partnership will 'normalise' same-sex relationships thereby jeopardising the egalitarian, negotiated and democratic qualities found among same-sex couples that were described above. For example, in their study of money management in same-sex relationships, Burns et al. (2008) discuss the 'potentially normalising effects' of civil partnership in terms of its assumption of the desire for financial interdependence between couples, which may not 'adequately reflect the experiences of lesbian and gay couples'. In fact, they found that an ethic of 'co-independence' was upheld for same-sex couples, even among those considering civil partnership.

These issues have been particularly discussed in terms of the potential negative financial impact of the Civil Partnership Act on same-sex couples in receipt of means-tested benefits (such as Job Seekers Allowance, Housing Benefit, Council Tax Benefit, Pension Credit) and tax credits and whether this will deter people from becoming civil partners. In particular, there have been concerns that the most financially vulnerable same-sex partners will be worse off because their partner will be regarded as financially responsible for them and that, in line with heterosexual couples, this will be the case whether same-sex couples choose to register their partnership or not (Knights, 2006; Young and Boyd, 2006). From this perspective, middle-class or wealthy same-sex couples are seen to benefit from recognition for pensions and the ability to avoid various forms of tax, while civil partnership 'brings non-registered, unmarried, low-income same-sex couples under the gaze of regulation' (Harding, 2008 p. 746).

Another concern among commentators is that civil partnership will create new forms of inequalities. For example, Tatchell (2005 p. 1) argues that the fact that civil partnership exists as a distinct institution from heterosexual marriage that is not fully equivalent to marriage reinforces homophobic views that same-sex relationships are different and second best (see also Harding,

2008). At the same time, the decision by the current government not to create a similar institution to civil partnership for heterosexual couples who do not wish to *marry*, creates 'a form of legal apartheid based on sexual orientation'.

Another issue is that couples who do not enter civil partnerships will be perceived to have less status than those that do. Some commentators have argued that there is the 'danger of separating the respectable gay from the unrespectable' (Weeks, 2007 p. 192) or that civil partnership 'reinforces inequalities between people depending on the way they organise and live their personal lives' (Donovan, 2004 p. 26). For example, concerns have included the fact that certain employment benefits can be lawfully restricted to married couples and civil partners while excluding other couples who may have equally long-term commitments (Frost, 2006; Employee Benefits, 2005).

At the same time, others have criticised civil partnership for possibly reinforcing a neo-liberal, privatised view of commitments. They argue that this places responsibility for caring on the privatised couple and family rather than wider social commitments and the state (Young and Boyd, 2006; Cossman, 2002). Civil partnership prioritises married, conjugal relationships and commitments over other forms of commitments seen between friends, siblings, and wider caring networks, etc. and fails to re-envisage the way in which we recognise caring commitments between people (Polikoff, 2003; Robinson, 2005; Rothblum, 2005). For example, Mitchell (2004) argues that civil partnerships may reinforce the reliance on care and support between couples in the context of increasing numbers of one-person households where such partners may be unavailable (Mitchell, 2004). In this context, some commentators have argued that there is a need to acknowledge a range of couple and non-couple commitments through the use of 'civil commitment pacts' (Wilkinson and Kitzinger, 2005).

A final concern is that the increased visibility that may occur through becoming a civil partner or through exercising same-sex couple partnership rights may create new difficulties for same-sex couples or lead to new forms of overt and covert discrimination (Wheelan, 2005). At one level, civil partnership raises dilemmas for same-sex couples about whether to invite family members who are hostile to the relationship to the ceremony (Muir, 2006; Smart, 2008). At another level, issues have been raised about the response of specific providers of goods and services to same-sex couples. For example, the introduction of the Equality Act (Sexual Orientation) Regulations 2007 was introduced partly to target examples where same-sex couples continued receive discriminatory treatment since the introduction of the Civil Partnership Act and other legislative changes (DCLG, 2007). There have been a number of instances where staff responsible for the registration of marriages have refused to conduct civil partnerships or where couples have had difficulties registering their partnerships within particular local authorities (Creegan et al., 2007; Davies, 2007; Grosz, 2006). There have also been examples of venues trying to refuse to conduct civil partnership ceremonies (Shepherd, 2007) or refusing same-sex partners facilities such as hotel rooms (Minto, 2006).

A particular difficulty has been religious opposition to civil partnerships (Gledhill and Nazir-Ali, 2006), including opposition to LGB clergy who want to enter such a partnership (Wynne-Jones, 2006). The recent Employment Tribunal case of an Islington Registrar who did not want to conduct civil partnerships on the grounds of religious conscience also raises issues about the potential for discrimination in the delivery of services to LGB people (Hirsch, 2008). While some of these forms of discrimination may have begun to be addressed by the Equality Act (SO) Regulations (2007), there is no substantive evidence to date on whether civil partners have experienced new forms of discrimination as a result of becoming civil partners or how such issues have been addressed in

the context of potential contradictions between legislation (e.g. between the Equality Act and the Employment Equality (Religion or Belief) Regulations (2003).

2.2   The Employment Equality (SO) Regulations and their context

2.2.1 The context in which the EERs were introduced

The size of the LGB working population

Estimates of the size of the LGB working population have tended to be extrapolated from government department estimates of the size of the LGB population as a whole or on inferences from Census or administrative data. For example, Stormbreak (2003) estimates that the proportion of the adult population that is gay or lesbian is between 7-8% and that, using a conservative estimate based on these figures, 1.4 million people who are working in the UK are either gay or lesbian (cited in Purdam et al., 2007). Similarly, Briscoe (2006) refers to a Department of Trade and Industry (DTI) report that says that 5-7% of the working age population are gay, lesbian or bisexual, while Arabsheibani (2006) draws on the Labour Force Survey and Census figures on the number of reported same-sex cohabiting couples to suggest that such couples constitute 0.2% of the working population. However, these estimates are all likely to be problematic given the absence on reliable information about the size of the LGB population as a whole.

Experiences of discrimination amongst the LGB workforce

There have been a large number of surveys of patterns of discrimination faced by LGB people in the workplace (e.g. TUC, 2000; Stormbreak, 2003), although they are often limited by their lack of comparative heterosexual groups and/ or non-random or small samples. There have also been a number of qualitative studies and/ or case studies of the experiences and views of LGB employees that have been useful in terms of detailing their experiences of discrimination and their specific concerns. Important examples of this before the Employment Regulations are Palmer (1993) and Robinson and Williams (2003); while an important example post the regulations is Colgan et al. (2006), which involved a detailed qualitative case study of 16 employers, including a number of good practice employers. Key issues have included:

- **Fear of discrimination that prevents LGB people being open about their sexual orientation** – studies have repeatedly shown that a significant proportion of LGB employees fear discrimination and harassment if they are open about their sexual orientation at work. In a study reported by Frost (2006) as many as half of LGB staff hide their sexual orientation from employers or colleagues. LGB people are prevented from being open about their sexual orientation because of fears about career progression, losing one's job (particularly in temporary employment) and because of the 'macho' or religious attitudes and behaviours of co-workers (Colgan et al., 2006). Difficulties being open can also lead to unwanted assumptions about being heterosexual and feelings of isolation and lack of support (Keogh et al., 2006).

- **Experiences of discrimination** – studies indicate a seemingly high percentage of LGB employees who have experienced some form of discrimination. A Trade Union Congress (TUC) survey of employees suggested that 44% had experienced some form of discrimination (TUC, 2000 cited in Denvir et al., 2007). Experiences of discrimination have ranged from discomfort or signs of embarrassment shown by managers and colleagues towards the person's sexual orientation, to exclusion, homophobic comments and insults, direct or constructive dismissal, lack of promotion and denial of employee benefits (Colgan et al., 2006; Keogh et al., 2006; Robinson and Williams, 2003). Experiences of direct

discrimination have formed a significant proportion of complaints made against employers and colleagues and that have been taken to Employment Tribunals.

- **Harassment and homophobic bullying** – Stonewall, the leading LGB rights lobbying group, found, in their study of 1,658 lesbian, gay and bisexual people across Britain, that one in five LGB people 'have experienced bullying from their colleagues because of their sexual orientation' (Hunt and Dick, 2008). Among those who had been bullied, a quarter had been bullied by their manager, half by people in their own team and a third by people junior to them. LGB people in lower skilled non-manual and manual occupational groups C2DE were 50% more likely to have been bullied than those in professional and managerial groups ABC1 (Hunt and Dick, 2008). However, it is not always clear whether this bullying occurred pre or post the current regulations. Frost (2006) reports a study that found that 23% of LGB staff had been harassed or bullied compared to 10% of staff as a whole. Harassment and bullying has included homophobic comments and insults, openly offensive grafitti, physical intimidation and assault (Colgan et al., 2006; Keogh et al., 2006). Such cases have also formed a significant proportion of the complaints made against employers and colleagues that have been taken to Employment Tribunals.

- **Homophobic workplace cultures and their association with restricted employment options** – Colgan et al. (2006) found that a 'range of factors had influenced the work and career choices of LGB respondents including: the transition from school to work; type of work; choice of sector; organisational and workplace culture; geographical location; gender and equality politics and negotiating identities at work'. Choice of work environments tended to reflect those that were perceived as being LGB-friendly. The researchers also found that 'macho cultures' within both white and blue-collar professions led some of the respondents, particularly gay male respondents, to avoid particular organisations or to move on from them. Discrimination and harassment could also 'play a part in lesbian, gay and bisexual workers' decisions to avoid promotion or stay within certain parts of organisations' thereby further restricting already reduced employment options (Colgan et al, 2006).

- **Negatives outcomes from homophobic work environments such as poor productivity and/ or leaving employment** – Bowen and Blackmon (2003) argue that the fear and threat of isolation are particularly powerful for 'invisible minorities' such as LGB people; not being able to be out 'can inhibit social exchange and task exchange and reduce self-efficacy'. Working in a 'gay friendly' environment has positive impacts on job satisfaction, productivity and company loyalty for LGB people (Guasp and Balfour, 2008), while working in a negative environment can cause LGB people to feel stressed, excluded, ostracised, self-censored and ultimately a desire to leave a job (Colgan et al. 2006). Importantly, 'discrimination and harassment were reported to have played a part in the decisions taken by some respondents to leave organisations', thereby reducing employment options and wider life opportunities. In their study Arabsheibani et al. (2006) indicate that there is some evidence that suggests that gay men may also be more likely to be unemployed than their heterosexual counterparts.

There appear to be no studies that specifically examining the employment and training experiences of groups intersecting with sexual orientation but there were some useful findings that could be drawn from general studies. In the study undertaken by Colgan et al. (2006) they concluded that their findings underlined the 'heterogeneity of LGB workers in terms of gender, ethnicity, disability, age, occupation, desire to be out at work, etc.' In particular, they found that BME LGB participants reported a range of employment experiences including, 'juggling multiple identities; seeking work

away from family areas and businesses and the importance of racism and homophobia being challenged by both LGB and BME communities'. Disabled participants reported experiences of 'isolation and exclusion from both LGB and disabled communities and of having to make decisions about whether to come out about both sexuality and disability' (Colgan et al., 2006). A common trend across BME and disabled LGB employees in the study was that, as their LGB sexual orientation was less visible than other aspects of their identity, one way to manage multiple discriminations was not to be out about their sexual orientation at work.

2.2.2 Research and case studies relating to the Employment Equality (SO) Regulations

Research relating to the impact of the Employment Equality (SO) Regulations has tended to focus on reviews of the number and experiences of cases taken under the regulations. Important quantitative analysis in this respect was undertaken by Acas, an independent non-departmental public body working in industrial relations, (Savage, 2007), while important qualitative analysis has been done for Acas and the DTI (Denvir et al., 2007). The TUC was also funded by the DTI to conduct a quantitative and qualitative analysis of all known cases of sexual orientation discrimination up to 2007, including published employment tribunal decisions, relevant higher court judgements, cases referred to Acas and the Employment Tribunal Services and any other sources of additional information about cases that had been withdrawn, settled or otherwise disposed of (Fitzpatrick, 2007).

The numbers and nature of sexual orientation claims

Savage (2007) conducted a statistical analysis of Acas case records of all sexual orientation cases brought between January 2004 and August 2006, including a review of ET1 forms submitted by sexual orientation complainants to employment tribunals and ET3 forms submitted by employers stating their grounds for resisting the claims. He found that there were 470 cases where sexual orientation was the main jurisdiction over the period. Two-thirds of sexual orientation complainants were men, with most sexual orientation claimants appearing to be lesbian and gay, although this was difficult to say as the ET1 forms did not routinely collect information on sexual orientation (Savage, 2007). Seven in ten respondent employers belonged to the private sector, broadly reflecting the make-up of the UK workforce. Public sector claims were most likely to be brought against organisations in the criminal justice system, including the police and prison service, and local authorities (Savage, 2007).

The reviews of the cases of sexual orientation discrimination in employment have consistently found that sexual orientation claims are dominated by allegations of bullying and harassment followed by examples of direct discrimination (Savage, 2007; Denvir et al., 2007). In their qualitative study of the experience of sexual orientation discrimination claimants, Denvir et al. (2007) found that interviewees often experienced both types of harassment with a pattern of bullying and harassment followed by an incident of direct discrimination immediately prior to taking an employment tribunal.

Fitzpatrick (2007) notes that 'there have not yet been any decided indirect discrimination cases on sexual orientation discrimination'. It is possible that this has arisen as many cases were expected to relate to discrimination against same-sex couples (e.g. invitations to married partners at work functions that would indirectly exclude same-sex couples), which may have been avoided through awareness of the Civil Partnership Act and the greater attention it has received in the media compared to the employment regulations.

Examples of direct discrimination in the research of Denvir et al. (2007) related to allegations of discrimination in recruitment, employment contracts, pay pension entitlements and working conditions. People interviewed for the research also generally reported that it was 'assumed or suggested that they could not do their job as well as other colleagues, because of their sexual orientation'. Another theme was that claimants thought that their employers were using disciplinary procedures unfairly or excessively to force them from the organisation and that they would ultimately use them to dismiss them. The way in which the procedures were used and the judgements that were made were 'disproportionate to the professional mistakes of which they were accused' and that their heterosexual colleagues were treated differently. They also felt that the reasons given for the use of disciplinary procedures masked prejudice on the grounds of sexual orientation (Denvir et al., 2007).

When the regulations were proposed there was some concern that it would be difficult to draw a 'proper dividing line between 'innocent' banter and unlawful harassment'. But in reality most cases taken to tribunals have been cases of 'crude harassment' (Fitzpatrick, 2007). Examples of bullying and harassment based on sexual orientation are allegations of verbal abuse, name calling, sabotage of work, threats and physical violence, sexual harassment and unfair treatment by managers. The bullying and harassment was sometimes perpetrated by one or two individuals but in other cases was part of a wider culture of homophobia within an organisation (Savage, 2007). Claimants often felt that managers were complicit in the harassment by not dealing with the problem or not remedying it sufficiently (Denvir et al., 2007). Often the bullying had gone on for a considerable period of time (up to three years in some cases) before a person would make a complaint (Savage, 2007).

The reviews of sexual orientation employment tribunal cases has shown that claimants have been found to have little faith that internal grievance procedures will resolve their complaints of sexual orientation discrimination. There is consequently a tendency to want to 'externalise' their complaint from their organisation as soon as possible in order to receive a fair hearing. In their qualitative study of claims of sexual orientation discrimination, Denvir et al. (2007) found that a strong theme was that claimants said there was a tendency among employers to 'respond to their complaint by seeing them as the problem, rather than a victim of unfair treatment'. Claimants were often disciplined or demoted for poor work performance until they felt they had no option but to resign. Such employers also tended to deny allegations of sexual orientation discrimination and alleged incidents of bullying and harassment. In his review of complaints against employers based on sexual orientation, Savage (2007) found that claimants often alleged that managers were either joining in instances of bullying or harassment or failed to act to stop it when it was reported. Some respondent employers used the fact that claimants had failed to instigate formal grievances prior to bringing an employment tribunal claim as a defence arguing that the claims should be struck out as a result (Savage, 2007).

Reviews of Employment Tribunal cases have also highlighted incidents of prejudiced handling of grievances resulting in unfair hearings. It has been suggested that this indicates the importance of ensuring that all senior staff receive comprehensive training on avoidance of homophobia during disciplinary proceedings and more broadly that all workers are given training on treating LGB workers with respect (Fitzpatrick, 2007). Claimants thought that dispute resolution procedures were 'flawed often exacerbating their experience of discrimination rather than resolving it' (Denvir et al., 2007). Sexual orientation claimants 'felt they did not receive a fair hearing in internal grievance procedures', with their complaints often being 'ignored or trivialised' and sometimes resulting in 'further abuse or victimisation' (Savage, 2005).

Management handling of sexual orientation in the workplace

Organisational and managerial cultures can have an important role to play in terms of whether LGB experience positive or negative work environments and the extent to which they are prepared to make a complaint when they experience sexual orientation discrimination. For LGB employees the 'extent to which homophobia is accepted or challenged within the workplace is a key indicator of inclusion'. In particular, specific concerns have been related to the 'enforcement of policy' in organisations and the extent to which 'organisations relied on LGB people to come forward and 'whistle blow' before tackling problems' (Colgan et al., 2006). In his review of claims of sexual orientation discrimination, Fitzpatrick (2007) shows that failure to adapt equal opportunities policies to include sexual orientation or to enforce them where they exist has been taken by employment tribunals as a failure to take such discrimination seriously. Trying to ignore complaints or only taking informal measures to alleviate a situation have also been taken to reflect an unwillingness to treat sexual orientation harassment as seriously as other forms of harassment.

Despite line managers and human resources managers being seen as important sources of support to tackle sexual orientation discrimination in employment, research indicates that some managers have a poor understanding of the issues and are not well-trained in how to handle them. For example, in their *Annual Diversity Report (2006/ 2007)*, the Department for International Development (DFID) report their own research, which showed that, although a lot of progress had been made, 'there is a general lack of understanding, awareness and a reluctance to disclose information around …sexual orientation issues' (DFID, 2007). They also found that addressing sexual orientation is still perceived as having a low priority in DFID, with 'less visible leadership' and a 'lack of capacity by managers to deal with sexual orientation issues'. Where poor handling of sexual orientation has occurred, research has indicated that this may be due to poor training among managers. For example, in focus groups with Acas conciliators it was suggested that the fact that managers sometimes failed to act to stop homophobic bullying and harassment 'may be due to a lack of training or managers not receiving the support they need from human resources departments to tackles discrimination effectively' (Savage, 2007). Such issues may be further exacerbated among smaller employers with some research reporting that awareness raising strategies related to the regulations have tended to be mainly targeted at large employers (Bellis et al., 2005 cited in Denvir et al., 2007). Recent research has also shown that some managers and trainers are less confident in dealing with sexual orientation issues than religious belief issues because they view them as more controversial. There is also a lack of confidence and capability among some managers in dealing with ingrained cultures of prejudice based on sexual orientation (Dickens et al., 2009)

Confidentiality and in some cases anonymity were perceived as necessary when making claims of discrimination and/ or harassment. Colgan et al. (2006) found that their respondents would be particularly concerned about exposing themselves and generating a backlash when seeking a resolution to discrimination and harassment and felt that even supportive handling of a complaint could not guarantee a change in individual attitudes in the workplace. Where positive experiences of the management handling of sexual orientation issues in the workplace have been described this has tended to relate to employers having good equal opportunities and anti-bullying and harassment policies that have been fully implemented (Dickens et al., 2009).

The impact of the EERs

To date, research examining the impact of the employment regulations on LGB people has come from smaller-scale case studies but there has been no large scale survey of their impact among LGB people as a whole or among the general public. Colgan et al. (2006) found that LGB people in their case study sample generally felt aware but not knowledgeable of the regulations. They drew

on internal (e.g. intranet, training, LGB groups) and external sources (e.g.media, gay press, Stonewall, government websites) of information but their knowledge rarely came directly from their employer.

There was often a perception that the employment regulations had made little difference to good practice employers as these employers were already 'ahead of the game' because they had implemented equal opportunities policies including sexual orientation prior to the implementation of the regulations. However, positive impacts were identified among LGB workers in terms of creating an 'impetus for new initiatives' to tackle sexual orientation discrimination at work and a form of 'leverage' for LGB employee groups and networks. Over two-thirds of their LGB respondents also said that they 'would be more likely to take a grievance' if a problem arose on grounds of sexual orientation since the introduction of the employment regulations. This was because the regulations were viewed as giving them 'greater confidence to challenge employers' and because the regulations were thought to provide a 'more defined framework in which to pursue a complaint' (Colgan et al., 2006).

However, research still needs to be conducted on the experience of LGB people of the regulations among people who work for a range of different employers, not only 'good practice' employers, with a clear demarcation of experiences pre and post legislative change.

Religious Exemptions in relation to the EERs

A key area of concern in relation to the EERs has been the impact of the exemption from the Employment Equality (SO) Regulations where employment is for the 'purposes of an organised religion'. Specifically, there have been concerns that some religious organisations may try to use the Employment Equality (Religion or Belief) Regulations (2003) to:

- exclude LGB people as employees from organisations with a religious ethos;
- avoid having to deal with LGB members of the public on grounds of religious conscience; or
- justify prejudiced treatment or harassment of LGB colleagues on grounds of freedom of religious belief.

In relation to the *exclusion of LGB workers,* a judicial review of this provision interpreted it narrowly stating that it would only cover employment, 'for example ministers, imans and rabbis, as opposed to teachers who are employed 'for the purposes of education' or healthworkers, who are employed 'for the purposes of healthcare'. Attempts by organised religion to discriminate on grounds of sexual orientation are therefore likely to be subject to 'strict scrutiny' (Fitzpatrick, 2007). In addition to this, the unsympathetic response of tribunals to attempts by religious organisations to redefine jobs to exclude people with none or different religions (e.g. McNab v Glasgow City Council, see Fitzpatrick, 2007), suggests that such exclusions would have to be able to be shown to have a highly legitimate purpose.

Evidence on whether people of faith would attempt to use the Employment Equality (Religion or Belief) Regulations to *justify prejudiced treatment of LGB colleagues* was divided. Qualitative research with people of faith suggested that there were a variety of responses to working with LGB colleagues. Some participants in Hunt and Valentine's (2008) research indicated that although working with LGB people had not been easy for them, it could prompt them to 'change the way they thought about gay people and their own role within a job'.

However, in other research cases have been documented of religious colleagues who have attempted to justify prejudiced treatment of LGB colleagues on religious grounds. An example is the Employment Tribunal case of Mr T *Apelogun-Gabriels v London Borough of Lambeth* an unsuccessful claim of direct religious discrimination following the dismissal of a Christian council employee for downloading extracts from the Bible that were hostile to homosexuals and distributing them to colleagues. The case shows that employers and trade unions can treat with scepticism claims that homophobic *actions* will be protected under the religion and belief regulations.

Good practice and equality monitoring

Colgan et al. (2006) found that LGB workers made a number of suggestions for promoting equality in employment based on sexual orientation and that they believed indicated that an employers was LGB-friendly. These included:

- good equal opportunities policies;
- internal training and/ or campaigns to highlight inclusion, diversity and respect for LGB people within the workplace;
- support for the establishment of LGB networks;
- mentoring for LGB employees;
- the presence of visible LGB role models and/ or the appointment of diversity champions in the workplace;
- visible signs of support for LGB people such as making employee benefits available to heterosexual couples also available to same-sex couples;
- the sponsorship of LGB external events.

Other guidance has focused on good monitoring of equalities or inequalities based on sexual orientation within a workplace (as discussed in Chapter 9) or by comparing different employers. An important example of the latter approach is *Stonewall's Diversity Champions Programme*[9]. This is a 'good practice forum in which employers can work with Stonewall, and with each other, to promote diversity in the workplace'. The programme publishes a corporate equality index which benchmarks and showcases the leading 100 companies for lesbian and gay employees and publishes good practice guides to assist in the implementation of specific equality strands (Stonewall, 2007). The programme has recently been given support by the study *Peak Performance: Gay people and productivity* (Guasp and Balfour, 2008). Based on the findings from the report the authors make similar suggestions to those discussed above.

Another important issue is whether job applications and employees should be monitored in order to measure progress on equalities and the EERs, although this issue remains controversial. Consultation by GLADD (Gay and Lesbian Association of Dentists and Doctors) of their members in 2005 suggested that only around one in six would complete a equal opportunities monitoring question on sexual orientation. This was because of reservations, including: discomfort around answering; a view that the data is irrelevant or unnecessary; a fear of negative consequences related to disclosure; a need to know why the monitoring is being done; and concerns about the labels being used and the perception of monitoring itself. Guasp and Balfour (2008) concluded that a remaining challenge is 'persuading lesbian and gay employees of the confidentiality of monitoring sexual orientation in the workplace'. However, it has been argued that the fact that it may be difficult to measure the characteristics of the workforce of residents in terms of sexual orientation does not mean that performance indicators cannot be developed. For example, anonymous staff surveys and exit interviews may still provide valuable information about the experiences of LGB

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9 www.stonewall.org.uk/workplace

employees and workforce surveys could be used to measure the attitudes of employees to policy implementation relating to sexual orientation (Creegan et al., 2007).

2.3   The Adoption and Children Act and its context

2.3.1 Numbers of LGB parents

One of the most significant issues in relation to research on sexual orientation and families is the absence of any reliable data on the number of families formed or headed by LGB people (viz. the number of same-sex couples, the number of LGB people who have children and who live with them). In this context, Stonewall state that, because there is no question on the Census relating to sexual orientation, it is therefore 'not known how many gay people have families' (Stonewall, 2007).

2.3.2 The legislative context

Prior to the Adoption and Children Act there were no laws in the UK specifically prohibiting LGB people from becoming parents, either biologically, by adoption or fostering, or by retaining custody of children from past heterosexual relationships. However, the provision of the Adoption and Children Act (2002) for adoption orders to be made in favour of single people, married couples and, for the first time, unmarried couples and same-sex couples, meant that lesbian, gay and bisexual people were able to apply to adopt *as a couple*. These changes were informed by the view that such couples, 'if carefully selected', could increase the number of families in which children would be 'offered social, emotional, financial and legal security in the future' (Selman and Mason, 2005). At the same time, entry into a civil partnership was seen as one possible indication of the security and stability of same-sex relationships that could be taken into account when assessing the likely quality of relationships among LGB couples applying for adoption (Women and Equality Unit, 2003a).

Until recently society was extremely hostile to the idea of LGB parenting, with this being reflected in the framing of legislation, family policies and the decisions and practices of social services, family courts, fertility clinics and adoption agencies (Saffron, 1994). Even with the establishment of same-sex marriage or civil partnership in many European countries adoption by same-sex couples was specifically prohibited (e.g. Belgium) (see discussion in Weeks, 2007 p. 190). Where individual officials and practitioners were sympathetic to LGB parents, questions were still raised about whether LGB people would be suitable parents in terms of gender-identity role models and the impact their sexual orientation may have on the sexual orientation of their children. Other issues were raised in terms of whether same-sex couple relationships would offer the same security and stability of heterosexual married relationships and whether the children of LGB parents would suffer discrimination and harassment at school and in the wider community[10]. Recent legislative changes in the UK have, however, tended to shift the emphasis away from discrimination based on the sexual orientation and marital status of parents towards an examination of the quality of parenting and the ability of the parent, or parents, to provide a stable and loving home for the child.

To date there have been no known cases of local authorities refusing same-sex couple adoptions or fostering. However, some religious agencies have refused applications on the basis that they only place children with heterosexual married couples. The recent discussion over whether Catholic adoption agencies receiving state funding would handle applications from LGB parents was an extension of this policy, which became unlawful after a 20 month period of transition at the

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10 Hostility towards LGB people and their families has been theorised in relation to a number of different concepts, such as the existence of LGB people largely outside and in opposition to processes of 'social reproduction' (e.g. Field, 1995, Riddough, 1990); 'compulsory heterosexuality' (Rich, 1993), the 'heterosexual imperative' (Wilton, 1993) and the 'heterosexual assumption' (Weeks, Heaphy and Donovan, 2001).

end of 2008 (DCLG, 2007 p. 20-21). It is also notable that the children that LGB people were allowed to adopt or foster in the past tended to be those considered 'hard to place' (e.g. the severely disabled). The effects of the legislation on the success of applications by LGB people to adopt have yet to be examined.

2.3.3 Research into LBG parenting

Given the absence of statistical data on patterns of LGB families, most research has tended to be qualitative research detailing the form and experiences of such families. One area where there has been a particularly large body of work in this respect has been in relation to same-sex couples and LGB households. An important factor influencing the context of this research has been debates over the changing nature of family life and the role of the family in providing wider social stability. Weeks, Heaphy and Donovan (1999) note that one side of these debates has tended to assume the strength of the traditional heterosexual family and marital commitments, with a belief, among some, that LGB families are undermining traditional religious and family values, representing one part of a wider breakdown in moral or social values. The other side of the debate has tended to view LGB families as part of the changing nature of society, representing new and emerging forms of family life and commitments that are not necessarily any better or worse than more traditional patterns. However, given the 'heterosexual assumption' that runs through much of the discussion of patterns of family life, it has often been difficult to produce research that does not address itself to the view that LGB headed families and same-sex relationships are automatically inferior to heterosexual families and married life or at least problematic in some respect. Much research to date has attempted to show the value of LGB families and relationships despite this hostile context.

A particularly comprehensive review of LGB parenting was conducted by Selman and Mason (2005) for the Scottish Executive. While this review was originally conducted to examine the issue of adoptions by LGB parents, the authors found a significant body of research relating to parenting by LGB people. The review revealed that research on LGB parenting tended to focus on the differences or similarities between LGB and heterosexual parenting, particularly with a view to the whether LGB parenting has a negative impact on the identity or welfare of children brought up by LGB people.

A number of commentators have noted this question assumes that homosexuality is wrong from the outset and that this skews the context of the discussion. For example, Clarke (2002) argues that research on lesbian parenting is presented in a number of ways: (a) as no different from heterosexual parenting; (b) as different and deviant; (c) as different and transformative; and (d) as different only because of oppression. The presentation of LGB parenting as 'no different' plays down differences emphasising that it conforms to a heterosexual role model with limited or no impact on children. The different but 'deviant' approach suggests that LGB parenting is problematic and harmful, while the differences arising from 'oppression' approach goes some way to mitigating these problems by suggesting that any problems arise from such oppression rather than from the nature of LGB people per se (e.g. if LGB relationships are less stable and secure for children this may be because of a lack of social support for LGB parents and external pressures on the relationship). Only the 'transformative' approach suggests that LGB families may actually be new forms of family life that are as valid as traditional forms of parenting (albeit with their own set of problems and issues similar to those in experienced in heterosexual-parented families). In this context discrimination against LGB parents has tended to reflect this imbalance in the discussion of LGB parenting, with a neglect of quality of parenting across different sexual orientations.

By comparison, recent policy discussion has tended to shift the focus of research to 'What is in the best interests of the child?' (Selman and Mason, 2005). Instead of an emphasis on the sexual orientation of the parent, there is an emphasis on potential of the parent or parents to provide a

secure, stable and loving home (see discussion of the Adoption the Children Act at the beginning of this section).

The review by Selman and Mason (2005) also looked at a substantial body of work on the impact of LGB parenting on children in Britain and America, including original research and existing reviews. They noted that there was no consensus on the impact of LGB parenting from these previous reviews because they were divided into reviews that indicated a 'fairly positive message' and those which 'attack these reviews as misleading because they do not acknowledge the flawed nature of individual research studies'. However, their findings can be discussed in terms of *positive reviews* of LGB parenting, *negative reviews*, and *reviews with a balanced approach*.

One example of a positive review is that of Perrin et al. (2002), cited in Selman and Mason (2005) which concluded that: 'A growing body of scientific literature demonstrates that children who grow up with on or two gay and/ or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual. Children's optimal development seems to be influenced more by the nature of the relationships and interactions within the family unit than by the particular structural form it takes' (cited in Selman and Mason, 2005).

Most criticisms arising from negative reviews of the literature are methodological and state that research that gives a positive view of LGB parenting is not sufficiently rigorous or generalisable. Two of the best known negative reviews have been produced by Morgan (2002) of the Christian Institute, and Dailey (2002). In addition to the methodological issues raised above, Dailey, for example, lists a range of ways in which he believes a gay lifestyle may be harmful to the upbringing of children.

Stelman and Mason (2005) identified a number of reviews that were generally supportive of LGB parenting but which adopted a 'more balanced approach to the literature'. In their review of 21 studies conducted during the 1980s, Stacey and Biblarz (2001) observed that, while positive reviews frequently down played differences relating to the impact of LGB parenting, such differences were often 'modest' and related more to the gender of the parents and the social conditions under which LGB people have to raise their children rather than sexual orientation being a causal factor of the differences. They conclude that 'social science research provides no grounds for taking sexual orientation into account in the political distribution of family rights and responsibilities' (Stacey and Biblarz, 2001). Similarly, in their review of the literature the British Association of Adoption and Fostering (2004) conclude that 'there is no evidence supporting the use of a person's sexuality as precluding effective parenting'. Despite acknowledging the limitations of many existing studies, they argue that the evidence supports the view that 'sexuality is not a determining factor in the capacity to offer a good home to a child'. Given the nature of the reviews, Selman and Mason (2005) conclude that 'there is no strong evidence which suggests that gays and lesbians should be excluded from consideration for adoption'.

One of the most important bodies of work in relation to LGB parenting and child development specifically has been that produced by Golombok and her colleagues (e.g. Golombok et al., 1983; Tasker and Golombok, 1995; Golombok and Tasker, 1996; Golombok, Tasker and Murray, 1997). Overall this work appears to indicate that there are no negative impacts on the development of children in lesbian-headed families. Where there are differences these tend to be relatively benign or positive, with positive factors being particularly associated with the gender of the mothers. However, despite this there are still some anxieties among LGB parents themselves about the impact of their parenting on children in a society where prejudice based in sexual orientation continues (Hicks, 2005 cited in Weeks, 2007 p. 186).

2.3.4 Discrimination against children in LGB-headed families

A significant issue in relation to the children of LGB parents is whether being a part of such families will lead to harassment, discrimination or victimisation within the wider society but particularly within school. Another issue is also how LGB parents will handle the realisation by their child or children that they belong to a non-traditional family form and how they and others (e.g. teachers, social workers) will respond to these challenges. However, despite the fact that homophobic bullying does exist, Stonewall's Equalities Review reached the conclusion that this is 'insufficient reason for lesbian and gay people not to have children' (Stonewall, 2007). Indeed, it would seem remarkable to suggest that other children who might be bullied because of the social status of their parents (e.g. parents from lower socio-economic groups, minority ethnic groups, or with disabilities) should not have children. It could also be argued that, rather than focusing on the negative impacts for children of being part of LGB-headed families, future research should focus on how discrimination can be challenged and how such children and their parents could be better supported.

One study that has examined the impact of the realisation of children on belonging to an LGB-headed family is that by Stevens and Perry (2003), which examined how open lesbian mothers were to their children about their sexual orientation, including where the children were conceived by donor insemination. Using standardised interviews with 38 mothers, they found that half of the children, aged five-nine years, in the sample were said to be aware of their mother's sexual orientation, while only two were completely unaware. Most of the children developed awareness gradually rather than being told and none reacted negatively to finding out. This suggests that where problems do occur for the children of LGB people these arise from outside the family rather than within it.

2.3.5 Research into LGB adoption and fostering

Research on fostering and adoption by LGB people has tended to focus on qualitative accounts of the experiences of LGB foster parents and adopters. Important work in this respect is that by Hicks and McDermott (1999) and Hicks (2005) who looked specifically at these type of experiences. Other research has included that by Hicks (2000) on the role of social workers in conducting assessments of lesbian applicants to foster and adopt. In this case she conducted 30 interviews with social workers. In the context prior to the implementation of the Adoption and Children Act, she found that social workers worked within a 'heteronormative' context in which the fitness of heterosexual applicants relative to lesbians was assumed, particularly in relation to role models for gender and sexual orientation. In this context some lesbian applicants were often constructed as a 'threat' or 'militant' while others were constructed as 'automatically safe' conforming to a model of the 'good lesbian'. However, we do not know whether such attitudes have changed among social workers since the changes made by the Adoption and Children Act that formally gave same-sex couples the right to apply to adopt.

2.3.6 Birth registration and issues around recognising adoptive lesbian mothers relative to biological fathers

Although we found no specific research relating to lesbian couples, donor fathers and birth registration, research conducted by Graham et al. (2007) did shed light on the experiences and issues faced by lesbian couples in the context of sole or joint birth registration. In cases where lesbians had conceived using donated sperm there were two attitudes to the nature of birth certificates. The first attitude was that the birth certificate reflected 'biological parentage' and that it was not necessary for a lesbian co-parent to be named on it. The second attitude was that rules governing who is allowed to be recorded on the birth certificate reflected a 'gender bias' because if a heterosexual couple has conceived a child through a sperm donor, the non-biological father can be recorded on the birth certificate. Those who viewed the rules as a gender biased 'found the

situation difficult to accept'. Additionally, some lesbians saw the rights of donor fathers being privileged over the lesbian co-parents as discrimination, particularly where it was agreed with the male donor prior to conception that he wanted limited or no involvement with the child. The non-biological mother was seen as the day-to-day parent of a child, assuming financial and social responsibility. 'Denying the non-biological mother the right to co-register was a seen as a failure to recognise the responsibilities she has committed to and fails to give legal rights appropriate to her role'[11]. It is possible that similar issues may arise in cases where same-sex non-biological parents apply for parental responsibility following civil partnership since the other heterosexual parent, where they also have parental responsibility, must give their consent for the same-sex parent to be given such responsibility.

2.4   Changing social attitudes towards same-sex couples?

Overall, research suggested that there has been a positive change in attitudes towards LGB people among the general population. A number of studies report a greater tolerance towards 'male homosexuality' in Britain (e.g. Copas, et al., 2002), and towards LGB people in general (Cowan, 2007). For example, the British Social Attitudes survey - which has been conducted annually since 1983 - found that, in 2008, 'fewer than one in five now believe homosexual relationships are always wrong, while half regard them as rarely or never wrong'. In 1987, 75% of people thought homosexuality was 'always or mostly wrong' compared to 32% in 2008 (Ward and Carvel, 2008).

Cowan (2007) also reports relatively widespread support for the legislative changes that offer protection from discrimination to LGB people and towards equal legal treatment for LGB people in general. For example, they report that 93% of their sample supported the Employment Equality (SO) Regulations (2003); 68% supported the Civil Partnership Act (2004); 85% supported the Equality Act (SO) Regulations (2007); and 89% supported the making of incitement on the grounds of sexual orientation a criminal offence (Cowan, 2007).

One area where some people did regard discrimination as acceptable was in relation to parenting by LGB people. There were still concerns that LGB people may be inappropriate role models for children. For example, the British Social Attitudes Survey in 2008 showed that only just over a third of the British population believe that a lesbian couple can be as good parents as a man and woman, and just under that proportion think that a gay male couple can be as good parents (Ward and Carvel, 2008). One reason for this is that gay men's sexual orientation is still sometimes linked in the popular imagination with paedophilia. Although lesbians are not accused of corrupting children in the same way, there is some concern among the general public that lesbian mothers deprive children of a father or a male figure in their lives (Valentine and McDonald, 2006). There is no sound evidence to support either of these presumptions (Stonewall, 2007). The evidence reviewed above also rejects the view that LGB-parenting makes a negative material difference to children brought up in such families.

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11 The Human Fertilisation and Embryology Act (2008) states that same-sex parents can both be named on the birth certificate in a situation where there has been conception through sperm donation.

3   General understanding of and attitudes towards the legislative changes

This chapter describes participants' knowledge of and broad views about the three pieces of legislation covered by this study: the Civil Partnership Act; the Employment Equality (SO) Regulations (referred to in this chapter and throughout the report as the EERs); and the Adoption and Children Act. How the pieces of legislation affected participants personally is then covered in subsequent chapters. The chapter ends with a comparative discussion of attitudes to all three pieces of legislation.

3.1   Introduction to main findings

Table 3.1 below summarises the main findings set out in this chapter in relation to three main issues for the separate pieces of legislation: the positive attitudes expressed towards the legislation; the reservations or more negative views expressed towards the legislation; and areas where lack of clarity was expressed (note though that there were also good levels of understanding).

As described in the chapter, sometimes participants expressed both positive attitudes and reservations towards the same pieces of legislation. Whilst often, for example, reservations on some grounds were tempered by positive views on different grounds, it could also be the case that mixed views were expressed towards the *same* issue. An example of this would be a participant who welcomed the move towards greater equality with heterosexual couples enshrined in the Civil Partnership Act on the one hand, but who on the other had some reservations about the loss of creativity to self-define relationships involved. It was also the case that whilst broad philosophies - for example reservations towards state intervention - were sometimes consistent across the three pieces of legislation, this was not always the case, and sometimes the different pieces of legislation produced different philosophical responses. This was either because participants had different views about the necessity of each different piece of legislation and/ or because personal circumstances meant that the different pieces of legislation were viewed as more or less welcome.

Table 3.1 – summary of areas of lack of knowledge and attitudes expressed

	Civil Partnership Act	Employment Equality (SO) Regulations	Adoption and Children Act
Reasons for welcoming legislation	Confers 'real' legal rights Move towards equality with heterosexual couples Greater social recognition/ validation for lesbian and gay couples Facilitator for positive change in attitude to lesbian and gay couples	Employees better protected Marker of change in attitudes to lesbian and gay people – and facilitator for further positive change Discrimination on grounds of sexual orientation now specifically breach of law	Move towards greater equality with heterosexual couples Marker of change in attitudes to lesbian and gay families – and facilitator for further positive change Corrects previous anomaly in system (where a single gay or lesbian person but not couple could apply to adopt)
Reasons for expressing reservations about legislation	Lack of equality with heterosexual marriage Reinforces traditional heterosexual assumptions about relationships and marriage Loss of freedom through civil partnership to self-define parameters of relationship Puts pressure on non-civil partners Reduction in privacy related disclosure of sexuality - could result in backlash	Unnecessarily singling out of gay and lesbian people for special treatment, which could result in backlash Employers might only pay 'lip service' Discrimination on grounds of sexual orientation still hard to prove Employees unlikely to challenge because of stress involved Dislike of religious exemptions	Gay and lesbian couples and their children still at risk of prejudice without further cultural change Opposition of Catholic church divisive
Areas of lack of knowledge/ misunderstanding	How civil partnership differs from marriage Legal and financial rights it entails Whether confers parental responsibility for partner's children How to become a civil partner	Exactly what the EERs entail No means of enforcing, i.e. no legal back-up	What has the legislation changed (i.e. lack of awareness lesbian and gay couple formerly unable to apply to adopt together) Gives preference to gay and lesbian couples

3.2   The Civil Partnership Act

This section starts by discussing participants' awareness and understanding of the Civil Partnership Act. It then goes on to describe general attitudes towards the legislation.

3.2.1 Awareness and understanding of the Civil Partnership Act and sources of knowledge

Awareness and understanding

Levels of understanding and awareness of the Civil Partnership Act and its implications for same-sex couples were diverse. On a general level, there tended to be a broad awareness that civil partnership enabled same-sex couples to have their partnership legally recognised in a way that was similar to marriage, and that conferred similar rights and responsibilities. There was also widespread awareness that civil partnership conveyed various legal rights (e.g. recognition as next of kin, exemption from inheritance tax, bereavement benefits, immigration rights, tenancy succession, pension rights, etc.) and that these rights were to some extent automatic rather than having to be expressly stated through legal arrangements. Associated with this was awareness that civil partnership also involved a number of responsibilities, particularly financial responsibilities for a partner. The way that civil partnership conveyed a legal symbol of commitment with associated legal processes of 'divorce' should the couple want to separate was also discussed by some.

Amongst those with more specific knowledge, there was also acknowledgement that civil partnership differed in some ways from marriage; some were aware for example that adultery did not necessarily provide legal grounds for dissolution as it did with marriage whilst there was also widespread awareness that a religious element could not be included in the civil partnership ceremony.

There were also a number of areas where lack of clarity was expressed. The first of these was around how civil partnership differed from marriage; whilst there was some awareness of how it differed (see above) in other cases participants were not sure in what ways it was different.   There was also lack of knowledge in some quarters about the legal and financial rights offered by civil partnership; for example, there was not a uniform grasp, even amongst civil partners, of the fact that the legislation would give them and their partner pension rights or exemption for tax purposes. Unsurprisingly, a further area where lack of knowledge was displayed – amongst those who had not become civil partners specifically – was how one might go about becoming a civil partner.

There were also a range of specific misconceptions that emerged in how people talked about civil partnership. First, it was not always known that civil partnership does not have to imply sexual monogamy, with some understanding that civil partnership like marriage requires sexual exclusivity between partners. Second, there was the understanding in some quarters that civil partnership confers automatic parental rights to a non-biological parent which is not congruent with the legislation (viz. the legislation states that the person must apply for parental responsibility for the child or to adopt the child in the case of an adopted child). Third, there was also the rarer misconception that civil partners had to declare their intention to 'marry' while heterosexual couples did not.

Having a detailed or general knowledge did not appear to be explicitly linked to whether participants were civil partners or not. Whilst unsurprisingly a number of civil partners were well-informed about what the institution entailed and had found out in detail beforehand, others displayed limited knowledge about the rights and responsibilities conveyed by the institution; for example, they spoke about not having a clear sense of what they were, areas of confusion, or not having looked into these issues at all. Where this was the case, the civil partnership had been entered into for reasons external to the rights and responsibilities gained, specifically as a means of demonstrating love and commitment, a feeling that it was a 'natural' progression for them, or a

desire to make a public statement about their relationship (see Chapter 4 for full discussion of the decision-making process around becoming civil partners).

The extent of knowledge about civil partnership was also diverse amongst non-civil partners. Again, unsurprisingly, a number of those considering whether to enter civil partnership had a detailed knowledge of the institution and said that they felt they needed to have this in order to make an informed decision about whether or not to have a civil partnership. However, others considering civil partnership status had only a limited knowledge of what it entailed. One reason for this was that they were more attracted to civil partnership because of its 'symbolic' status rather than specific package of rights. Another was that they were intending to look into this area in more detail, but had not yet done so because they did not feel they wanted to enter a civil partnership just yet for other reasons (see Chapter 4).

Knowledge was varied too amongst those who had decided that they did not want to become civil partners. In some cases the decision seemed to have been made on strong political or personal grounds without a detailed awareness of what civil partnership entailed; there was usually a sense here that it had not been necessary to look into it in detail because the broad idea had already been rejected. Others said that they had looked into what civil partnership entailed in some detail before deciding it was not for them for a number of reasons described in Chapter 4. There were also non-civil partners who said that they knew about what it entailed because their curiosity in politics or current affairs in general or as related to the gay and lesbian community specifically meant that they kept abreast of key legislative changes and their implications (see also for Employment Regulations and Adoption and Children Act, below).

Sources of knowledge

Given the differences described above, there were also differences in the degree to which participants had actively sought information about civil partnerships, versus acquiring their information in a passive way. Some were content to build on understanding based on what they garnered through media coverage, hearsay and, for civil partners, the information distributed by Registrars.

This was not true for all, however, and there were also participants who were proactive in seeking out information about what civil partnership entailed, either due to the perception of personal interest and relevance and/ or out a broad interest in politics and current affairs, sometimes specifically in relation to the gay and lesbian community.

The main sources of information about civil partnership that were mentioned were:

- **Registrars and registration** (e.g. local authority registration websites, discussions with Registrar, information packs and going through the registration process itself);
- **LGB sources**, for example, the LGB press (e.g. Pink Paper, GT (Gay Times), G Scene, etc.) and the Internet sites of LGB organisations or discussion forums (e.g. Stonewall, and for women Ginger Beer);
- **Mainstream sources**, for example, the mainstream television, radio and press media and official Internet sites (e.g. government sites such as the Department of Work and Pensions, HMRC[12]; local authority sites such as the London Mayor; and advice sites such as the Citizens Advice Bureau);

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12 Her Majesty's Revenue and Customs website

- **Friends and informal networks**, particularly friends who had already become civil partners but also networks of lesbians, some of whom were against civil partnership from a radical feminist point of view;
- **Work-related activities and trades unions**, for example, through work in the field of equality and diversity, LGB staff networks or forums or trade unions such as UNISON, the NUT[13], etc.).

Where participants were explicitly asked, the most valuable sources of information were felt to have been Registrars and the registration service, LGB sources (e.g. LGB press, LGB Internet sites, LGB helplines) and mainstream sources (e.g. national television news and press, official Internet sites (as above). In relation to LGB sources, exceptions occurred where participants lived in areas where the LGB press was not available locally. Generally *Stonewall's* Internet site was praised as an extremely valuable source of information, with the one exception being a man who was part of a couple where he and his partner of ten years had decided they definitely did not want to become civil partners. In this case he preferred the site of *Outrage*, a gay lobbying and political group more critical of civil partnership. In relation to mainstream media sources, most of the broadsheet press (e.g. The Guardian, Sunday Times) and some television media (e.g. BBC) were regarded as good sources of information. Exceptions to this rule were some tabloid and other newspapers (e.g. The Sun, Daily Mail) and some coverage in the mainstream media that was regarded as either inflammatory and/ or superficial. Friends and informal sources were not as trusted relative to official sources where it was thought that they had an agenda that was clearly pro or anti civil partnership.

With the exception of during the period of the early stages of consultation and implementation of the Civil Partnership Act, there was usually a sense that the information available about civil partnership was sufficient. However, there was some call for a succinct, easy to understand summary of what civil partnership entails to be made available in one place and widely publicised. (see also Chapter 9). However, others said that if they wanted more information about civil partnership they would know where to find it; for example, Registrars, the Internet (e.g. Google, government websites) and libraries.

3.2.2 General attitudes towards the civil partnership legislation

Factors which participants took into account in their personal decision-making processes about whether to enter civil partnerships are discussed in detail in Chapter 4. Whilst there was unsurprisingly some overlap between the areas discussed below, this section focuses specifically on general attitudes towards the legislation itself. Chapter 6, on impacts, goes on to discuss the extent to which the views and factors set out in this section and in Chapter 4 were felt to have been borne out in practice.

Positive views about the Civil Partnership Act

There was a strong feeling of jubilation in some quarters that the civil partnership legislation had been passed. Comments here included being 'pleased' to 'overjoyed' about the possibility of civil partnership. Accompanying this was the feeling of being pleasantly surprised or even amazed or shocked at the implementation of the legislation. Those who felt like this included older participants who commented on the vast change in the political climate that the achievement of civil partnership represented for them. For example, Barbara thought that it was '*amazing*' that civil partnerships existed when only twenty years or so earlier Section 28 had tried to ban the promotion of the acceptability of same-sex relationships (Barbara, civil partners, 35-49, together 6-10 years). Similarly, another participant in his sixties said that he was impressed by the tremendous change in

13 National Union of Teachers

his lifetime, going from a time when same-sex relationships were illegal to a time when they were legally validated and recognised. It was also the case however that the broad welcoming of the legislation could be accompanied by a sense of exasperation that it had taken so long to come into effect.

A number of reasons were given for welcoming the legislation. First, the legislation was praised for giving same-sex couples 'real' legal rights that had 'teeth', unlike previous commitment ceremonies organised through mayors or local authorities. Those mentioned specifically in this context were next of kin status, inheritance rights, pension rights, immigration rights and parental responsibilities.

Whilst it was usually recognised that civil partnership was not fully equal to marriage, the legislation was also welcomed by some for signalling that gay and lesbian couples had moved towards greater equality with heterosexual couples, greater citizenship and therefore greater acceptance in society – again this view was particularly strong amongst older participants who had experienced a sense of injustice in this respect in the past. For example, Oliver felt that that civil partnership treated same-sex couples as '*human beings*' and '*mainstream citizens*' *(Oliver, civil partner, 35-49, together 6-10 years)*, while Keith felt that it made same-sex couples feel part of '*normal life*'' *(Keith, Undecided about civil partnership, 35-49, together 2-5 years)*.

Linked with feelings of equal rights and citizenship was the view that the civil partnership legislation would help to bring greater social recognition and validation for same-sex couples, both a formal level from the state and a more informal level from family, friends and colleagues. This was closely related to the sense that by gaining legal validation and its own set of terms, civil partnerships, same-sex couples would be better recognised and respected than they had been in the past.

There was also hope that the legislation would help facilitate social changes in attitudes towards same-sex couples, through its signalling that same-sex relationships were legitimate and normal and by bringing about greater visibility for same-sex couples. For example, the legislation was described as a form of social engineering that would help 'drag up' the moral standards of society in terms of their views on same-sex relationships. At the same time, it was thought that by placing same-sex relationships in a framework that heterosexual people could understand, this would lead to greater acceptance.

Less positive or negative views about the civil partnership legislation

There were also a range of less positive or negative attitudes towards the civil partnership legislation, some of which stemmed from the form of civil partnership itself, and some of which arose from anticipated reactions to it amongst the wider population.

The view that civil partnership did not represent full equality with heterosexual marriage and was therefore a political 'cop out' was one of the strongest reservations expressed about the legislation. In particular, participants observed that same-sex couples were not able to include a religious element to their registration if they wanted to and that by having separate institutions for same-sex and heterosexual couples this implied that LGB people are still separate and different, or as Jill put it, a '*funny sort of race*' *(Jill, civil partner, 35-49, together over 10 years)*. These views echo the concerns of commentators (e.g. (Tatchell, 2005) and LGB people following the introduction of civil partnership (e.g. Harding, 2008) that the existence of civil partnership created new forms of inequality with same-sex couples being viewed as second best. As described in Chapter 9, these feelings sometimes led to a call for civil partnerships to be made fully equal with marriage, or for civil partnerships to be opened up to heterosexual couples as well.

That civil partnership reproduced or reinforced traditional, heterosexual and commercialised ideas about relationships and marriage was another reservation, reflecting similar concerns found by Harding (2008 p. 748) about 'assimilation'. In this context a number of older couples in particular expressed the view that by existing 'outside' heterosexual marriage for so long, same-sex couples had begun to produce relationships that are different with qualities that are worth preserving. Frank, for example, talked about the way in which the fact that same-sex relationships had existed for so long outside a legal framework had actually produced positive results in the form of encouraging lesbian and gay couples to find other ways to form and legitimise their relationships (*Frank, undecided about civil partnership, 35-49, together over 10 years*).

Participants who took this view also thought there was a danger implicit in the legislation in that same-sex couples who became civil partners would lose the sense of liberation involved in the ability to define relationships for themselves. Daniel, for instance, expressed concern that through civil partnerships gay relationships would lose *'some of the creativity and freedom'* they had formerly had in terms of how they conducted relationships *'outside of the parameters that straight relationships are described in'* (*Daniel, undecided about civil partnership, 25-35, together 6-10 years*). That civil partnership encouraged gay and lesbian couples to reproduce the commercialised views of relationships evidenced by the growth of a same-sex wedding industry was one specific concern in this respect. Another was that partners should settle into dual households with joint mortgages. The civil partnership legislation was also sometimes linked negatively with assumptions around financial inter-dependency and its implications for income-related benefits and tax credits. In this sense our participants reflected similar concerns to those experienced by LGB people in previous research that 'the creation of a legal framework for same-sex relationships becomes and mapping out of how things are supposed to go… mirroring heteronormative discourse around social expectations of marriage and life' (Harding, 2008 p. 748).

The danger that the existence of civil partnership might apply previously non-existent pressure on same-sex couples to formalise their relationship formed the basis of a third set of reservations. In particular there were concerns that couples who decided not to register their partnership might be put under pressure to explain why they had not done so if they were truly committed to each other, or be made to feel that their relationship was somehow less 'valid' in comparison to civil partnerships. There were worries too amongst older participants with longer-term relationships that the existence of the legislation – particularly in its early 'novelty' stage of implication - might encourage young people to enter a legal commitment before they were really ready.

There was also some emphasis on the greater difficulties that civil partnership would pose if partners wanted to end their relationship. In particular there was a concern that civil partnerships could prolong the agony for some, and prevent the relationship from reaching a *'natural conclusion'* *(Andrew, Does not want to be a civil partner, 35-49, together over 10 years).*

Reservations were also sometimes expressed about the legislation not for personal reasons but out of a sense that certain groups in society might not welcome it. For example, one group of women had lesbian friends with political objections to heterosexual marriage on the grounds that it supported unequal power distribution between men and women (see also Harding, 2008 p. 754). They thought that the legislation would be opposed from this quarter. There was also concern that entering a civil partnership could have negative financial implications for some tax credit or benefit recipients who had previously not needed to disclose the nature of their relationship, which was regarded by some as particularly unfair in the case of those who had not chosen to sign up for a civil partnership (ibid. p. 747). Also, for some it was regarded that the institution did not address the needs of same-sex couples who wanted a religious ceremony.

The way that wider society might view the legislation was also the basis for some concern. There was anxiety in particular that the media were focussing on comical or non-serious civil partnerships (e.g. stereotypes of drag queens, young people rushing into civil partnerships without thinking it through) thereby devaluing it as an institution.

Finally, there was felt to be a danger that the legislation might result in a reduction in 'privacy' about one's sexuality, because there would be a need to disclose civil partnership status – for example to public and private service providers – who previously did not know the person was in a gay or lesbian relationship. Whilst the idea of greater openness and visibility was sometimes welcomed (see above) there could also be concern that greater visibility might result in more discrimination.

Which types of participants held these views?

Unsurprisingly, civil partners or those considering civil partnership were more likely to have positive attitudes towards the legislation than those who had decided against. However, a number of the reservations set out above were also held by some of those who did decide to enter civil partnerships; in these instances when it came to personal decision making, the positives outweighed the negatives or the personal the political (see Chapter 4). It was also the case that some of those who had decided against civil partnership for themselves – for example on the grounds of insufficient commitment, lack of perceived need to demonstrate an already strong commitment or sense that legal or financial rights were redundant to their situation (see also Chapter 4) - nevertheless held some of the broadly positive views about the legislation set out above. This illustrates how the legislation could be welcomed in a general sense, but rejected personally.

Unlike Harding (2008) there were no significant gender differences in the views expressed above, with the range of both positive and more nuanced or negative views being expressed by both male and female participants.

3.3   The Employment Equality (SO) Regulations

This section discusses awareness of and knowledge about the Employment Equality (SO) Regulations (EERs). It then discusses general attitudes towards this piece of legislation. Participant's views about how the EERs affected them personally are covered Chapter 7.

3.3.1 Awareness of the Employment Equality (SO) Regulations and sources of knowledge

Colgan et al. (2006) found that LGB people in their case study generally felt aware but not knowledgeable about the EERs. In this study degrees of awareness and knowledge of the EERs varied. At one end of the spectrum were those who had not heard of the EERs, and did not know they had come into effect, although when prompted on what they thought they might entail, guessed that they were probably to do with giving gay and lesbian employees the same rights in the workplace as everyone else. At the other end were those with a detailed knowledge of the legislation. This included awareness that discrimination was now against the law, as opposed to being down to the discretionary codes of conduct of individual companies, and consequently that there was now recourse to legal redress through Employment Tribunals. Other aspects of detailed knowledge included awareness that the EERs included both direct and indirect indiscrimination, and that they had been updated to accord sexual orientation the same weight as other strands, such as race, gender and disability.

Between these two extremes were participants who had some broad awareness that the EERs were in place, but who had less knowledge of the specifics. Their understanding tended to be that

employers could no longer discriminate against people on the grounds of their sexual orientation in the workplace. This was sometimes understood to include offering the same rights to same-sex couples as to heterosexual couples[14], specifically around access to a partner's pension paternity leave, and time off to care for a partner. There were also some misconceptions. One was that there was no legal means of enforcing the EERs, so that essentially provision of equal opportunities was still down to the discretion of individual employers. Another was that the SO EERs had been in place for as long as the other strands, such as race and gender. It was also evident that the rights given to lesbian and gay employees were still not always perceived to be as legislatively extensive as those permitted to married or heterosexual ones; a participant who said that they were aware of the EERs, for example, nevertheless said that they were applying to the civil service specifically because of the beneficial package of rights offered to civil partners.

Those with no awareness or limited awareness usually attributed this to not 'needing' to know. This was because they were either self-employed, not working because of retirement or ill health, or working for 'progressive' or 'liberal' employers who already had detailed equal opportunities policies in place, negating the need for their employees to look into the new EERs. There was no association between awareness of the EERs and awareness of the other legislation amongst this group; for example, lack of knowledge of the EERs could be accompanied by detailed knowledge of the civil partnership and/or adoption legislation. This suggests in some cases, people looked into specific pieces of legislation in relation to their specific needs.

Where knowledge of the EERs was more detailed and specific, this tended to be because participants had learned about them through their work, whether paid or voluntary. For example, those with more knowledge included people who worked in HR or had contacts in HR, people who worked in senior management, people who worked for LGBT charities or lobbying groups, and people who actively promoted gay and lesbian rights or diversity groups through forums at work, or through their involvement with Trades Unions. There were also instances of participants who said that they kept up with the broad legislative changes that affected gay and lesbian people through their media consumption, including both mainstream media and gay and lesbian press specifically. For this reason, as well as often for personal reasons, these participants usually also had good knowledge of the civil partnership legislation.

3.3.2 General attitudes towards the Employment Equality (SO) Regulations

The extent of people's knowledge of the EERs did not seem to affect the degree to which they were generally positive about them, with both positive and more qualified views being expressed both by those with and without detailed knowledge of the legislation.

Several types of positive views were expressed. First, there was a broad feeling that anything that gave equal rights to gay and lesbian employees deserved to be welcomed. Related to this was the perception that employees could now feel better 'protected' on account of the legislation. It was also felt that the EERs were a real 'marker of progress', acting both as a concrete illustration of the cultural shift that had already taken place towards the position of gay and lesbian people in society, and a catalyst for further shift. This was because of their perceived potential for changing workplace cultures and preventing discrimination on sexual orientation grounds in the workplace. Surprise was sometimes expressed that the legislation had taken so long to come into effect.

The EERs were also welcomed by those with a more detailed knowledge for making discrimination in breach of the law rather than just of company policies (if these existed). This was felt to give lesbian and gay employees much more protection than they had had previously. They were also

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14 Actually part of the Civil Partnership Act, 2004

praised for legally obliging more 'backward' organisations to catch up with the more progressive ones (see also Colgan et al., 2006), who already had enlightened policies in relation to gay and lesbian members of staff. In particular, those who expressed this view felt the EERs might result in a gradual sea-change in the culture of smaller employers or what were perceived to be culturally less 'gay-friendly' environments, for example construction or the armed forces.

> *Absolutely superb and about time. It was like the legislation catching up with progressive employment because progressive employers had got… what is now legislation as policy, it wasn't just the civil service. And it was quite bizarre that the whole of the civil service had got this raft of policy that the government didn't have on the statute books (Gavin, undecided about civil partnership, 35-49, together 6-10 years).*

A number of qualifications were also expressed about the legislation, across the spectrum of knowledge. One argument was that the legislation was not needed at all. This stemmed from concern that the legislation could be helping to create a problem that was not there, by 'implying that being gay is a problem'. In this respect some expressed dislike of feeling 'singled out' as being gay or lesbian by the legislation and said that their sexuality had had no influence on their ability to forge a successful career. Related to this was the perception that if the underlying principle of the EERs is that people should be treated equally, then there should not need to be legislation setting out 'special treatment' from the state for lesbian and gay people specifically, and that even doing so could risk a backlash.

In relation to practical use of the legislation, a further reservation was around how easy it would be in practice for employees to prove that discrimination had occurred on the grounds of sexual orientation; in particular there was fear employers would be able to make a strong case that it had occurred on other grounds, even where this was not actually the case. There was concern too that it might be difficult for LGB employees to know where the dividing line stood between joking and innocent banter and cruder more harmful harassment (echoing previous research; although this research has also shown that in practice most cases taken to tribunals have been ones of 'crude' harassment, Fitzpatrick, 2007). Reservation was also expressed about the likely receptivity of employers. The concern was that whilst progressive employers probably already had positive equal opportunity policies in place, the less interested or progressive would fail to treat the SO EERs as a a an opportunity to tackle underlying practices and attitudes, and would instead merely pay 'lip service' to it .

> *Legislation in the field of employment is really, really hard because, I mean I just know from experience as a manager, as a recruiter that it's very, very easy for employers get round the law by finding other reasons for not recruiting, for getting rid of, …what have you. And also an awful lot of the…discrimination isn't actually as obvious as… making a decision not to employ a gay person. …I think [employers] regard most employment legislation as a bloody pain the neck, you know, whether it be maternity provision…age discrimination. And I think…rather than a change in their attitudes to gay people in the workforce I think it's…more a case of their attitude to the government [being that it's yet] more legislation…(Vic, civil partner, 50 plus, together over 10 years).*

There was also felt to be a danger that the legislation might encourage employees to react in an oversensitive manner to remarks, or that they might disingenuously invoke the sexual orientation clauses of the EERs as a means of achieving a promotion that they might have been denied on other, reasonable, grounds. Again the emphasis here was on the perceived difficulty of proving that discrimination on the grounds of sexual orientation had or had not taken place.

A further qualification was around whether, in practice, the EERs would be likely to be used. The concern was that challenging employers under the regulations might be perceived as too arduous and acrimonious process to be seen as worthwhile by employees, especially because it was likely to leave them feeling marginalised and reluctant, whatever the result, to return to the place of work where the perceived discrimination had happened. It was felt that instead employees in such situations might feel better off looking for another position of employment.

In relation to these areas, several participants with more detailed knowledge emphasised the comparative recent nature of the SO EERs in relation to some of the other strands, and said that as a result employees currently suffered from a lack of practical case law to draw on. They felt that whilst the number of challenges under the regulations would be a slow 'trickle' at first, the numbers could potentially escalate as people gained confidence from having precedent behind them and as it became clearer from case law what type of action was classed as discrimination. This was provided, however, that the precedent proved positive; there was also felt to be the danger that negative experiences could act as a deterrent.

> *The encouragement comes from seeing that procedures have worked with a successful outcome. The deterrent [is] when you look at, for example, people that have gone to industrial tribunals and had a two year battle to get a pathetic amount of compensation and their careers end up ruined. The lesson you draw from that is, 'Well, it would have been best not to do that' (Norman, civil partner, 50 plus, together over 10 years).*

Finally, a number expressed concerns about the existence of the religious exemptions in relation to the EERs. A particular problem was felt to be that the parameters of the religious exemptions were unclear and therefore potentially open to abuse. It was questioned, for example, whether a church could sack a gay cleaner on religious grounds, or whether lesbian or gay teachers could be employed in faith schools. In fact, as described in Section 2.2 in Chapter 2, evidence seems to suggest that tribunals are unsympathetic to attempts by religious organisations to redefine jobs to exclude people with none or different religions, and that there is little evidence that homophobic actions will be protected under the religion and belief regulations.

3.4   The Adoption and Children Act

3.4.1 Awareness of the Adoption and Children Act and sources of knowledge

There was a wide spectrum of knowledge about the Adoption and Children Act, ranging from lack of awareness that there had been any legislation at all, to the explicit understanding that the legislation now permitted lesbian and gay people to apply to adopt as a same-sex couple (rather than as an individual, which had previously been the case) and to have equal rights in respect of the child. Some of those with more detailed knowledge were also aware that the ability of a gay or lesbian person to apply to adopt their partner's child could depend on the level of involvement of the biological father, and specifically whether they were named on the birth certificate. In the middle were those who had a general perception that it had become easier for lesbian and gay couples to adopt because they could no longer be discriminated against, but who did not seem to be aware about the change which now permitted couples to adopt together.

It was evident that those with little or only general awareness sometimes had an erroneous understanding of the situation prior to the implementation of the Act. This was expressed in a range of ways. First, there was some belief that lesbian and gay people had had no legal right to apply to adopt before the legislation had come into effect. Conversely, others thought lesbian and gay couples had always been allowed to apply to adopt as a couple, and that the legislation had only made this easier. There were misconceptions too about the content and aims of the Adoption

and Children Act, for example that it had given same-sex couples preference in the system, or even accorded 'special' treatment to gay and lesbian couples over heterosexual ones. Lack of understanding was sometimes evident too around the impact of a civil partnership on parental rights; for example the mistaken belief that a civil partnership automatically conferred one civil partner with parental responsibility for the other partner's children.

Across the spectrum of knowledge, there was recurrent discussion of the media coverage near to the time when the fieldwork was conducted of the resistance of certain Catholic adoption agencies to adoption by same-sex couples. There were, however, variations in knowledge about the outcome of this opposition. Whilst some thought that the Catholic Church were still refusing to accept adoption by same-sex couples, others were not sure where they currently stood, or believed that they had now agreed to phase in a policy of allowing same-sex couples to adopt[15].

Unsurprisingly, there was a clear association between possessing accurate knowledge of the current legislation, and experience of adoption, applying to adopt, or fostering. People with these experiences talked of having gained their knowledge from their own web searches as well as from professionals they had been in touch with over the issue, notably social workers and solicitors. Whilst the general sense amongst these participants was of being well informed, one person considering with her partner whether the partner should apply to adopt her biological child felt that the information on the internet had been poorer than that available for heterosexual people. There were also instances of people with detailed knowledge who did not want to adopt personally, but who knew about the legislation through the experience of friends, through the types of websites they for work purposes, or through regularly reading articles relating to the gay and lesbian community in the mainstream media.

The people with less knowledge were usually those who said that they were not interested in adoption, either because of a lack of desire to have children at all, or because they had gone down another route to have children or responsibility for children, including artificial insemination, or applications for parental responsibility through residence orders. Exceptionally though, a person currently applying for their partner to adopt their child said they were unaware of the specifics of the legislation, and did not know that there had been any significant recent changes. In particular, they had been unaware that couples had not always had the right to apply to adopt together.

Those who had a good knowledge of the legislation through work or the mainstream media rather than personal interest or experience were also unsurprisingly well informed about the EERs and the civil partnership legislation. Other than this though there was no real relationship between knowledge of the Adoption and Children Act and other legislation. As with EERs the impression was that often participants had looked into the details of the legislation when they had a personal interest or need in doing so.

3.4.2 Views about the Adoption and Children Act

The legislation was usually warmly welcomed both by those with more general and more detailed knowledge of its particulars, regardless of their own personal disposition towards children and adoption. Overall, it was viewed as important step for lesbian and gay people in terms of their human rights; by according them the same rights as heterosexual couples, it was perceived to have removed legal discrimination by the state as well as any legislative suggestion that gay and lesbian couples were not suitable parents. There was also a belief that it could bring benefits for

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15 There did not seem to be any specific linkage with the goods and services clause of the 2006 Equality Act in this context. See also Chapter 2, Section 2.3.2, for how it will become unlawful for Catholic adoption agencies to refuse to accept applications from same-sex couples.

children, by providing a wider pool of potentially quality parents than there had been previously. In this respect, the view was sometimes expressed that lesbian and gay parents were in some ways particularly qualified to be parents, as they were required by the nature of their circumstances to give careful consideration as to whether or not to enter parenthood.

As with the EERs, there was also a perception that along with the Civil Partnership Act the legislation was both an important symbolic marker of cultural and attitudinal changes that had occurred in society, and a potential harbinger of further attitudinal change. In particular, it was hoped that the Act – alongside the Civil Partnership Act - would help to normalise families with gay or lesbian parents in the general public's eyes, and reduce potential prejudicial attitudes about the suitability of gay and lesbian couples to parent.

> *I think it's wonderful that gay people have the opportunity to adopt kids. There's so many kids out there that you know don't have a great family dynamic and they don't have a good safe home to live in, so why on earth would you try and limit the ability to find homes for children that don't have them…I think a lot of the fear or a lot of the anger or the negativity against the legislation is driven kind of…[by] misunderstanding, because people may not know gay people and how they might raise a child… And I think as people meet more and more gay people and realise that…being gay can mean so many different things to different people, then it doesn't become as big of an issue. And I think people then aren't as scared about what a gay couple adopting a child would mean (Adam, civil partner, 35-49, together 2-5 years).*

Those who were specifically aware that the legislation now allowed gay and lesbian couples to apply to adopt also welcomed it for correcting what they regarded as a previous anomaly in the system. Jackie, who had adopted with her partner prior to the Act, and who had had to go through a long process for her partner to gain parental rights for the child, welcomed the fact that gay couples could now openly adopt together, rather than having to *'sneak around'* to do so *(Jackie, civil partner, 35-49, together over 10 years)*.

More equivocal views about the legislation were expressed, however, by those who welcomed it on the one hand for some of the reasons above but who had personal reservations on the other about the suitability of gay or lesbian couples as parents. This reservation was not based on concerns about the potential quality of their parenting, but on the fear that because of what they perceived as residual prejudice in society, the children of such partnerships could find themselves being stigmatised. In this context, some expressed the view that whilst the legislation was welcome, further cultural change was necessary before gay and lesbian parents – and their children – could truly achieve parity and lack of prejudice[16].

> *I think a lot of gay people also have concerns about parenting in the sense that you know at the end of the day you are two men bringing up a child or you're two women bringing up a child. And…how will the child cope?... Children just want to kind of fade into the background…I've got friends that have got children now so I'm kind of waiting a little bit to see how their children deal with it and cope with it. I don't know, I still have kind of slight issues, prejudices if you like myself around whether it's the right thing to do (Keith, undecided about civil partnership, 35-49, together 2-5 years).*

Exceptionally Esther went further still, and expressed opposition to the legislation on the grounds that living with a same-sex couple could make life intolerably uncomfortable for children, referring

to the Act as *'pushing gay rights too far' (Esther, civil partner, 50 and over, together over 10 years).* It was notable however that this view stemmed from the misunderstanding that the legislation gave favourable treatment to lesbian and gay couples looking to adopt.

People were usually positive about the aims and actions of the government in respect of this legislation, including 'standing firm' against the Catholic Church by not allowing them to opt out. Conversely however, one participant felt that there had been too much 'pandering' to the Catholic Church, and that this had undermined the principle of treating gay and lesbian couples equally.

3.5   Comparing attitudes across the three legislative changes

Whilst the previous sections have explored reactions to the individual pieces of legislation in turn, four overarching issues emerged about attitudes towards the legislative package as a whole - and the differences and similarities between them - set out below.

The first of these related to the desirability of differential treatment for lesbian and gay people, versus according them legislative parity and equality to heterosexual people. In relation to the role of religious establishments, opinion was broadly clear and undivided across the three pieces of legislation; allowing religious exemptions was usually deemed unacceptable because by doing so, gay and lesbian people were denied equal rights: to include religion in their marriage ceremonies if they wanted to; to be employed by religious establishments; and to adopt children from Catholic adoption agencies.

More generally though, discussion in this area was less consensual and more nuanced, with different shades of opinion existing on different issues often amongst the same participants. In relation to civil partnership, there were differences of opinion between those who wanted parity to marriage in relation to name and legal rights, and who in some cases resented the current differences between the two institutions, and those who liked the idea of gay and lesbian couples having their own distinct institution, or who opposed the legislation altogether on the grounds that it was seeking to homogenise gay and lesbian couples under the 'marriage' umbrella.

In relation to the EERs one strand of opinion was that setting out 'special treatment' for gay and lesbian people was an assault on equality; another was that specific attention was necessary in order to protect gay and lesbian employee's rights. By contrast, the adoption legislation was not felt to have fallen short in relation to equality, nor to have singled out gay and lesbian people as different. What was important here was the fact that the Adoption and Children Act was perceived (where understood) as giving and lesbian couples the same rights as heterosexual couples and – importantly – a right that they had never had before (viz., to apply to adopt children together). By contrast, the Civil Partnership Act could be seen as imposing state definitions and parameters on a set of relationships already in existence and the EERs (by some) as unnecessarily singling out gay and lesbian employees as in special need of protection.

Closely intertwined with these areas were tensions about the desirability between on the one hand having the civil liberties of gay and lesbian people protected by the state – through maintaining privacy and independence – while on the other, trusting and welcoming state intervention. These themes were particularly strong in relation to the civil partnership and EERs. As has been seen, state intervention could be strongly welcomed for introducing new rights and protections but it could also be treated with reservation marking out gay and lesbian people (EERs), threatening self-

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16 As described in Chapter 2 (Section 2.3) research suggests that indeed there are still concerns that LGB people may be inappropriate role models for children (British Social Attitudes Survey, 2008). It also shows that there is no sound evidence to support these concerns.

defined relationships (civil partnership), or interfering with tax credit or means-tested benefit entitlement even where civil partnership had not been signed up for. There were again fewer differences of opinion on this area in relation to the Adoption and Children Act, the broad feeling being that state intervention had been necessary to introduce a new right and/ or correct a previous anomaly.

The second common theme was the degree to which it was seen to be desirable to give lesbian and gay people greater social recognition. Views on this - as with many of the other areas - were often not straightforward, with some people expressing mixed views in relation to the same piece of legislation, as well as across different pieces of legislation. In this respect, all three pieces of legislation were regarded as facilitators for further positive social change which in turn could help to reduce discrimination: the Civil Partnership Act by normalising gay and lesbian relationships, the Adoption and Children Act by normalising gay parenthood and the EERs for outlawing discrimination in employment on the basis of sexual orientation. However, some concerns were also expressed about whether this greater recognition and visibility might also create a backlash of opinion, particularly where unaccompanied by further cultural changes (see below). For example, there were concerns that gay and lesbian parents and employees could still be discriminated against – or even singled out for greater discrimination – and that the potential increased visibility occurring as a result of civil partnerships could make civil partners more vulnerable to discrimination.

In terms of the content of the legislation itself, it was apparent that distinctions were sometimes drawn between legislation which introduced concrete new rights, such as the civil partnership and Adoption legislation versus legislation which effectively, as one participant put it, 'told people how they should behave'. For many the EERs fell into the latter category, notwithstanding their legal outlawing of discrimination. Whilst the EERs were broadly welcomed – see Section 3.3 above – the impact of this category of legislation was felt to be less dramatic and harder to identify than that of the civil partnership and adoption legislation, which tended to be viewed as 'benchmarks' in their own right. Specifically, much was felt still to depend on the willingness of individual employers to embrace the legislation and in particular to put preventative policies in place and on precedent set by case law around how easy it was in practice for employees to take successful discrimination cases forward. As a result, further work was felt to be needed with employers (see Chapter 9, below).

The third issue emerging in relation to all three pieces of legislation was that whilst they were important symbols and harbingers of attitudinal shifts in their own right, further work needed to be done to shift negative attitudes towards same-sex couples and lesbian and gay people in society. Without this work it was feared that effectiveness of the legislation would be impaired or even that the legislation might produce a counter-productive backlash of opinion (see above). In relation to employment, for example, there was fear that prejudice against gay and lesbian employees could still occur. In relation to adoption again the concern was that without further cultural shift same-sex couples and their children could still face ignorance and prejudice from professionals, other parents, schools and children. Much discussion was devoted to how to achieve these shifts, with opinions ranging from allowing the legislation time to bed down, to accompanying it proactively with positive information and education campaigns – both amongst relevant professionals and in schools (see Chapter 9, below). More gay and lesbian role models in society were also called for, particularly in what were perceived as under-represented areas such as sport.

As well as in relation to specific pieces of legislation – see above – there was wider discussion about the potential negative impact that the 'religious lobby' could have on the advances made by gay and lesbian people through assertions that being gay or lesbian was immoral or wrong. In this

respect there was felt to be a fine line between, on the one hand, allowing freedom of religious conscience and freedom of speech and, on the other, protecting particular groups from discrimination, abuse and hatred. The consensus was that whilst freedom of expression was important, it should not be allowed to denigrate other groups in society or make them feel worthless or victimised.   In relation to this area one participant explicitly expressed concern about the new Equality and Human Rights Commission; their fear was that the strength of the religious belief lobby would lead to sexual orientation issues being pushed to the bottom of the Commission's agenda.

Finally and more practically, a further theme in relation to all three pieces of legislation was the need for easily accessible and understandable information about the implications of the legislation for lesbian and gay people. Ideally it was felt that this would be available from one portal – for example via a helpline – and would set out the legal positions and sources of further advice and support. This is discussed further in Chapter 9.

4   Decision-making about whether to enter a civil partnership

This chapter describes the range of factors, experiences and expectations taken into account when participants were deciding whether to enter the institution of civil partnership or to reject it. Prior to the Civil Partnership Act, research showed that where same-sex couples embraced the idea of civil partnership, this often reflected pragmatic concerns such as recognition for taxation or pension purposes or recognition of next of kin in the context of health and social care (e.g. Weeks, et al., 2001). However, subsequent findings suggest that although such pragmatic concerns may be the 'spark for discussing entering a civil partnership' they are not always the 'underlying motivating factor' (Weeks, 2007 p. 195). However, while some have suggested that the desire to 'signify' or 'affirm commitment' are among the most important underlying reasons for deciding to enter civil partnerships (ibid.), others have indicated that a wider range of factors are involved in decision-making about holding same-sex commitment ceremonies including love, acknowledging mutual responsibility, importance of family recognition, legal rights and recognition and public commitment (Shipman and Smart, 2007). The sheer multiplicity of factors underpinning decision making presented in this chapter supports this.

4.1   Decision-making in relation to civil partnership - overview

The table below provides an overview of the main chapter findings by setting out the central factors that were mentioned by participants in their decision-making process. It shows how these factors could act as encouragements to enter civil partnership, discouragements to enter civil partnership, or in some cases have little effect on decision-making.

In addition to these central factors, there were also a small number of 'secondary' factors which interacted with the central ones to affect decisions about the timing of entering a civil partnership. These are described separately in the main findings in Section 4.3, below.

Table 4.1 below illustrates how rather than particular central factors being linked to becoming a civil partner, not becoming a civil partner or remaining undecided, each could be interpreted differently by participants to produce different outcomes. For example the table shows how perceived similarity to marriage and perceived differences to marriage could both act as encouraging factors and as deterrents, depending on the participant's perspective. The one real exception to this pattern of factors working in different ways for different people was where participants were not 'out' to any great degree; where this was the case, it was always felt to be a central reason – or one of several central reasons – against civil partnership.

Table 4.1 – central factors in the decision-making process about whether to enter civil partnership

Factors considered	Encouragements to enter civil partnership	Discouragements to enter civil partnership	Neutral factors in decision-making process
Demonstrating love and commitment	Desire to demonstrate love and commitment to a partner Perceived as means of clarifying levels of love and commitment	Feeling that not (yet) ready to make commitment	View that civil partnership unnecessary to demonstrate love and commitment
Role of family	Desire to gain greater familial recognition for relationship	Concerns about how family members would react	Already got family acceptance for relationship
Legal considerations	Perception that civil partnership brings host of legal benefits Belief that legal benefits have practical and/ or symbolic importance	Preference for 'self-defined' package of rights Uncertainty about wanting to commit to legal package of rights and responsibilities civil partnership encompasses	Legal arrangements already in place
Financial considerations	Perception that civil partnership will have financial advantages Financial inter-dependency appealing concept	Perception that civil partnership will have financial disadvantages Reservations/ dislike of idea of financial inter-dependency	No clear financial advantages or disadvantages to civil partnership
Social recognition/validation	Desire to gain social recognition/ validation for relationship Belief will lead to greater social acceptance	Feeling that there is no need for social recognition/ validation Desire to keep relationship outside of reaches of state	
Comparisons of civil partnership to marriage	Attractive because similar to marriage Attractive because different to marriage	View that civil partnership apes heterosexual marriages in undesirable way Not equal enough to marriage	
View of self in relation to 'mainstream' society	Already view relationship as part of 'mainstream' – desire to make this explicit Desire to become part of 'mainstream' by formalising relationship	Desire to stay outside of 'mainstream'	
Whether open about sexual	Being 'out' and confident about being 'out' can make decision to enter civil	Not 'out' in number of significant contexts – not wanting to publicise	Being 'out' no encouragement or deterrent – other factors

Factors considered	Encouragements to enter civil partnership	Discouragements to enter civil partnership	Neutral factors in decision-making process
orientation in certain settings (for example family, work, local communities)	partnership easier	nature of relationship through a civil partnership One partner only recently 'out' – not ready to make public statement through civil partnership 'Out' but desire to self-define relationship (or other reasons for not wanting to enter civil partnership)	more important

A number of other central observations are important to make before the main findings are detailed. First, not all of the factors listed above were always motivating or de-motivating factors. This is because their level of importance depended on the strength of other factors. For example, whilst concerns about how family members would react could be a deterrent to entering a civil partnership there were also instances of people who went ahead with civil partnerships in spite of these concerns, because there were other strong reasons propelling them towards doing so. Similarly in relation to love and commitment, whilst for some the focus was on the 'inward' emotional aspects of their relationship for others 'outward' factors, such as social recognition and legal rights, were more important.

Second, it was the case as well that feelings about this area could be complex and nuanced, with participants expressing complicated or mixed views about one individual factor rather than simple straightforward views for or against civil partnership and same-sex marriage (see also Peel and Harding, 2008 p. 664), . For example, there were instances where participants felt simultaneously that civil partnership would be a means of symbolising their love and commitment, but also that they had already done this in other ways anyway. As another example, the perceived legal advantages of civil partnerships could coexist with a degree of mourning of the loss of ability to self-define rights and responsibilities outside of the definitions of the state; these issues point to the way in which political issues can be interpreted through a 'political lens' (Smart, 2008 p. 762) and the tension that existed amongst some participants between the personal and the political.

Finally, it was also the case that reasons for decisions about whether or not to become civil partners and when to do so were usually intimately intertwined; for example, feelings about the attractiveness of gaining legal rights were usually closely tied up with whether the relationship was sufficiently committed for the partners to want to sign up to the automatic assumption of legal and financial inter-dependency; so practical and legal issues interacted with feelings about love, commitment and the quality of the relationship to question whether now was the right time to enter a civil partnership.

The sections below now explore in detail the way in which each of these factors was interpreted in terms of decision-making about whether or not to become a civil partner and when to do so.

4.2   Central factors affecting the decision-making process

4.2.1 The certainty of love and commitment

One of the central reasons for becoming a civil partner for some of those interviewed was to demonstrate love and commitment to each other. This led to a number of responses, depending on the nature of the relationship and the extent to which this issue had been considered before. In the case of some couples – particularly long-standing ones – the fact that they had been together so long and the strength of feelings of love and commitment between them led to a desire to demonstrate this commitment to each other and to other people through a civil partnership. An example of this view was Maria, who stated that although financial advantages arising from becoming a civil partner were significant to her, it was the feeling of wanting to be with her partner and a sense of emotional commitment that was most important:

> *I think the most important is the fact that we decided we…were going to stay together forever, however long that is. And if you like, the romantic aspect of it rather than the practical aspect is the most important…You can't discount the financial aspect but it's not the overriding reason behind the decision (Maria, intended civil partner, 50 plus, together over 10 years).*

Whilst in some of these cases, the civil partnership was the first time that the couple had outwardly demonstrated this love and commitment, in others prior demonstrations had taken place, for example commitment ceremonies, blessings or a change of surnames to reflect the connection between partners (viz. either taking their partner's name or hyphenating both of the couple's names).

There were also instances where couples who regarded civil partnerships as a way of demonstrating their commitment had been less certain of their levels of love and commitment at the time that civil partnerships became a possibility, even in some cases after they had been together for a long time. In these cases the possibility of civil partnership could act as a prompt to discuss the issues, or for one partner to 'propose' to the other. These discussions ranged from being explicit and in-depth to light-hearted conversations designed to 'test the water'. The subsequent decision to enter a civil partnership, the partner's proposal, or the acceptance of a proposal by the participant helped to clarify the level of love and commitment between the couple and to demonstrate that their love and commitment had moved to a new level. For example, Steve talked about how the 'ritual' of going through the civil partnership ceremony would be an important way of demonstrating his love and commitment to his partner:

> *Well I think it's… a very obvious and a very visible and a very practical way of saying to each other, in a structured, ritualistic way, 'I love you and I want to be with you and whatever difficulties come and go in our lives, we will make a concerted effort to work at it'.. Now we've probably said that to each other along the way, you know, but we've said it in the bedroom or…we've said it in the supermarket, [but] we haven't stood up and made a ritual out of saying it and I really like that notion…of the ritual… It's kind of like a punctuation mark on this particular bit of our relationship (Steve, intended civil partner, 35-49, together over 10 years).*

There were instances too where the association of love and commitment with civil partnership led to the view that it was a 'natural' step once a certain level of commitment had been achieved. A typical example was Adam. Although he had been with his partner for a short time (relative to the others interviewed) he felt that his upbringing and values suggested that civil partnership - which he regarded as akin to marriage - was the next 'logical' step:

I think at about sort of the two year mark, maybe two to three year mark we were both coming to this realisation that…what we have is really amazing and great and I really love you and I really do want to spend the rest of my life with you. We could do that without the ceremony and the civil partner, but in my mind and in the way that I was always brought up…the next logical step was that you get married (Adam, civil partner, 35-49, together 2-5 years).

In other cases though, this led to people saying that they were postponing the final decision about whether they wanted to enter one until they were sure that their relationship was right for both partners.

Civil partnership was not always viewed in terms of demonstration of love and commitment between partners however, and there were a number of other responses to this issue. One response was to say that they had as a couple been so sure of each other's love and commitment and been together so long that there was no need for civil partnership to be viewed as a means of demonstrating this. For example, Brendan said:

I personally don't believe you need some sort of formalised ceremony to show people that you have a commitment to someone. I feel that…if you're going to be with someone then you're going to be with someone, regardless of any sort of commitment you have (Brendan, undecided about civil partner, 35-49, together 2-5 years).

Related to this was the feeling that entering a civil partnership was not necessary to demonstrate or seal existing feelings of commitment. The emphasis in these instances was that civil partnership would be a 'piece of paper' that would ultimately make no difference to feelings of love and commitment between the partners. Participants who held this view emphasised that marriage did not hold people together if they were no longer in love or committed, so there was no reason that civil partnership would, or that love and commitment could be demonstrated in ways other than civil partnership (e.g. through having jointly purchased a house together). As a result of these feelings they tended to attribute their decision to become civil partners to other practical reasons. Vic, for example, talked about how they had decided to become civil partners for *'outward'* reasons based on the practicalities of a civil partnership and the desire to demonstrate their commitment to other people rather than *'inward'* ones (*Vic, civil partner, 35-49, together over 10 years*).

These feelings were not always straightforward however, with evidence that some were weighing up complex and mixed feelings about the way that on the one hand civil partnership could be an expression of the depth and commitment of a relationship, while on the other feeling that these aspects to their relationship had been demonstrated in other ways. Tracey for example talked about how she felt on the one hand that a civil partnership would be a symbol of the quality and depth of her relationship, but how on the other she and her partner had already *'knitted'* their lives together, so did not need civil partnership to demonstrate this (*Tracey, intended civil partner, 50 plus, together 2-5 years*).

4.2.2 Support and acceptance from families

The extent to which anticipated reactions of family members to a civil partnership played a role in decision-making processes varied. Also, as with other factors, they could anyway be interpreted differently by different participants to produce the decision to become civil partners, remain decided or decide not to do so.

In some instances, couples said that they did not take family responses into account in their decision-making process about becoming civil partners. This tended to be particularly the case

where a couple were 'out' to their families and already felt well-supported by them. An example was Louisa, who lived with her partner in a small village for over eight years and who said that her and her partner were already on good terms with each other's families *(Louisa, civil partners, 35-49 together over 10 years).*

Where family responses were taken into account, this was in varying ways. First, some couples spoke about how one aspect of their decision to become civil partners had been the desire for greater family recognition. In this respect, having a civil partnership was regarded as a means of making a clear 'gesture' or 'statement' to family about the importance of their partner. It was also seen as a way of clarifying their relationship to family. In some of these cases, couples had deliberately chosen to discuss the civil partnership with their families before embarking on it so that their reasons were well understood, and families were on board prior to the event.

Second, there were cases where being unsure about how family members would react acted as one (often of several) reasons for a couple to remain undecided about civil partnership or to postpone the decision about when to go through with the registration. Feelings in this respect were often complicated – on the one hand they wanted these family members to be involved, but on the other they feared that having them at the ceremony might lead to tension, and dampen enjoyment of the day.

These concerns were sometimes coupled with wider anxieties about whether going through a civil partnership would test families' acceptance of a relationship to an extent that they were not ready for yet. Specifically in this respect, it was felt that having a civil partnership was an incontrovertible statement about the nature of the couple's relationship that family members who had already struggled with accepting the same-sex relationship might find difficult. Nancy, for example, spoke about how concerns about the reactions of her and her partner's family were one factor leading them to put off the decision to enter a civil partnership:

> *The other thing is, is that we're both quite nervous about the idea of it [civil partnership]. I mean, although the families are very accepting…its like that…next barrier, I guess, isn't it? … I think it would really test their acceptance, so maybe it's a place that I don't overly want to go right now (Nancy, undecided about civil partnership, 35-49, together over 10 years).*

In other instances, however, couples had gone ahead with the ceremony in spite of concerns about how family would react – in these instances there had been other compelling reasons for the civil partnership, usually coupled with the feeling that family validation for their relationship was less important to them. As described in the next chapter, there were various strategies for handling family who were perceived to be unsupportive; whilst some had invited them (and in a few cases been pleasantly surprised by reactions) others had chosen to exclude unsupportive family members, and only invite those who they knew would be supportive of their relationship.

4.2.3 The anticipated impacts of the civil partnership legislation

Legal rights and responsibilities

The wish to gain legal rights and responsibilities was offered as a central reason for deciding to become civil partners or for considering doing so. This was expressed in two ways. First, the encouragement to become civil partners was clearly linked to the legal recognition and concomitant rights awarded. Indeed, for some the legal standing of civil partnerships had been a key reason for registering a partnership where previously commitment ceremonies or local authority schemes had been rejected. In these cases, legal rights were sometimes described as being more important

than issues such as love and commitment which were anyway taken to be a given. Jackie, for example, described how finding out about the range of legal entitlements open to civil partners had been the main trigger for her and partner to decide to become civil partners.

Well, I think we thought we didn't need to sign up because we already were committed to one another. And I guess… as we thought about it and…what doors it would open in terms of us being next of kin, pension rights, the children and all of those things, I guess it became more and more of a viable option for us, really (Jackie, civil partner, 35-49, together over 10 years).

A key issue for people in this respect was that becoming civil partners gave same-sex couples partnership rights in a number of different contexts – specifically in relation to housing, property ownership, pension rights, inheritance rights, formal recognition of next of kin status and ability to apply for parental responsibility. The advantages of these were perceived to be two-fold. On the one hand, they were felt to be practically important, conferring as they did automatic rights. In particular, couples appreciated the fact that they would be able to clarify their commitment and rights in a number of different situations without needing to make a number of different legal arrangements in different circumstances – for example wills, pension nominations, power of attorney, joint tenancies.

I've got three pensions… [partner's name] will now get my pension…if anything happened to me… I wanted to tidy it up. I wanted to…make sure that it was clear what would happen if I died… I didn't want her to have additional struggles about what she was going to live on, so it seemed important to get the house sorted out and that kind of practical provision (Gill, civil partner, 50 plus, together over 10 years).

In the case of some couples, gaining formal recognition of next of kin status in relation to their partner was a particularly important consideration. This was especially in the context of ill-health or the death of a partner, where there was fear that without this status they or their partner's wishes might be disregarded by family of origin or health professionals. For example, Chris discussed how legal rights in this context had played a significant part of his thinking when deciding to become a civil partner:

It was purely the legal stuff that was if…I'm in a coma in the hospital he can speak up for me and vice verse and stuff. That if he were to drop dead his family couldn't come in and say, 'Get out the house', you know…. So purely the legal thing (Chris, civil partner, 35-49, together over 10 years).

Second, the gaining of these rights could be attributed with symbolic importance – a signal that same-sex couples were legitimate and to be treated with respect by society and that same-sex couples could no longer be treated as if they 'don't exist'.

However, the automatic nature of rights associated with civil partnership did not always act as a positive factor in couple's decision making processes. In this context, there were also participants who emphasised a whole raft of ways in which their partnership had been, or could be, recognised without entering a civil partnership. These included existing recognition of their partnerships in terms of joint home ownership, joint council tenancies, nomination for pension rights and the making of wills. As a result of these arrangements, they did not feel that the legal advantages of becoming civil partners were strong enough to persuade them to do so, particularly where – as was usually the case – they had other strong reasons for not wanting to enter a civil partnership. There were also participants who said specifically that they wanted their arrangements to be self-negotiated and self-defined, rather than being pre-defined by external forces beyond their control.

Andrew, for example, talked about how he felt that civil partnership *'imposes certain conditions outside of [his] control'* and how he and his partner already had all the legal arrangements in place that they wanted (*Andrew, rejected civil partnership, 35-49, together over 10 years*).

Sometimes this issue was more complicated however, with participants recognising that the arrangements they had made were not as comprehensive, or were more complex, than what they would be entitled to as a result of civil partnership. Again these were participants who had other strong reasons for not wanting to enter civil partnerships and who therefore felt that legal reasons were not strong enough on their own.

It was also unsurprisingly the case also that legal advantages offered by civil partnership were insufficiently persuasive to those who were not yet certain about whether they wanted to commit to their partner for the long-term. Contrary to concerns among some commentators that civil partnership would be abused to allow non-European Union nationals to gain residency rights to the UK for example (Winnett et al., 2006), participants in this situation displayed reluctance to enter a civil partnership simply to gain these rights for their partner. Instead they tried to find other ways to address the issue until they had had time to consider whether they wanted to commit, such as work visas that would allow their partner to stay in the UK.

There were instances too where people questioned whether in fact they wanted access to the complete package offered by civil partnership. In relation to inheritance rights, for example, there were people who spoke about wanting to retain financial commitment to existing family members such as children, siblings or nieces as well as their partner. Whilst this did not act as a reason for not becoming civil partners, it did mean that the legal package offered to civil partners was not a prime motivating factor. Indeed, some participants in this situation felt that they would need to seek legal advice to ensure that their provision to benefit family members from pensions and inheritance remained intact following a civil partnership. An example of such a case is Tracey, who felt that she and partner would have to consider their commitments elsewhere before finally deciding whether they wanted to be civil partners:

> *We would have to look at the legal side of all that…[the] tying up of property and wills…Because [partner's name's] has got children and I've got family. I've got…[a] sister, her daughter doesn't have any involvement with her father…and…she's coming up to university now. So it [thinking] is just in terms of where we want to kind of direct some of our income and who we want to protect (Tracey, intended civil partnership, 50 plus, together 2-5 years).*

Finally, there were couples who said that the legal package of rights offered to civil partners was not a strong incentive in itself because it was incomplete or contradicted as they saw it by other legislation. One example of this was Anthony who felt that becoming a civil partner would actually *reduce* his rights because permitted discrimination in the context of religious employment meant that his job could be threatened as a result of it. Another was Kath whose partner was from another country in the European Union which did not recognise same-sex relationships. She therefore felt that civil partnership was restrictive to them in terms of the rights it offered.

> *It [package of rights] is only for as long as you keep your feet in the UK. So if I knew that this would offer us legal protection in her home country as well we would go for it… So yes…all the legal stuff… is a great comfort and it is a great security, but… there is this huge drawback about it not being recognised elsewhere (Kath, undecided about civil partnership, under 25, together 2-5 years).*

The role that age played in affecting thinking in relation to this area was varied. Gaining legal rights and responsibilities was a key factor in the decision of some older participants to take up civil partnerships, with pension rights, recognition of partners as each other's next of kin in the context of ill health or death and the avoidance of inheritance tax should a partner die being particularly important. Considerations in these respects also led some to say that although they currently did not want to become civil partners or were undecided about it, they would probably reconsider their decision in a context where they were older, usually from their fifties upwards.

However, the gaining of legal rights and responsibilities was not always welcomed by older participants. One instance where this occurred was where there was an age difference between the partners, with the older partner feeling that they had made a greater financial contribution to the relationship. In this context they were concerned about what would happen to their financial security in old age if the partnership was dissolved. It was also the case that a number of older - as well as younger - participants said that they had had not given pension rights or inheritance tax much thought. This reflects previous research on older LGB people that suggests that there are some in older age groups who find the thought of old age and its implications too difficult to deal with (Heaphy, Yip and Thompson, 2003).

Financial incentives and disincentives

In addition to the legal rights mentioned above, civil partnership results in couples being interdependent financially and treated as a couple for tax purposes. Furthermore, by the terms of the Civil Partnership Act, all same-sex cohabiting couples are treated as couples for the purpose of means-tested benefits and tax credits. This means that working partners are now financially responsible for a non-working partner who, prior to the legislative changes, could have claimed benefits in their own right, and that couples on benefits or tax credits now receive a couple's allowance rather than two single allowances (see also Knights, 2006; Harding, 2008).

The financial implications of civil partnerships affected decision making in a number of ways. Some participants talked clearly about considering what was in their best financial 'interests'. It this context it was argued that it made 'perfect sense' to take up the financial advantages of becoming a civil partner, or that there would be financial disadvantages to not taking up civil partnership. An example of this perspective was Norman:

> *The different tax treatments of individuals compared to married couples in terms of transferring assets between them meant that if we wanted to jointly own the two properties that we had, we would have been substantially disadvantaged if we had not entered a civil partner. So in terms of actually reaching a decision, yes, it is now in our best interest to go ahead with this. That played a significant part (Norman, civil partnership, 50 plus, together over 10 years).*

It was usually the case in these instances that these couples had additional strong reasons for wanting to become civil partners; financial benefits were therefore *one* persuasive factor rather than the only one. In relation to this, there were those who chose not to enter civil partnerships even though they would gain financial advantages because their reasons for not doing so were considered more compelling. More unusually, there were also participants who said that the financial advantages attached to civil partnership made some couples consider it as an option when they would probably not have done so otherwise. These were older, long-established couples who for example said that becoming civil partners was a way of avoiding inheritance tax.

In terms of financial disadvantages, being treated as a couple for the purpose of assessing entitlement to benefits and tax credits had usually already occurred as a consequence of the Civil

Partnership Act. Becoming civil partners (as opposed to being a cohabiting couple) was not therefore anticipated to have any effect on this situation. In these instances then the new rules in relation to benefits did not deter people who wanted to become civil partners for other reasons from doing so. An example is Ofemi, who prior to the legislation was considered by HMRC[17] to be a lone parent for the purpose of assessing her entitlement to tax credits. Because she was cohabiting, this was changed by the legislation and – prior to her civil partnership – she and her partner were already considered as a couple in HMRC's assessments. Because she saw the financial disadvantages as unavoidable, they did not affect her decision to become a civil partner.

When civil partnership came in we lost tons of income in terms of tax credits etc, we lost housing benefit, council tax benefit etc, so…the conversation went along the lines of, "Well, if were losing all this anyway we might as well do it legally…lets just get rid of all these arguments about whether we are really in a relationship or whether we are a couple and all that". So for us it wasn't a big deal (Ofemi, civil partner, 25-34, together 2-5 years).

Where participants did foresee financial disadvantage in terms of benefits entitlement of becoming civil partners specifically (as opposed to from the civil partnership legislation itself) this was where they had sought to avoid the financial implications of the legislation by disguising the nature of their cohabitation. Because becoming civil partners would make the nature of the relationship clear, this would mean that it was no longer possible to avoid being identified as a couple.

Ed had been with his partner for 13 years and had lived with him for 12 years. He worked freelance which meant that he often had periods of unemployment when he would receive Job Seekers Allowance. Prior to the Civil Partnership Act he had been treated as a separate individual by the benefits system and had been able to claim JSA without reference to his partner's income. Since the Civil Partnership Act, the fact that he lived with his partner meant that he was treated as financially dependent on him. He was very concerned about the impact that not working would have on his relationship financially and emotionally. Whilst he and his partner had other strong non-financial reasons for not wanting to become civil partners (see below), a further consideration was that by not becoming civil partners they would have means of being less visible as a same-sex couple to the benefits system. By doing so, they hoped to be able to avoid the assumptions of financial inter-dependency that they had not wanted in the first place (*Ed, rejected civil partnership, 35-49, together over 10 years*).

The strategy that couples adopted towards benefit entitlement and civil partnership was also dependent on the extent to which they felt that their partner could make up the loss and their attitude towards civil partnership as a whole. Whilst some participants said that they would never become civil partners while such financial disadvantages continued others, like Debbie, believed that if same-sex couples wanted to be the *'same as everyone else'* this meant accepting the *'bad and the good'* financially (*Debbie, civil partner, 35-49, together over 10 years*).

Financial inter-dependency

Attitudes towards becoming civil partners were also linked to views about the financial inter-dependency that the civil partnership legislation brought with it (see the section above) and whether or not such assumptions were welcomed (see also Burns et al., 2008). Where they were welcomed, this was related to the view that each partner had made an equal or equivalent contribution to the relationship and that financial resources and responsibilities should be shared.

17 Her Majesty's Revenue and Customs

Conversely, there were cases where the assumptions of civil partnership about financial inter-dependency were not welcomed, and therefore acted as a deterrent – often one of several – to becoming civil partners. There were a number of different facets to this. First, there were cases where the decision about whether to become a civil partner was complicated by the view that the partner would automatically have a claim on money or assets that held a specific personal meaning to the other partner. An example of this was Frank's partner.

> Frank had been with his partner for 14 years. He felt that part of his partner's reluctance to become a civil partner was related to an inheritance that he had received when his previous partner had died of an HIV-related illness. His view was that his partner felt uncomfortable about having the money at all and that the idea that their finances would be *'intertwined'* through a civil partnership added another *'complication'* to already difficult feelings. He felt that he and his partner would need to work through those feelings before they would actively consider a civil partnership, although he remained undecided about the issue (*Frank, undecided about civil partnership, 35-49, together over 10 years*).

Second, there could be discomfort about entering civil partnership on the part of one or both partners where one had significantly more financial assets than the other. Again there were usually other disincentives to becoming civil partners as well in these cases.

A third reason against civil partnership in relation to this area was dislike of the idea of loss of 'financial independence' or the legal entwining of the couple's assets. Again, concerns about unequal financial contributions and a dislike of the idea of being financially dependent emerged in this context. However, there was also a wider political rejection of civil partnership that it reinforced a particular kind of consumerist 'lifestyle' based on the spending power of couples. This view was articulated by Ed, who said:

> *It seems to be that there is this underlying subconscious attitude that, you know, gay men will now go off and have gay marriages. Well, no! I don't particularly want to be a dual income gay man in a civil partner with a mortgage and dogs and several foreign holidays. I think it's just not a lifestyle that I am interested in (Ed, rejected civil partnership, 35-49, together over 10 years).*

Social recognition and validation

The role that gaining social recognition and validation through a civil partnership played in the decision-making process was varied. Again, this worked in two ways. Whilst for some, civil partnership was regarded as a clear means of enhancing a couple's social validation, others felt that they had achieved validation on their own terms without state intervention and did not therefore see this as reason to enter a civil partnership . These views echoed those expressed by a number of same-sex couples in consultations prior to the Civil Partnership Act (for example Mitchell, 2004).

Where social recognition and validation acted as an incentive, it was based at least partly on a desire for a public recognition of their love and commitment, which they believed deserved particular rights and social protection. In some cases the desire for a public recognition of commitment could outweigh any feeling that the couple had nothing to 'prove' to society.

Added to this sense of making a public commitment was that couples were making a 'statement' to the wider society about the quality and long-lasting nature of many same-sex relationships. Participants talked about a sense of same-sex relationships being 'ignored' by society until the establishment of civil partnership and taking a 'pride' in registering their partnership. There was a

sense that couples were gaining due recognition and taking up social rights that had been long fought for. An example was Iain, who said:

There were two major [reasons why we became civil partners]. I think the first was that we wanted to make a statement to the world, and the second was this feeling that we should support the gay community in the way that they had fought for it. All the other things just sort of came as sort of after thoughts (Iain, civil partner, 50 plus, together 6-10 years).

Attached to the desire to make a public statement was also the fact that civil partnership provided legal recognition and protection. This was discussed by Oliver, who reflected on how the fact civil partnership gave him and his partner recognition by the state had played a role in their decision-making process.

It was very important as far as state recognition was concerned because although that brings a certain burden…if your relationship is recognised by the state, one would hope that it's also protected by the state (Oliver, civil partner, 35-49, together 6-10 years).

The other reason for becoming a civil partner related to social recognition and validation was the desire for social acceptance for same-sex relationships. Although for some participants this meant being seen as the same as heterosexual couples (see also below), for others this was about acceptance as a *same-sex* couple on their own terms. Again, Oliver stated:

We never pretended to be anything other than a gay couple. I don't know how normal or abnormal we are as a couple, we only know we are normal for us…Hopefully it would make it more socially acceptable (Oliver, civil partner, 35-49, together 6-10 years).

By contrast, a number of participants who said that they did not want to become civil partners or felt they would not do so for the foreseeable future emphasised that they had established loving and committed relationships for many years without social recognition or validation by the state and society. It was sometimes argued as a consequence of this feeling that external sources of validation for the relationship were unnecessary – they had already validated the relationship for themselves. Typical of this view was Georgie:

Well I don't need state validation. I don't need outside people to validate it. I validate it myself and so does my partner. I don't need anybody else to do it, so I can't… that's the main reason I suppose why we certainly didn't even consider it [civil partnership]. I mean we talked about it but only to discuss it because it was a new thing happening, but we never seriously considered doing it (Georgie, rejected civil partnership, 50 plus, together over 10 years).

This reason for not entering a civil partnership was sometimes further reinforced by the view that same-sex relationships had successfully worked 'outside' the framework of marriage for such a long time that they did not need social recognition and validation conferred by civil partnership.

Equality and freedom of self-definition

The role of civil partnership in discussions about equality and liberty was a complex issue, and could be experienced and interpreted in different ways by different participants. Whilst in some cases, reasons for entering or not entering a civil partnership were based on its perceived similarity to marriage, in others the fact that civil partnership was *not* viewed as similar to marriage could either act as an encouraging factor or a deterrent.

Although civil partnership is strictly speaking not fully equal with marriage in the eyes of the law, some couples thought that it was nevertheless an important step in moving towards equal rights for same-sex couples and LGB people and offered important similarities to marriage. In this respect, taking up the right to become a civil partner was regarded as particularly important because LGB people had fought so hard and so long to obtain these rights. An example was Hugh, who said that he and his partner had become civil partners for this reason:

> *I mean we did it much more because we felt that because people had struggled so hard to get to ensure this change in the law [that] it was a bit feeble if we didn't then take advantage of it (Hugh, civil partner, 50 plus, together over 10 years).*

This view was voiced even by those who would have preferred to have been able to include a religious element to their ceremony. The inability to do so did not put them off entering a civil partnership however, either because they were able to have their marriage separately blessed or because they felt they had reached their own accommodation and understanding with God (see Chapter 5 for further discussion of this issue).

Conversely though, the equation of civil partnership with marriage could also lead to rejection of the institution. One strand of this thought was that civil partnership *did* carry over sexist and heterosexist assumptions from marriage that were repressive and restrictive (see also Harding, 2008). The institution was therefore to be avoided because legal equality meant a loss of freedom to define one's relationship for one's self.

Another strand of thought which led to the rejection of civil partnership was that it led to a 'pressure' for same-sex couples to enter a 'straight institution' that took away some of the freedom to define relationships for themselves and which ultimately could lead to unequal relationships. As Walter put it: *We've asked for equality and we've got equality with a heterosexual interpretation of events* (*Walter, undecided about civil partner, 50 plus, together over 10 years*). However, feelings in this respect could also be more complex, with a desire to gain equal legal rights on the one hand existing alongside reservations on the other about losing the freedom to 'self-define' a relationship outside of the confines of the state:

> *It does kind of concern me slightly that…I guess the sort of the [gay] generation younger than me…seem to want generally to enter into a relationship and stay in it whether or not its making them happy or whether its working or, you know. So…if you like for want of a better word, straight kind of view of relationships seems to be kind of permeating into gay relationships; which kind of makes me a bit sad. I mean maybe its progress and that's what you get for being equal, but…personally I would find that sad if that level of kind of freedom should decide how your relationship works just disappears (Daniel, undecided about civil partnership, 25-34, together 6-10 years).*

Civil partnership was not, however, viewed as equal to marriage by all participants. Rather, it was its perceived difference to marriage that acted an either an incentive or disincentive. In some instances, the perceived lack of similarity with marriage encouraged some couples to consider becoming civil partners, the belief here being that civil partnership was better than marriage in its current form. People with this belief emphasised in particular the way in which civil partnership did not carry over sexist or heterosexist assumptions that were associated with the ceremonial (e.g. the father giving the bride away to the groom) or religious aspects of marriage (e.g. non-recognition of 'adultery'). Civil partnership was therefore viewed as a welcome rejection of sexist or religious overtones that were associated with marriage. For example, Tracey discussed how she probably would become a civil partner in the future despite holding feminist views that were critical of

heterosexual marriage because she believed that it reflected her view of her relationship as a '*partnership of equals*' (*Tracey, intended civil partner, 50 plus, together 2-5 years*).

Conversely, another perspective was to feel that civil partnership's lack of equality with marriage was a reason for not having anything to do with it. In particular umbrage was taken that it did not grant full equality, or because it purported to be offering equal rights when it did not actually do so, a view captured succinctly by Colin in proclaiming: *'Don't pretend you are giving us all these rights when really you haven't'* (*Colin, rejected civil partnership, 26-35. together 2-5 years*).

The fact that civil partnerships were not equal to marriage in a religious sense could also act as a deterrent to some to entering them; particularly because of the fact that they were unable to include a religious element to their ceremony, or conduct it in a religious establishment (although this was by no means always the case, see above). Whilst in some cases real anger was expressed over this issue, others did not rule out civil partnership at some point in the future but felt that not being able to have a same-sex marriage in a church would be a significant obstacle to doing so.

Sameness and difference

In addition to political views about equality and self-definition, the decision about whether or not to become civil partners was also linked to whether participants believed that same-sex couples were the same as heterosexual couples or that circumstances and culture meant that they had produced valuable ways of interacting as couples that were different and therefore needed to be protected.

One perspective amongst same-sex couples was to see little difference in the everyday patterns of their lives compared to heterosexual couples and did not therefore think that 'becoming more like heterosexual couples' had been a reason against civil partnership. Characteristics discussed in terms of similarities with opposite-sex couples included being in a loving and committed relationship and the 'normal', everyday aspects of people's lives. Gavin, for instance, discussed the way in which concerns about becoming more like a heterosexual couple did not play a role in his thinking about whether to have a civil partnership, because he did not see that his relationship was very different from 'traditional' patterns of couples:

> *Well it depends on what type of relationship you have and that's up to the individual. Some people have open relationships some people don't…This aping of heterosexuality…well we could argue that we do that now. Like we haven't got a civil partner piece of paper but we're very boring! We go to work, we go to the gym, we come home, we cook tea! The traditional [pattern]; we feed the cats, we go to work… (Gavin, undecided about civil partnership, 35-49, together 6-10 years).*

In other cases, participants spoke specifically of a strong desire to be part of the mainstream and *not* 'different' from heterosexual couples as one of the factors which had propelled them towards a civil partnership. Notably, some participants who took this view emphasised that they had been 'outsiders' for most of their lives and were tired of being so. An example was Roberta:

> *I think I've always wanted to assimilate and I've always considered myself mainstream; and so I don't see why I shouldn't enjoy what the mainstream enjoys. I'm not a subversive, marginalised sort of cerebral onlooker from the outside trying to like change the mainstream or challenge the mainstream. I'm here, I don't see myself as any different from anybody else and I want to be in the thick of things (Roberta, civil partner, 35-49, together over 10 years).*

A further motivating factor for becoming a civil partner was for some a desire to consciously reject some of the perceived differences between same-sex and opposite-sex couples, particularly the apparent greater acceptability of sexual non-monogamy among gay men. Lionel, for instance, stated that his decision to become a civil partner was partly related to the view that he would be providing a role model for younger gay men by showing that a monogamous couple is not an 'anathema' among some same-sex couples:

> *I suppose that's another thing that maybe one is trying to set some kind of, get some kind of example going of how you know a paradigm for how a relationship can work out over a period of time…. And you know.. I think that gay people can get so hooked on the sexuality of their relationship and of their relationships and on the lifestyle that its all to do with sex that somehow the idea of just setting up with one person monogamously is anathema because it obviously denies all that randy sexualising that we all must want to do all the time with everyone that we see. And I just don't buy into that (Lionel, civil partner, 50 plus, together over 10 years).*

However, the desire among some participants to follow more traditional patterns of heterosexual marriage or to be a part of the mainstream was sometimes tempered by the feeling that marriage was not perfect and it was also possible through civil partnership to create something new or better in some respects. There was emphasis too on the way each marriage or civil partnership could be different so there was scope within the framework for individuality (see also Weeks, 2007 p. 198). There were couples who went ahead with civil partnership despite feelings of reservation about the fact that it was often equating with the traditional model of marriage. In these cases, the decision tended to have been made because of perceived legal and financial gains and/ or because they believed that they were able to avoid overt comparisons by retaining personal control over issues such as a the registration ceremony, or the organisation of finances and roles and responsibilities after the ceremony (see Chapter 6 for a discussion of the impact civil partnership was in fact felt to have had in relation to these areas).

As discussed in detail in Chapter 3, diametrically opposed to the view that same-sex couples are the same as heterosexual couples, or that they should desire to be so, was the view that by existing 'outside' heterosexual marriage for so long same-sex couples had begun to produce relationships that are different with qualities that are worth preserving. Those who felt strongly in this respect said that this had been their main or one of several reasons for rejecting civil partnership.

There was also fear that becoming a civil partner would lead to pressure to be in more of a 'marriage-like' relationship with particular emphasis on issues such as sexual monogamy[18], financial inter-dependency or dependency and a pressure to stay together even when a relationship is not working. An example was Andrew whose decision not to enter a civil partnership was partly based on the view that the imposing a model of marriage on same-sex couples could pressure them to stay together even when the relationship was unhappy:

> *If we were unhappy in our relationship we would end it. I've had long term relationships in the past that have come to a natural conclusion and I think imposing a marriage is an unnatural conclusion in many cases. So from that point of view…we can be put under pressure by the Civil Partnership Act and that's possibly you know one of the bad things about it for us (Andrew, rejected civil partnership, 35-49, together over 10 years).*

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18 The legal concept of adultery applies only to marriage and not to civil partnerships.

Such views about civil partnership and dissolution were also sometimes linked to wider views about marriage being for life and the insignificance of marriage in the context of the possibility of divorce. In this sense couples could not see the point of becoming a civil partner in that partners would simply dissolve the relationship if the love and commitment in the relationship changed. This view echoes findings of previous research, in which it was found that same-sex couples have to be continually reflexive about the nature of their relationship by deciding the qualities necessary for the continuation of the relationship and conversely when to go their separate ways (Giddens, 1992). Civil partnership and its legal implications for dissolution could be seen to make this process more difficult.

4.2.4 The ability to be 'out' as a same-sex couple

Whilst not all couples who were 'out' and confident about being so chose to enter civil partnerships, being out was in some cases felt to make the decision to become a civil partner easier. By contrast, not being 'out' in particular settings was almost always used by those who were not as a reason for deciding not to enter a civil partnership.

Where couples were 'out' to everyone or most people in their lives, there was no concern about the increasing their visibility as a same-sex couple through civil partnership. An example here was Matt who said they were well known in their community as a same-sex couple had had no concerns about the publicity surrounding their civil partnership.

> *Well, everybody because it was front page news in [this area]. We were on both news channels that night live from our partnership because I'm a [local prominent figure]. There was even Sky News there... Everybody knows, yes. You can't hide it from the front page of a newspaper or the news (Matt, civil partner, 35-49, together over 10 years).*

This said, there were also couples who, whilst open about their sexual orientation, wanted to avoid the degree of visibility that media attention would bring and who had therefore postponed their civil partnership until they felt that the media spotlight on couples entering civil partnerships had died down.

Being 'out' did not always act as an incentive to enter a civil partnership however. There were couples who were 'out' who rejected civil partnership either for other reasons, or in some cases in part specifically because of a desire to maintain the separate identity that they regarded themselves as having created.

Completely ruling out civil partnership could be linked to feelings about the inability to be out in a local community, to family, or in other relevant contexts. For example, a participant who worked a religious profession felt that he and his partner (who worked in a similar field) would need to postpone becoming civil partners until such a time when they could live together openly. Another example was Colin, who described himself and his partner as 'isolated' and who had experienced difficulties with neighbours from being visible as a same-sex couple in the past. This, coupled with the perceived inability to be out to each other's families, had led him to rule out civil partnership for the foreseeable future.

> *Well we don't know many people, we are very isolated, we don't see many people, we've got a very limited amount of friends… we don't really go out as much as we should and meet people. People don't really know our business which is good because when people know your business that's when you come into problems (Colin, rejected civil partnership, 25-34, together 2-5 years).*

Only recently coming out and identifying as gay could also prevent consideration of becoming a civil partner; in particular, it was felt in these cases that more time was needed to 'test the waters' around being out before making an overt statement about sexual orientation through means of civil partnership. For example, Keith discussed the way in which the fact that his younger partner had only recently come out as gay was one factor currently preventing them from considering civil partnership.

> *This is his first same-sex relationship, I think he…wouldn't have identified as being gay before. [Whereas] I've had forty two years to think about myself being gay and what that means et cetera, et cetera. So I think we were on completely different wavelengths in terms of that [becoming civil partners] (Keith, undecided about civil partnership, 35-49, together 2-5 years).*

4.3   Secondary factors affecting decision-making process or timing of decision-making process

Alongside the central factors in the decision-making process (outlined above) were a number of secondary factors which were not weighty enough to influence decision making on their own, but which could sometimes interact with the central ones or affect the timing of the decision. These are described below.

4.3.1 Allowing the legislation to 'bed down'

While there was generally a confidence that the civil partnership legislation was robust and likely to be taken seriously by society, others spoke about wanting to wait until the legislation had 'bedded down' before entering a civil partnership. In particular, they seemed to want to make sure that political support for the legislation was constant, that it was broadly well-received by society and also in some cases wait until the publicity surrounding the issue had died down.

Older participants who remembered when sexual activity between men had been illegal in the UK also sometimes expressed concern that information about civil partners could be misused if there was a change of government to one that was less sympathetic to LGB rights. In this context, Norman discussed how he felt *'a certain amount of natural caution being older and more cynical about the changes that come in'* despite deciding to be registered as a civil partner (*Norman, civil partner, 50 plus, together over 10 years*).

It might be that these concerns are unique to the early stages of the implementation of the legislation. It will be important, however, to examine if they still remain after more years of the existence of the legislation and in a different political context, and whether such views are also held by younger people with no knowledge of previous legal restrictions.

4.3.2 Knowledge and information about the Civil Partnership Act

Chapter 3 discussed how participants displayed a range of different levels of knowledge and understanding in relation to the legal rights and responsibilities afforded by civil partnership. It was not always the case that having detailed knowledge or limited knowledge about the implications of the Civil Partnership Act encouraged or discouraged participants from becoming civil partners. However, the level of knowledge and information that participants had about the legislation could sometimes delay them in reaching a final decision about whether to become civil partners. This worked in three ways.

First, a lack of information about the implementation in the early stages of the implementation of the Act meant that some participants initially delayed becoming civil partners until the legislation had been in place for a while, and they had had a chance to see how it was affecting people in

practice. Second, a lack of knowledge about the possible benefits of civil partnership meant that some participants felt unable to reach a final decision about whether it was in their interests to enter the institution. A case in point was Jack, who said that if he had found out more about the ways in which civil partnership might be *'beneficial'* to him, he *'probably would think about it seriously'* (*Jack, undecided about civil partnership, under 25, together 2-5 years*).

Finally, having a lot of information about the rights and responsibilities of civil partners meant that some participants were still weighing-up the possible advantages and disadvantages of becoming civil partners, often looking at legal aspects against other factors such as the extent to which they wanted social recognition and validation of their relationship. Frank, for instance, said that he was *'still sort of processing it all'* and the decision whether or not to become a civil partner for him was *'complex'* given all the factors that he felt he needed to take into consideration (*Frank, undecided about civil partnership, 35-49, together over 10 years*).

Consequently, although the level of knowledge and information about legal rights and responsibilities was not the only factor taken into consideration, for some participants, it did have a role to play. If was felt by some that providing more information about the benefits of becoming civil partners could encourage some same-sex couples to become civil partners. For others, however, this will still be weighed against other personal and political factors, including real and perceived financial disadvantages.

4.3.3 Affordability of the ceremony

Depending on the nature of the ceremony desired, decisions about the timing of when to enter a sometimes involved setting the cost of doing so against other priorities in the lives of the couples, such as completing an educational course or buying a house together. Depending on the importance of other factors, one response was to compromise and have a more modest ceremony than initially intended; another was for the couple to wait until they were in a financial position to afford the type of ceremony they had initially envisaged.

5   The civil partnership registration process

This chapter describes experiences of the registration process. It begins by considering the factors influencing how positively couples experienced the process. It then looks at decisions made in relation to the process, specifically around vows, rings, type of ceremony and who to invite. The personal meanings of the registration process are then considered, along with participants' feelings about not being able to include a religious element to the ceremony. Finally, the chapter looks at the terminology used by participants in relation to becoming civil partners, the factors affecting what language was used, and views about the nomenclature in general.

5.1   Factors affecting experiences of registration services

The extent to which registration services were experienced positively depended on a number of factors set out below, namely the qualities of the Registrars; the extent to which the ceremony was perceived to have been treated with similar dignity and respect to that of a heterosexual wedding; the quality of the information and advice received; and the extent to which the couple felt they were able to tailor the ceremony to their personal needs and wants.

5.1.1 The qualities of the Registrars

The first factor affecting experiences of the registration services were the personal qualities and expertise of the Registrar, although these characteristics were not always sufficient if other aspects of the registration process did not go well, see below. Registrars who made the couple feel accepted and welcomed were particularly praised, as this behaviour was felt to lend a sense of gravitas, legitimacy and occasion to the civil partnership ceremony. In this respect, a number talked about their Registrars having been warm and accepting of them; for example by exuding 'warmth' by expressing their happiness for the couple or by joining in a celebratory drink.

By contrast, others had found their Registrars wanting in this respect; for example, they had been perceived to have been unfriendly, cold, and unforthcoming in explaining and signposting the various aspects of the ceremony. Where this attitude had been experienced, it was felt to have detracted significantly from their enjoyment of the ceremony.

Experiences were also affected by the extent to which Registrars appeared to be knowledgeable about the civil partnership process (see also 'information and advice', below). In some instances, Registrars were felt to be well-informed, and to have given the couple clear information about the process both before and during the event. In others, Registrars were criticised for apparently not having the information they needed to hand, or for continually referring to their notes during the registration process or ceremony. Couples registering their relationship shortly after the civil partnership legislation came into effect usually said that they had been prepared to overlook this lack of information and preparation provided that it seemed that the Registrars were doing their best in new and uncertain circumstances. It was less likely to be overlooked once the legislation had become more embedded.

The effects that the Registrar could have are illustrated by the following two examples. Roberta and her partner felt that the Registrar appeared to be so well-prepared to handle civil partnership that they must have been on some kind of *'sensitivity training'* (*Roberta, civil partner, 35-49, together over 10 years*). By contrast, Gill described the way in which their registration ceremony was handled very badly by the Registrar, leaving them feeling that they had been deprived of their dignity:

> *There was no dignity to it, there was absolutely no dignity to it at all. And…I complained after the ceremony, after we'd had to wait….nearly half an hour…with the hoovering still going on outside. We weren't really introduced to people, the Registrar didn't even say, 'You are about to sign the civil partner register', to explain to our witnesses or anything. It was just well, 'Sign here' (Gill, civil partner, 50 plus, together over 10 years).*

5.1.2 Degree to which the ceremony was treated with equivalent respect or equality to a heterosexual marriage

The degree to which the ceremony was viewed as having been treated with equal dignity and respect to a heterosexual wedding also affected views about the registration process. While for some couples this meant that the ceremony should be as much like a heterosexual wedding as possible (for example in terms of vows, dress), for others this was more about being treated with equal 'validity'. An example of a couple who had a positive experience in this respect was Barbara and her partner:

> *And it was two, a Registrar and an Assistant Registrar, and they came in and they were so lovely to us. Again, it was so accepting, but in such a serious way, and a lovely friendly way, but that what we were doing is just as normal and just had the same validity as if we were a straight couple, and we were treated with absolute respect…we both said it was just to us it was amazing, but we didn't really know what to expect. And obviously we didn't expect to be belittled or anything, but their complete respect for us was touching (Barbara, civil partner, 35-49, together 6-10 years).*

As illustrated by the case of Gill, however (Section 5.1.1 above), there were also cases where the ceremony had been felt to have been wanting the appropriate level of dignity, particularly where the Registrar had been unfriendly, or the process had seemed rushed or unaccompanied by an appropriate sense of formality and occasion. The sense amongst those with this experience tended to be that they had been treated with less respect than a heterosexual couple would have been.

5.1.3 Quality of information and advice received prior to the ceremony

The quality of information and advice received prior to the ceremony also influenced how the registration process was experienced and perceived. A number were positive about the information and advice they had received when first enquiring about becoming civil partners, during the process of indicating their intention to register, and in the lead up to the ceremony. They commented, for example, on good quality information on local authority websites or in information packs and on good advice provided through discussions with Registrars. Attributes that were particularly valued relating to information were clear explanations of the process of registration and of what to expect during the registration ceremony. In relation to advice, being taken through a 'menu' of options available in terms of wording of vows, choice of music and ceremony format was appreciated, as were helpful suggestions from the Registrar. Participants also spoke about their experience positively when they felt their questions and concerns had been answered and where they had been reassured – where reassurance had been sought – about the 'robustness' of the civil partnership legislation. As described above, experiences were less positive however where Registrars were felt to lack the necessary knowledge about the process.

The extent to which Registrars had adequately discussed with couples the issue of whether they could withhold their address from the public register of civil partnerships also affected views about experiences. Whilst it was clear in some cases that the Registrar had done this, and it had been

appreciated, others did not think that this issue had been raised with them. Whilst some were unconcerned about this, others said that had they known about the option of withholding their address they would have done so. This was because they had feared that the exposure of their relationship in the local community could had possible consequences such as vandalism to their home. As a result, they were inclined to be critical of the fact that it had not been raised.

5.1.4 The degree of control that couples had over their ceremony

A final factor affecting experiences of the registration service was the extent to which couples felt they had been allowed to retain control over the nature of their ceremony (e.g. in relation to choice of vows, music, location of the ceremony, etc.). In this context, what couples tended to appreciate the most was being allowed the flexibility to personalise their registration service to their own needs and tastes, or to what has been previously referred to as the 'personal-political style' of the couple (Smart, 2008 p. 765).

Usually couples were impressed by the degree of flexibility and control that they had over their civil partnership ceremonies and their ability to personalise them to their own requirements. With the exception in some cases of being told they could not have a religious service (Section 5.4, below) participants valued a lack of pre-defined rules for the ceremony and being offered; for example a range of options for wording their 'vows', which meant they could be as emotional or as formal as they wanted to be in line with their own values and personalities.

This flexibility was also perceived to give couples ample room to decide the extent to which they wanted their ceremony to be like or unlike traditional heterosexual weddings. In this respect, contrary to the perceptions of some non-civil partners that same-sex couples would be forced into adopting traditional aspects of heterosexual weddings (e.g. traditional marriage vows or exchange of rings), in fact civil partners were often impressed by the amount of discretion they had over the service and in some cases by their ability to avoid what they perceived as some of the worst aspects of heterosexual weddings (e.g. having stag nights, wearing wedding dresses or formal suits, etc.).

However, there were also cases of couples who had not been made aware of the extent to which they could personalise the service, the result of which had been ceremonies which had seemed rushed and lacking a due sense of ceremony. For example, Iain said that, although he and his partner had a lovely day, the experience of the registration itself was *'very low tech'* and a bit *'like sort of going and getting a dog license'* (*Iain, civil partner, 50 plus, together 6-10 years*).

5.2   Decisions about the nature of registration ceremonies and celebrations

This section discusses the decision making processes about aspects of the ceremony, namely the exchange of vows and rings, decisions about the size of the ceremony and decisions about who to invite.

5.2.1 Exchange of vows and rings

The decision as to whether or not to exchange vows was a personal one, and whilst some chose to do so, others decided to sign the register only. Signing the register without vows tended to occur where there was embarrassment about emotional displays in public or where there had a previous blessing or commitment ceremony which was more highly valued.

Couples who exchanged vows varied in terms of whether they used a form of words suggested by the Registrars or chose to create their own. Those who used a form of words suggested by the Registrar did so because they wanted some degree of formality to the service or because they

thought the words were nice or offered expressions that were not too emotional or *'sugary'*. Those who used their own words focused on wanting to say something personal and meaningful to them, while avoiding the formal language of the state.

Concerns about being made to ape heterosexual marriage vows – expressed by some of those who had chosen to become civil partners as well as some of those who had chosen not too – were not borne out in practice. In this context, a number of women said they had welcomed the flexibility around which words to include in the vows (see above) and specifically the fact that the word 'obey' – regarded as reflecting unequal 'patriarchal' power relationships in some heterosexual relationships – did not need to be included. There were also a number of male participants who said that they had deliberately avoided terms such as faithfulness or fidelity because they did not believe this reflected the character of their relationship. For example, Oliver said that although he had used the words *'to the exclusion of all others'*, he had used this in a pagan sense as for a *'year-and-a-day'* to reflect what he saw as the real nature of human emotions (*Oliver, civil partner, 35-49, together 6-10 years*).

As with vows, some participants exchanged rings and some did not. The decision not to exchange rings was taken where participants had already exchanged them during a previous blessing or commitment ceremony or where it was felt they represented a loss of independence. Where they were exchanged it was seen as a symbol of commitment and togetherness that other people (principally heterosexual people) could also understand. Notably, in one case a participant said that his Registrar specifically told him that he could not bless their rings because it would have religious connotations. However, he was happy to say another form of words that the participant thought was appropriate.

5.2.2 Ceremonies and celebrations

The size of registration ceremonies varied, and ranged from two witnesses to as many people as the couple could fit in the registry office. Celebrations also varied from small meals with just the couple or the couple and few close family and/ or friends to large parties involving family, friends, neighbours and work colleagues. To some extent such ceremonies and celebrations therefore reflected aspects of the 'minimalist' and 'demonstrative' personal-political styles identified by Smart (2008). The former style was preferred by people who did not want their personal feelings made public and who valued privacy and personal meaning over a public declaration of their commitment (ibid. p. 767-8). The latter was favoured by people who wanted to make a political point about love and commitment in same-sex relationships being equivalent to heterosexual relationships, thereby educating a wider heterosexual audience about such relationships (ibid p. 767-68). However, a range of other factors also influenced decisions and ceremonies and celebrations.

Where decisions were made to keep the registration ceremony small three main reasons were given for this. First were personal reasons such as feeling too nervous to make a public commitment, being private people or not wanting the hassle or fuss of the arrangements and deciding who to invite. Second was already having had a previous blessing or commitment ceremony. In these case participants wanted an event that was lower key because they had already invited all the loved ones once or because they saw the previous ceremony as the true mark of their commitment with this ceremony simply being a legal formality. Third, some participants wanted to limit the ceremony only to those who they knew would be supportive of them and would make the event a happy one. However, in some cases small ceremonies were followed by larger party-like celebrations which involved a wider social spectrum; for example, extended family, friends and work colleagues.

Where couples had larger ceremonies with a lot of guests this was because it was important for them to make a public declaration, because they wanted to involve family and friends or because they did not want to deny their family a celebration. Participants were typically happy with the arrangements they had made. Exceptionally, one participant said that he had regretted keeping his ceremony small but only after he realised how emotionally significant he found becoming a civil partner (see Chapter 6 for discussion of the impacts of civil partnership on relationships).

5.2.3 Invitations and attendance at the ceremony

The importance of involving family members in the ceremony and celebrations varied. Involving family was not a priority for some, who wanted to avoid the 'hassle' and 'fuss' of deciding who to invite, particularly where some family members did not get along. Conversely, family involvement could be important for a variety of reasons including wanting to be surrounded by people who loved them, the desire for social recognition of their commitment, and a sense that it would be wrong on the grounds of family duty to exclude family members from such an important occasion. This meant that in some instances family members were invited even where it was felt that their disapproval might preclude their attendance. Sometimes these family members simply did not turn up. When they did, events took a positive or negative turn. There were reports of disapproving, un-empathetic, or simply curious relatives or work colleagues who made the couple and other lesbian and gay friends feel that their civil partnership was being treated like a 'novelty', conducted in a 'zoo' like atmosphere. More positive scenarios were also recounted where couples were pleasantly surprised by the positive reactions of these family members and felt that the fact of their civil partnership had in fact been a means for their partner to gain greater recognition and acceptance amongst certain family members (see also Chapter 6).

In some cases, invitations were limited to people who the couple knew loved them and accepted their relationship. This was out of a sense that it was important they enjoyed the occasion and did not have to worry about family members who might be uncomfortable around LGB people, or who they feared might say the wrong thing to their LGB friends. Some same-sex couples also had to deal with LGB friends who might be hostile to civil partnership for political reasons, or because the friends saw civil partnership as an attempt to 'regulate everyone'.

5.3   Personal meanings given to civil partnership registration

The personal meaning of the civil partnership ceremony was discussed in terms of whether couples saw the ceremony as an expression of their love and commitment or as a legal formality. It was also discussed in terms of the emotional impact that going through the ceremony had on these views.

There were two main scenarios where civil partnership was initially seen as a legal formality. The first was where civil partnership was viewed largely in legal and financial terms; for example, as a business decision or a way to gain pension rights (as discussed in Chapter 4). The second was where the couple had already held a previous blessing or commitment ceremony, which they regarded as their 'real marriage'. Their reason for seeing the civil partnership as a legal formality was therefore that they had already made their real emotional commitment through their previous ceremony or blessing. This is illustrated by the way that Ofemi compared her civil partnership ceremony to her previous religious commitment ceremony:

> *The civil partner…its a piece of paper. Our commitment is about us choosing to support each*
> *other, to be with each other when it gets difficult. Now we couldn't have done that in a civil*
> *partner ceremony in the same way we could when we did our marriage ceremony, it's not*
> *possible to do it in those ceremonies…When you compare what we said in our ceremony when*
> *we got married, it was about doing it in front of God, it was about committing to each other when*

it got difficult as well as when it was good, it was about committing to raise our child together, committing to support each other's development. In a civil partner you say, 'Do you wish to be legally linked to this person'? I mean that's not the same thing (Ofemi, civil partner, 25-34, together 2-5 years).

However, in cases where couples gave legal reasons for deciding to become civil partners, they were sometimes overwhelmed by the emotional nature of going through the ceremony itself (see also Weeks, 2007 p. 196). For example, Jackie reflected that for her the civil partnership had started off being about pensions but she had changed her mind when she realised how *'momentous'* it had been as a emotional experience (*Jackie, civil partner, 35-49, together over 10 years*). Couples who had held previous blessing or commitment ceremonies also sometimes talked about the emotional nature of the ceremony, saying that it confirmed their previous ceremony or acted as a reassertion of their love and commitment. For example, Louisa described the personal meaning of the civil partnership ceremony for her by saying:

I suppose, it was confirmation of the blessing. It was a little step up although we felt just as committed as I'd said, we felt it was a more solid version of the blessing (Louisa, civil partner, 35-49, together over 10 years).

Even couples who had from the outset viewed the civil partnership ceremony as a means of publicly demonstrating their love and commitment and who expected it to be emotional were sometimes surprised by the overwhelming impact it had on them. This demonstrates the extremely powerful effect that making a public declaration of love and commitment had for some couples. Heather, for example, talked of being *'honoured'* that she could commit to her partner through a civil partnership (*Heather, civil partner, 25-34, together 6-10 years*). Other civil partners referred to the *'special'* nature of the day or said that the ceremony had been the happiest day of their life. An example was Gerry:

We were in the same waiting area as…prospective married couples and the…whole thing just took on an aura of being very special, I think. More than I realised that it would be. I mean I knew what we were doing was very, very special, but I didn't think that the process of going in and signing and saying, 'I do' sort of thing was going to be terribly special, but actually it was (Gerry, civil partner, 50 plus, together over 10 years).

Finally, in addition to the legal and emotional importance attached to the ceremony, there was sometimes an emphasis too on wanting to celebrate their relationship in a way that made it 'real' to family and friends:

There is a way with the civil partner that you don't have to do anything, you literally just give notice and fifteen days later you can go in and sign a form and that's it, you're civil partners and we decided that we didn't want to do that, we wanted to do an open plan ceremony that involves lots of people, where we can take a day out to celebrate ourselves and our relationship and put it on a different footing. So that's been the biggest bit of it for me (Steve, intended civil partner, 35-49, together over 10 years).

5.4   Feelings about not being allowed a religious ceremony

All participants who had become civil partners were made aware by their Registrars that they could not have religious elements in their ceremonies, and responses to this are set out below. Overall, though, none of the civil partners who were disappointed that they could not include a religious

element to their ceremony felt that it had precluded them from becoming civil partners, having reached their own compromise with the situation.

Amongst those who were not religious, the inability to include a religious element to the ceremony was not a personal concern. Indeed, some in this group expressed pleasure that religious element were excluded because they had rejected religion a long time ago, because they were atheists or because they were anti-religious (see also Harding, 2008 p. 750; Weeks, 2007 p. 791). Going further, there could be a feeling that in fact it was hypocritical to want to involve religious institutions that had traditionally been so hostile to same-sex couples and LGB people.

However, there were also non-religious participants who though unreligious themselves felt it unfair on the grounds of equality that others could not include religious elements in their civil partnership (see also Harding, 2008 p. 753). Indeed, interestingly, the sense of injustice about this continuing difference between civil partnership and marriage in this respect tended to be expressed more strongly by people who were non-religious rather than people who were. This was because people who were religious tended to reach their own accommodation with the current situation through a more individualised approach to religion, as also found in previous research (Yip, 2002; 2003).

One of these means of accommodation was to have the relationship blessed prior to or after their civil partnership. This was possible in some cases as participants belonged to congregations or religions that already recognised same-sex couples (e.g. Metropolitan Community Church, Quakers, Buddhists, etc.) and had therefore already had a religious blessing or commitment ceremony. There were instances too where even though a particular religion did not officially recognise same-sex couples, religious leaders had been found who were willing to bless the relationship. Finally, there were participants who felt that they had received blessing through their personal relationship with God regardless of the official position of the Church. In some of these latter cases, they had considered that approaching their own priest or vicar to conduct the blessing would create personal difficulties or difficulties in the wider church or religious community that perhaps it was not the right time to address.

Whilst it still mattered to some of these that their relationship was not recognised by mainstream Christian churches, or that they could not incorporate a religious element to their civil partnership ceremony, they said that they would be content for now with the civil/ legal recognition of their partnership and alternative blessing they had sought. However, as described in Chapter 4 above, there was evidence amongst some people who remained undecided about whether to become a civil partner that the inability to include a religious element to civil partnership ceremony could act as a deterrent.

5.5   Terminology used to describe the civil partnership process

There was no agreement over the terminology or language that participants used, or should use, to describe the civil partnership equivalents of 'marriage', 'wedding' or 'husband' or 'wife'. The terms used were contextual and reflected the difficulties that couples experienced when trying to establish a language to describe the state of becoming a civil partner that did not draw on the more familiar language of 'getting married' and having a 'wedding'. There were also issues related to whether or not same-sex couples wanted a different language to describe their experiences of civil partnership and whether people in the wider society would understand this language even if they did. The use of terminology and language to describe civil partnerships are therefore discussed in relation to two main headings:

- religious beliefs, political beliefs and beliefs about the gender implications of the terminology used;

- views about the inadequacy of the language available and the importance of context and comfort.

5.5.1 Religious beliefs, political beliefs, and beliefs about gender implications

Religious beliefs, political beliefs and beliefs about the gender implications of different terms could both influence whether participants preferred to use the term either 'civil partnership' or 'marriage'. This relationship was complex however, and did not simply work in one direction or the other.

Religious beliefs

Holding religious beliefs could both direct participants towards the use of the term 'civil partnership' and towards the use of the term 'marriage'. Some couples who held Christian beliefs drew a strong distinction between civil partnership and marriage, saying that they preferred the use of civil partnership. Their belief was that whilst civil partnership was an institution for same-sex couples, marriage was between a man and a woman. Related to this, they also felt that civil partnership was a strictly civil/ legal institution whereas marriage was a religious one. An example was Gill, who said that although her church would recognise civil partnerships, she regarded civil partnership firmly as a legal institution. When asked by other people whether they had married she said: *'No, I said we signed the civil partner register very firmly to people because that's what we did, that's all we did'* (*Gill, civil partner, 50 plus, together over 10 years*).

By contrast, other couples who held Christian religious beliefs took the view that a civil partnership was like a marriage in that it reflected love and commitment between partners. They hoped that by using the terminology of marriage, the two institutions would be blurred. In this case the gender of partners was seen as insignificant, and the legal or civil/ religious distinction was ignored.

Political beliefs

Political beliefs could also direct participants towards a preference for particular terminologies. In these cases, a preference for using civil partnership and partner over marriage and husband/ wife was based principally on the view that same-sex relationships were different from or better than heterosexual relationships, and therefore required a different institution (see also Harding, 2008 p. 750). The terms marriage and husband/ wife were felt to be concepts associated with 'possession' and 'ownership' that were inherently inappropriate to same-sex couples and politically 'unsound'. For these reasons dislike of the term wife was particularly strong amongst female participants who said that they took feminist views (ibid. p. 754-56), although male participants also objected to connotations of possession or ownership, particularly in the context of sexual monogamy (see section 5.2.1).

In their discussion of why they preferred the term partnership to marriage, Jackie and her partner explained that whilst they may use the term 'wife' in jest, they felt the term 'civil partnership' implied a more equal relationship between partners:

> *Jackie: I mean, obviously I sometimes say its [partner's name] is my wife or whatever. But that's only in jest. I think that's really unsound. Partner's the term I think we've always used.*
> *Interviewer: Why is wife unsound?*
> *Jackie: Well, because it buys into the heterosexual norm, really, doesn't it? So I think there's lots of stereotypes that go with wife about, you know, possession and all those sorts of things, really.*
> *Jackie's partner: Yes.*
> *Jackie: This is a very equal relationship that's based on us both contributing, you know, the*

same things, really. We have different strengths and weaknesses, but we share the childcare, we work similar hours, you know? We balance everything that we do, really (Jackie, civil partner, 35-49, together over 10 years).

Using terms other than marriage was also opted for by some because they felt that marriage implied heterosexual couples, whereas they wanted to use a term that accorded same-sex couples a separate identity. They were not always clear what that term should be however. Caroline said:

I don't like it being called marriage, I don't think. I prefer it not to be called marriage, I prefer it to be called something else, but I don't know what…. it's a straight word to me, and I feel like we should have some of our own identity in there somewhere (Caroline, undecided about civil partnership, 25-34, together 2-5 years).

By contrast, couples who tended to prefer the use of the term 'marriage' and, 'husband'/ 'wife' emphasised the similarities between the emotional commitments between same-sex and opposite-sex couples and their desire for civil partnership to be completely equal to marriage. They felt that having a separate set of terms related to civil partnership sent out 'mixed messages' that same-sex relationship were recognised by society but still not equivalent to marriage. Use of terms such as marriage and husband/ wife was, in their eyes, a way of forcing society to recognise the equal worth of same-sex relationships and commitments by 'blurring' the distinction. In relation to this area, one participant observed that it was paradoxical that some of the most vehement religious opponents of civil partnership helped reinforce this process by continually referring to civil partnership as 'gay marriage'.

I regularly use the word married rather than a partnership as a political gesture really, to recognise the fact that I don't regard there as being any significant difference between civil partner and marriage. I find it quite offensive that government should label me differently (Norman, civil partner, 50 plus, together over 10 years).

In addition, there were also people who saw no difference between the process of becoming a civil partnership and the act of marriage. To them, there was no point using the term 'civil partnership' when to all intents and purposes they had 'married' and gained most of the rights associated with the institution.

It made it more formal, more acceptable to say, I have a wife…You know, I have the same rights as being a wife to a guy, and vice versa. So if you're going to make it legislative then there's no point in saying a partner when you've just married someone (Debbie, civil partner, 35-49, together over 10 years).

These differing views were also played out in relation to whether couples changed their names after becoming civil partners. Political views were not the only determinants of whether couples changed their names, practical, family and personal reasons also played a part. However, some participants also specifically stated that they did not change their names because doing so was linked with ideas of 'possession' and 'ownership' of women by men.

By comparison other participants said they had already changed their names by deed pole prior to the civil partnership or did so after the civil partnership because that wanted to make a 'statement' that they were a couple or that they were solidly together. For example, when asked why she had wanted to hyphenate her name with that of her partner after her civil partnership, Esther said that she had wanted to show that they thought, *'enough of each other to change our names'* (*Esther, civil partner, 50 plus, together over 10 years*).

While some could see why the government had adopted the language of civil partnership to have the legislation passed, others like Hugh felt that continued use of differential terms was *'pandering to the various opposition groups'* and trying to avoid public squabbling over the issue through the *'artful use of words'* (*Hugh, civil partner, 50 plus, together over 10 years*). Others hoped more consistently to move to the language of same-sex marriage in future as the idea of the legal recognition of same-sex couples became more embedded.

Beliefs about the gender implications

Another factor sometimes taken into account when deciding which terminologies to use was the extent to which different expressions – in particular husband and wife and Mr and Mrs were felt to carry gender connotations. Some felt clearly that the term partner was associated with same-sex couples whilst wives and husbands had heterosexual and gendered implications that seemed inappropriate for relationships where there were two women or two men. The term partner therefore felt more natural or comfortable, and clarified that they were talking about a same-sex relationship. Not everyone agreed that the use of partner was preferable in order to convey the gender of partners however, some regarding it as an ambiguous term that disguised the gender of partner more than if they described their partner as their wife or husband.

5.5.2 The influence of inadequate language, context and comfort

Even where participants supported the distinction between the concepts of civil partnership and marriage, there was universal agreement that attempts to discuss becoming civil partners in everyday language were 'unwieldy' and 'confusing'. In particular it was thought that the formal language of civil partnership did not lend itself to developing an everyday vernacular that was easy to use. This conundrum was expressed eloquently by Hugh:

> *I mean I avoided describing it because I realised that civil partner is almost unusable, particularly when you're trying to turn it into verbal forms, so I avoided raising it, I suppose, and then gradually, once it had happened it was easiest to say married even if you raised an eyebrow, for people who knew that there was no woman involved, because its impossible to speak normal English (Hugh, civil partner, 50 plus, together over 10 years).*

As a result participants and their families often resorted to the more familiar and easier language of marriage and weddings because the language of civil partnership was seen as virtually 'unusable' in comparison. This was felt to be particularly the case when discussing a civil partnership with heterosexual family and friends, who were often said to refer to civil partnerships as marriage. The process was neatly captured in the discussion of the terms they used to describe their partnership by Jackie and her partner:

> *Interviewer: Just to begin with, the terminology you used to describe [your civil partner], I don't know how you'd describe it?*
> *Jackie: We were going to be civilled (laughs). It was, it was our partnership ceremony we talked about.*
> *Interviewer: But given that it's…not a marriage as such, do you use the term getting married or having a wedding?*
> *Jackie's partner: Other people did to us. And we found ourselves slipping into it.*
> *Jackie: Yes (Jackie, civil partner, 35-49, together over 10 years).*

How well participants felt that they knew the person they were talking to was another influencing factor around what language was used. Esther described how the perceived gender implications of

the term marriage meant that she could use it with people who knew her situation, but not with strangers who could be easily misled by the term.

> *You see, its okay for people that know you, isn't it, to say, 'Oh, I'm married', because my friends know who I'm talking about. But if I go to somewhere else and say, I'm married, they'll say, 'Oh, and what does your husband do'? (Esther, civil partner, 50 plus, together over 10 years)*

Different terms were also used depending on whether participants were in a formal or informal context. Where couples were filling in forms or legal documents they said that they would usually use the terms related to 'civil partnership' or same-sex partners, while in more informal contexts, such as among family and friends, they would sometimes use the less formal language of marriage, weddings and wives/ husbands because of the ease of use and a degree of flippancy. Some participants used the more formal language of 'civil partnership' in contexts where they felt more at a distance from the people they were talking to, as well as reflecting the potential for misunderstandings about the same-sex nature of the partnership discussed above. For instance, Oliver reflected on a number of contextual factors that influenced how he discussed his partnership:

> *I think married is…more informal…we knew legally it wasn't married…so we used that more amongst ourselves or with our friends and families. And then…to outside, like in work or anyone else who were emotionally at a bit of a distance from us, we just said we signed the civil partner. Although people did quite [often say], 'Oh when did you get married', you know, people just use the phrase they're more comfortable with (Oliver, civil partner, 35-49, together 6-10 years).*

Finally, participants also sometimes felt that the decisions about the terminology they used were related to whether they felt they were in an uncomfortable environment in relation to the degree of acceptance of same-sex partnership. Where there was less comfort, some participants felt they were more likely, for example, to refer to the gender-ambiguous terms such as partnership. They might also deliberately use legal terminology that differentiated civil partnership from marriage to stave off hostile responses about civil partnerships. However, more confident participants felt they would deliberately use the language of marriage and wives/ husbands in such situations in order to challenge the idea that civil partnerships were a separate institution, and to make a deliberate political statement.

The couples who favoured using alternative language to marriage felt that they had to grapple with the language that might be used to describe becoming civil partnerships. Some of the terms used laid emphasis on the *registration process* such as: 'signed the civil partnership register'; 'getting registered'; going to the 'registry office'; and getting 'civilly registered'. By comparison others attempted to turn the term civil partnership into a process or emphasised the *legal aspects of the process*, such as: becoming 'civil partnered'; being 'civilly partnered'; being 'civilled'; or becoming 'legally united'. Others also attempted to express this in more *everyday terms* such as, 'getting hitched' or 'getting done'. However, no terms emerged as more popular than others and there was universal agreement that the language was unsatisfactory and undesirable, variously described as 'cumbersome', 'clumsy' and 'clunky', while, on the other, it was seen as 'clinical', 'joyless', 'sterile' and 'boring'.

6 The impacts of the civil partnership legislation

This chapter describes the impacts of the civil partnership legislation both on participants who had chosen to become civil partners, and also where relevant those who were still considering it or who had decided against it. These are set out in terms of:

- personal impacts on the couple (impacts on relationships, finances, rights and responsibilities, and feelings about equality and self-definition);
- impacts on the visibility and social recognition of same-sex couples (with regard to family and friends, society and the state);
- impacts on experiences of discrimination amongst gay and lesbian couples;
- and finally, impacts on perceived attitudes towards lesbian and gay couples in society more widely.

6.1 Overall observations about impacts

Before going into the detailed findings relating to the areas set out above, a number of overall findings are presented. First, it was striking that those who had entered civil partnerships overwhelmingly spoke about the impacts they had experienced in positive terms. There were only two real exceptions to this. One was where couples had experienced a reduction in entitlements to benefits or tax credits as a result of the legislation, although even here the impact (if not always its extent) was anticipated prior to becoming civil partners, and was sometimes viewed in any case as a necessary compromise for gaining equality with heterosexual couples. The other exception was where concern existed that the greater visibility given to same-sex couples by the legislation might create new opportunities for demonstration of prejudice. This latter view was unusual however and anyhow accompanied by the feeling that visibility also brought about significant advantages.

Second, it was notable that whilst in some cases the impacts people had experienced as a result of their civil partnerships tied in quite closely with those that they expected to occur when making the decision to enter a civil partnership (see Chapter 4), there were also instances where people had been surprised after their civil partnership by certain unanticipated repercussions. Particularly striking here were people who had decided to enter a civil partnership for largely legal, financial or political reasons (making a statement about equality) who had found in fact that they had experienced positive changes to their relationship, or to their acceptance amongst family.

There were instances too of where people's concerns prior to entering their civil partnership had not been borne out, or had at least turned out to be more nuanced in practice. For instance, there were cases where reticence prior to a civil partnership about being 'normalised' or 'homogenised' by being viewed as a married couple had been tempered by a sense that there were actually significant advantages to the legitimacy and normalisation conferred by the civil partnership. There were cases too of where concern prior to a civil partnership about slipping into some of the unwanted patterns associated with traditional marriage had not been experienced in reality, couples instead realising they were still free to make of civil partnership what they wished. This to some extent reflects the view that civil partnership should not only be seen as structuring and regulating same-sex relationships but also as offering opportunities for individual agency and the transformation of the normative meaning of marriage, albeit within a broad legal framework (Harding, 2008 p. 749; Weeks, 2007 p. 198).

There were also some significant general findings around the impacts amongst those who were undecided about becoming civil partners, or who had definitively decided against.   On the one hand, a number of negative impacts of the legislation were named. These included feeling under increased pressure to put the relationship on a formal footing even if not personally desired, concern that their relationships would be thrown into negative contrast with civil partnerships and thereby viewed as less committed or valid, and experiencing loss of individual entitlement to means tested benefits and tax credits. Notably all of these concerns reflected previous commentary and research in this field (e.g. Donovan, 2004; Harding, 2008; Young and Boyd, 2006). On the other hand, however, a number of positive repercussions were also mentioned by non-civil partners, including by some of those who expressed some fairly strong political views against civil partnership (see Chapters 3 and 4). These included feeling more accepted by society as a same-sex couple, feeling more able to be open about their relationship, and experiencing greater acceptance and respect for their relationship amongst service providers and in some cases society more widely. This is important in illustrating how the legislation could have unanticipated positive impacts even on some of those who were dubious about its introduction and who remained dubious about certain elements of the Act.

A further observation is around the strength of some of these impacts amongst people in long term relationships who had, prior to the Civil Partnership Act, already professedly regarded themselves as established couples. This demonstrates the strength of the legislation in increasing couples' sense of belonging, security and entitlement.

Finally, there were no gender differences in terms of the impacts experienced, with the range of substantive impacts described below being experienced by both male and female research participants.

6.2   Map of chapter findings

Table 6.2 below provides a map of the key chapter findings in relation to the impacts of the civil partnership legislation. Impacts on civil partners are in black, on non-civil partners in red and impacts which applied to both civil partners and non-civil partners in blue. It will be evident that some of the impacts in relation to non-civil partners refer specifically to those who had rejected the institution or who were predisposed against it. Those who were still deciding about whether to enter a civil partnership or who were intending to enter one usually anticipated a range of the different types of impacts set out below. The table should be read with the caveat - discussed in relevant places in the main findings below - that impacts described were not always attributed solely to civil partnership but to other events in participants' lives and to other perceived causes of societal shifts in attitude.

Table 6.2 Summary of key chapter findings - impacts of civil partnership legislation

Key to table
Black = impacts on civil partners
Blue = impacts on civil partners on non-civil partners
Red = impacts on civil partners

Impacts	No real impacts	Positive impacts	Less positive impacts
Commitment, stability and security of relationships	Commitment already demonstrated in other ways	Greater sense of closeness and/ or stability because… - committed 'for life' - civil partnership prompted to reflect on relationship (applies to some considering civil partnership as well) - of greater sense of legitimacy and validation	Loss of individual entitlement to benefits as result of Civil Partnership Act brought 'strain' on relationship
Organisation and conceptualisation of finances	Continued with prior system of organising/ viewing finances Happy with current system of organising finances	Rationalising/ converging finances Greater financial security More relaxed approach to household finances	Sense of disempowerment/ dependency through being viewed as one financial unit
Household income	Not receiving means-tested benefits or tax credits Already had inheritance/ pension rights	Access to inheritance and survivor pension rights Some advantages in relation to taxation	Household income reduced because joint treatment for income-related benefits applied to all cohabiting couples Regarded more negatively by non-civil partners because not something 'signed up' for
Rights and responsibilities	Prior legal arrangements in place conferring similar rights to those given by civil partnership And/ or happy with pre-existing rights Regret that not recognised overseas	Gained concrete new rights in relation to inheritance, survivor pensions, entitlement to take partner's name, entitlement to work-related benefits, next of kin status, ability to apply for parental responsibility Enhanced legitimacy conferred on sex relationships means they are taken more seriously in some contexts (i.e. partner's right to stay in UK)	Previous wills negated, need to draw up new ones (but only temporary problem) Automatic conferral of survivor pension rights not always wanted (i.e. desire to include relative as beneficiary as well)
Feelings of equality		Perceived parity to marriage confers validation and legitimacy on relationship OR where reservations	Still do not feel truly equal - civil partnership should be equal to marriage in all respects

Impacts	No real impacts	Positive impacts about equation with marriage - civil partnership opportunity to consolidate own definitions of relationship	Less positive impacts
Visibility	Already comfortable about being open OR still reservations about openness in certain settings	More confidence about being open about relationship because… - backed up by law so intolerance less permissible - same-sex relationships more on public agenda, better understood - civil partnership provides easily accessible discourse for people to employ regarding same-sex relationships More confident about openness because legislation signals same-sex relationships acceptable and normal	Loss of privacy/ control over disclosure of relationship status
Recognition and validation by family/ social circles	No difference because relationship already fully accepted Family not perceived to be 'ready' for civil partnership anyway OR reasons for not entering civil partnership at all or yet understood and respected by friends/ family/ wider circles	Perception of greater acceptance from family or partner's family (and wider social circles) because… - prompted open discussion about relationship (family) - sign of commitment - places relationship in context people can identify with - Civil partnership provides accessible language/ terminology	Feel under pressure to explain why not civil partners - sense relationship lacks kudos/ legitimacy in other people's eyes in comparison
Recognition/ validation by state	No impact, happy to continue with self-defined relationship	Greater sense of belonging/ legitimacy in society Relationship 'normalised' by state validation	Relationship lacks validity in eyes of society/ state in comparison with civil partnership
Experiences of discrimination	Not experienced discrimination prior to civil partnership Experienced perceived discrimination following civil partnership – no space for civil partnership on forms, negative comments, denied services, perceived hostility some religious bodies to civil partnership/ adoption rights	Access to previously denied rights and responsibilities (see above) De-legitimised discrimination by signalling lesbian and gay relationships normal and acceptable Greater predisposition as result to stand up to discrimination/ assert rights	Some fear that requirement to inform certain bodies/ service providers of relationship could result in discriminatory attitudes If regression of positive views towards gay and lesbian couples by state/ society increased visibility through civil partnership could be problematic

Impacts	No real impacts	Positive impacts	Less positive impacts
Society's attitudes towards gay and lesbian people	Attribute other factors with more responsibility for societal shifts than civil partnership legislation Other changes also necessary to bring about further attitudinal shift (Chapter 9)	Gay and lesbian relationships increasingly understood and viewed as normal/ diverse… - being gay or lesbian need no longer be defining feature - stereotypes gradually being dispelled	

6.3   Personal impacts on the couple

6.3.1 Impact of civil partnership on the commitment, stability and security of relationships

Views about whether becoming civil partners had made a difference to the commitment, stability and security of relationships were diverse, although as described below a number talked about civil partnership having brought about welcome and unanticipated repercussions in this respect. As in previous research (Smart et al., 2005), where no real impacts were felt to have occurred, this was often amongst people who had been with partners for several years and who talked about having been together so long, or being so deeply committed, that their relationships without civil partnership were already well-established, 'stable' or 'rock solid'. This was often coupled with a feeling that because they had already incontrovertibly demonstrated commitment to each other - for example, through cohabitation, shared financial commitments, previous ceremonies, longevity and/ or the experience of working through difficult times together - becoming civil partners had made no real difference to feelings of commitment. It was also sometimes argued that civil partnerships could break up just as other relationships could, and that it was therefore mistaken to view civil partnership as a reaffirmation of commitment.

> *I don't think we could have been any more committed, this is the thing…You know, we've been through some real crap with her family, and … you know, the fact that we didn't give it up and say, 'Look, it's not worth it,' told us both something, I think (Esther, civil partner, 50 plus, together over 10 years).*

Some of those who felt like this in fact specifically said that if they had felt civil partnership was likely to have an impact on their relationship they would not have gone through with it, because they were happy with things as they were. In their eyes, civil partnership's main achievements for them had not been about reaffirming a commitment they already regarded as a given but conferring legal and technical advantages, equality with heterosexual couples or social and familial recognition.

Another set of participants - including a number who had been in long term relationships prior to the civil partnership - felt very differently. With the expressed caveats that they had already felt committed, and were aware that civil partnerships could break up, they nevertheless conveyed a sense of having achieved a greater security and sense of commitment through becoming civil partners. Aspects to this were having gained a greater comfort and stability, feeling more settled, feeling more relaxed in their relationship and feeling 'more of a couple'. Interestingly, this was sometimes said to have been an unanticipated result of civil partnership, and therefore not been something that had featured in their decision-making process (described in Chapter 4 and also by Smart, 2005). Surprise was expressed that what they had expected to be a 'legal process' or a 'tying up of loose ends' had in fact had a bonding and reaffirming affect on their relationship.

There were apparently several different reasons for the feeling that civil partnership had enhanced the sense of stability and commitment between partners. The first was the sense that, by becoming civil partners, they had signalled a willingness to commit to each other for life, 'forever'. Linked to this was the belief that their relationship was more difficult to leave than it had previously been as a result of the legal ramifications of civil partnership; an anticipated result was a greater propensity to think 'rationally' and work through difficult times in relationships.

Where there were children in the family, the signalling of the intent to stay together for life was also felt to have produced a more secure family unit in the children's eyes. This evidence supports the Women and Equality Unit's argument during the consultation exercise on civil partnership that it would 'bring increased security and stability to same-sex couples who register their partnership and to their children' (Women and Equality Unit, 2003a).

A further factor leading to a greater sense of security and stability was the sense that the process of becoming civil partners had acted as a prompt to think seriously on the nature of the relationship and the couple's desires for the future; as Jackie put it, it had prompted them to reflect about why they were together, why they were choosing to commit to each other and what the key sticking points in their relationship were (*Jackie, civil partner, 35-49, together over 10 years*). This reflection was felt in some cases to have given the relationship a boost, as it had involved partners making a conscious decision to stay together, rather than doing so out of habit. In this context some also talked about civil partnership having strengthened their commitment to monogamy, although sexual monogamy was not always seen to be a requisite for feelings of emotional security and stability (see Heaphy et al., 2004).

Another reason for civil partnership leading to a deeper sense of commitment for some was the sense that through gaining access to a social and legal *'milestone'* that had previously been lacking, they were able to make their relationship public and legitimate in the eyes of family, friends and society (see Section 6.4 below for more discussion of this issue). The achievement of public and legal backing for their personal commitment to each other was felt to have had knock-on affects on the internal life of relationships even in some cases where partners had been together for many years. Specifically the overt public declaration of their commitment coupled with sometimes greater investment from the family had enhanced their sense of security with and belonging to each other.

A further impact of civil partnerships on relationships was feeling a greater *'responsibility'* for their partner than they had done previously; as Vic put it, they now felt more of a caring role for their partner, akin to the type of feeling they would have for a child or a sibling (*Vic, civil partner, 50 plus, together over 10 years*). People who felt like this tended to find it difficult to pinpoint this to any specific cause, instead talking about several factors influencing them in this respect, such as the greater societal recognition, greater legal and financial responsibilities for their partner, the legal next of kin role and in some cases more recognition from family and overt involvement in family life.

There were no instances of non-civil partners feeling that the existence of civil partnership had put a strain on their relationship because of differing views between the partners or a sense of 'pressure' to become civil partners. Instead, they talked about feeling settled and committed without civil partnership, or still considering whether it was right for them (see Chapter 4). The one exception was Ed, who was not a civil partner and who said that the increased financial dependence on his partner following loss of ability to sign on (see Section 6.3.2, below) had produced *'significant strain'* on the relationship, to the extent to which they were considering

whether or not to stay together. The loss of financial independence from the partner was particularly resented given that it was not something that they had chosen to sign up for.

> *My partner and I are aware of and have in fact discussed and acknowledged the fact that due to the civil partnership legislation, in the short term of our current circumstances at least, we would be financially and practically better off if we split up. And that this fact has significantly intensified the pressure on our relationship during a period when we are trying to deal with other stresses and strains between us (Ed, rejected civil partner, 35-49, together over 10 years).*

6.3.2 Financial impacts of civil partnership

This section discusses the impacts of civil partnership on the organisation and conceptualisation of household finances, and on whether households were better or worse off as a result of the legislation.

Impact on the organisation and conceptualisation of finances

In relation to money management, concerns have been expressed in the past about the 'potentially normalising effects' of civil partnership in terms of its assumption of the desire for financial interdependence between couples which may not 'adequately reflect the experiences of lesbian and gay couples' (Burns at al,.2008). This section shows that in fact civil partners were largely comfortable with its impact in this area, and that on the whole they continued to regard themselves as having a strong role in determining how finances were organised and conceptualised. It also shows that impacts on the organisation and conceptualisation of finances were diverse; ranging from no real impacts to some or significant changes to the way that money was managed and viewed.

Where it was felt that civil partnership had had no impact on the organisation and conceptualisation of finances, participants said that their prior method of organising finances – whether to have joint accounts, separate accounts, or a mixture – had continued in the same way subsequent to their civil partnership status. Non-civil partners also sometimes talked about how the legislation had had no impact on them, because they were happy with their current financial arrangements and did not think the financial rights offered by civil partnership had changed their views on this.

There were also instances though where the organisation or conceptualisation of household finances had altered as a result of the couple entering a civil partnership. In relation to organisation, changes included amalgamating accounts on becoming civil partners, establishing new joint accounts for household bills, or starting to save together for long-term goals such as buying an additional property. There were also cases where people had rewritten their wills as a result of becoming civil partners because their previous ones had no longer been valid. Sometimes there was uncertainty about whether or not civil partnership had been the specific trigger for the reorganisation, with speculation amongst some that it might have happened anyway at this stage of their relationship. In others however, civil partnership was definitely felt to have been the spur. In these instances, there was sometimes a feeling that entering a civil partnership had prompted a rationale reorganisation of finances where previously the couple had been 'drifting along'.

There were examples too of where becoming civil partners had altered the way that people conceptualised their household finances, and the division of financial responsibilities. These changes stemmed from a broad understanding that legally the couple's finances were now viewed as merged. In some cases, this was felt to have had positive impacts. These included feeling more 'financially secure' since becoming civil partners, stemming from the understanding that each were now entitled to each other's pensions and a broadly equal share of their assets should they

separate. Where there were children in the relationship, this could have a positive knock-on impact on views about the children's financial security too. This enhanced sense of security had, in turn, led in some partnerships to a more 'relaxed' approach about who paid for what than had previously been the case, even in some instances where partners had been together for many years.

However, there were also cases where more ambiguity was felt about the merging of finances, particularly in terms of its perceived impact on the financial dependency of one partner on another. For example Heather, a civil partner, spoke of feeling '*disempowered*' by the fact she and her partner were viewed as one financial unit as a result of the Civil Partnership Act *(Heather, civil partners, under-35, together 6-10 years)*. In this instance, her maternity leave had meant she was currently financially dependent on her partner, who earned more. In the case of non-civil partners, some of those who were still considering it or who had decided against it also had reservations – as described in Chapter 4 - about the concept of financial inter-dependency. In the case of civil partners however, it was also the case that these feelings were usually complex, anxiety about increased financial dependence on the one hand being accompanied on the other with relief at the greater sense of financial security that civil partnership had entailed.

Impact on household income and repercussions

In some cases civil partnership was felt to have had no significant financial advantages or disadvantages. This was the case where, for example, the couple already had survivor's rights for each other's pensions, inheritance rights through a pre-existing will[19] or received non-means tested benefits such as Incapacity Benefit.

Where the civil partnership legislation was felt to have brought advantages, these were gaining automatic rights to inheritance and survivor pension rights, ability to benefit from travel insurance as a couple, and some specific advantages in relation to taxation, for example, reduction in tax liabilities from renting out a second property as a couple. Older couples in particular expressed relief at the changes to inheritance and survivor pension rights brought about by civil partnership, believing it brought them greater financial security in old age.

In relation to disadvantages, the major issue that was talked about was where household income had been reduced as a result of joint treatment for income-related benefits and tax credits being applied to both civil partners and unregistered cohabiting couples by the terms of the Civil Partnership Act (see also Harding, 2008 p. 747). In some cases this had led to a large reduction in household income. There was also a case where one partner in a couple had lost their ability to sign on between freelance jobs because their partner's earnings were now taken into account.

In the case of those who were civil partners, the reduction in household income had been anticipated and taken into account in the decision-making process (see Chapter 4). However, the extent of the reduction had not always been realised and in one particular case the couple had apparently been misinformed that they would continue to be entitled to the same level of tax credits, which had led to them having to make repayments. In some of these cases there were felt to have been some significant financial and emotional impacts of the loss of income, for example reduced ability to afford days out and holidays and general anxiety attendant on an unanticipated income drop. However, there was some acceptance of the situation amongst these participants, particularly where it had been expected, with Jackie for example describing the prior situation as a '*loophole*' (*Jackie, civil partner, 35-49, together over 10 years*). It was also the case that in none of these instances had the income reduction had negative repercussions on attitudes towards civil partnership or the relationship. This was because all had had strong alternative reasons for

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19 In fact pre-existing wills are rendered invalid by civil partnership, and need to be re-drafted.

becoming civil partners and had felt that they had experienced a number of other positive impacts; these included increased confidence about being open about the relationship, greater societal recognition and enhanced stability for their children.

As described in 6.3.1 above, Ed felt that the increased financial dependence on his partner following loss of ability to sign on had produced *'significant strain'* on the relationship, to the extent to which they were considering whether or not to stay together *(Ed, does not want to be a civil partner, 35-49, together over 10 years).* Similar anxieties were experienced by others. Colin, for example, told of how his partner had his *'official'* residence elsewhere to avoid being considered as a single benefit unit, a situation which was the cause of considerable anxiety for both of them *(Colin, Does not want to be a civil partner, under 35, together 2-5 years).* This situation was felt to place restrictions on the couple's ability to be as open about their relationship as they would like. This echoes previous research by Harding (2008 p. 747-48) that showed that some cohabiting same-sex couples on low incomes try to conceal their relationship because of the significant negative financial and emotional impact that the Civil Partnership Act has on their lives.

6.3.3 Impact of civil partnership on rights and responsibilities

People who had become civil partners usually spoke very positively about the impacts it had had on their legal rights and responsibilities, and as described in Chapter 4 access to these rights was a main reason for some couples to become civil partners. Specifically, people talked about having gained inheritance rights, automatic access to survivor pensions, the legal entitlement to take their partner's name, entitlement to work-related benefits, and the ability for one partner to apply for parental responsibility for the other partner's children and automatic next of kin status (discussed below). Another area where the legislation was sometimes felt to have brought benefits was around immigration; interestingly Keith felt that the existence of the Civil Partnership Act had led the British Embassy to take his relationship with his foreign partner seriously when considering his right to stay in the UK even though they were not civil partners (*Keith, undecided about civil partnership, 35-49, together 2-5 years*). This illustrates how civil partnership can be perceived by non-civil partners to have had positive knock-on effects on the legitimacy and validity of their relationships. Finally, there was also a male couple who felt that their civil partnership had made their application to foster more straightforward than it would previously been, because they regarded it as an overt demonstration to social workers that they had the backing of the state.

In relation to responsibilities specifically, the conferral of automatic next of kin status was also spoken about positively. Whilst typically people had considered themselves their partner's next of kin prior to their civil partnership, this had sometimes been felt to lack solid ground, and the now official and secure nature of this status was appreciated. Specifically the fact that their status was now legally clear to hospital staff and family members was welcomed; also that there was now no danger of being excluded from decisions relating to a partner's care. This in turn could lead to feelings of greater responsibility for a partner. For example Tom, who was in a long-term relationship, talked how he had felt more of a *'partner or carer'* for his partner when he was in hospital than he had done in the past as a result of his new legal ability to decide what his partner would have wanted had he become mentally incapable (*Tom, civil partner, 50 plus, over 10 years*).

Where the civil partnership legislation was felt to have had a more limited impact on rights and responsibilities, this was where the civil partners as a result of prior legal arrangements and/ or progressive employers already had inheritance and pension survivor rights and other legal responsibilities such as joint home ownership and power of attorney. It was the case too that some non-civil partners spoke of not feeling influenced by the legislation in this respect, either because they had their own prior arrangements in place, or were happy without this package of rights. There were also non-civil partners who felt that they were not precluded by their non-legal status

from important rights; for example, one couple in a long-term relationship but who were not civil partners were applying to adopt together; others spoke about how they felt confident in asserting their next-of-kin rights if they had to, or indeed how they had acted as next-of-kin in the past in healthcare settings in spite of lacking official status as such.

There were also some limited instances where the legislation, whilst broadly welcomed, was felt to have brought about some difficulties as well for civil partners. In some specific instances, people who had already drawn up wills felt that they were currently disadvantaged by their civil partnership status because it negated their previous one. This was only felt to be a temporary situation however, and those in this situation were intending to revise their wills to take account of their new status. Regret was also sometimes expressed that civil partnerships were not universally recognised overseas; for example, Adam felt that this reduced the likelihood of him and his partner returning to his homeland, the USA (*Adam, civil partner, 35-49, together 2-5 years*). Finally, some concerns were occasionally expressed about the automatic conferral of survivor pension rights, for example where another relative was also desired as a beneficiary. In these situations, the intention was to seek legal advice.

6.3.4 Impact of civil partnership on feelings about equality

Chapter 4 described how the decision-making process around civil partnership could involve consideration of the extent to which the institution was considered to ape marriage and whether or not this was regarded as desirable.

In terms of impacts of civil partnership, there were several different positions in relation to this area. One view was clear that as a result of the civil partnership they felt their relationship had gained a similar status in society to marriage. The extent to which this was viewed as a positive development differed however. One strand of opinion welcomed this perceived parity and indeed sometimes felt that it had been part of the reason they had wanted to become civil partners. From this perspective the fact that the partnership was viewed as similar to marriage meant that people treated it seriously and with respect, and regarded it as a demonstration of 'total commitment' similar to marriage. This was felt in turn to increase the sense of the couple's belonging and validation in society (discussed in more detail in Section 6.4, below). It was sometimes argued however that these impacts would be enhanced further if civil partnership achieved parity with marriage in all respects or alternatively if civil partnership became open to heterosexual couples too.

Another strand of opinion was more ambivalent about the perceived parity to marriage which their relationship had gained. Anxiety around this area seemed in particular to stem from fear of losing the sense of uniqueness that relationships had built up over a number of years. However, real concerns around this area – for example that civil partnership could damage the internal aspects or creativity involved in a relationship – were expressed much more by those who had decided against civil partnership (see Chapter 4) than experienced as impacts by those who had entered them. In fact, what was notable amongst those who had become civil partners was how prior concerns in this respect could be tempered by perceived advantages gained in others. Evidence of the complexity of feelings in this respect is well illustrated by Heather, who said that she continued to feel a conflict, into the life of her civil partnership, between the obvious advantages of being viewed as similar to a married couple – for example around visibility and legitimacy – and her political reservations about being viewed as *'normal'* or '*conformist'*.

> **Interviewer:** *I mean do you feel that it [civil partner] has normalised the relationship?*
> **Heather:** *I think it has in other people's eyes, yes. I think…a wedding was something that [partner's] mum could latch on to…And a baby's actually been even more so, bizarrely*

enough!... It was funny that doing this, you know, in some ways incredibly little thing, but in some ways incredibly complicated, stressful and expensive thing, can suddenly make everything a lot kind of more acceptable.
Interviewer: *But was that an issue for you, that you wanted to be more acceptable?*
Heather: *I mean on a really practical level, yes it is. And on a completely political level, no, I don't want to be normal and conformist and all those other kind of things. I think the two just cancel each other out (Heather, civil partner, 25-34, together 6-10 years).*

Others also did not feel that there was any danger of conformism, arguing that whilst the outside world might regard their relationship as similar to marriage, this was not how they perceived themselves; as Ofemi put it, other people had *'misread the parts'* (*Ofemi, civil partner, 25-34, together 2-5 years*). In this respect it was significant that some of the fears of those who had decided against or were still deciding about civil partnership – for example that it would necessitate increased financial dependence and take away the ability of partners to define relationships according to their own needs and assumptions - had not been experienced in practice by people with similar fears who had decided for other reasons to enter civil partnerships. Rather than being 'put in a box', they had found that they were able to use civil partnership as an opportunity to consolidate their own definitions of their relationship and eschew aspects of heterosexual marriage which they disliked, be this monogamy or perceived assumptions around possession. As a result they had concluded that in fact, civil partnership was 'what you make it', and involved no compulsion for gay and lesbian couples to become a homogeneous group under its umbrella. In this respect this echoed previous views of same-sex couples that they should have the same rights as heterosexual couples but that this did not mean they had to be the same as such couples (see Weeks, 2008 p. 788). Legislative change could also be experienced simultaneously in deeply complex ways as positive and negative, as equality and inequality, and as conformist and as opportunities for change in the meaning and nature of relationships (Harding, 2008 p. 757; Peel and Harding, 2008 p. 757).

Finally, however, a number of civil partners were more reserved about having achieved equality because they felt that only true equality would be achieved when civil partnerships were given true parity with marriage.

In relation to non-civil partners, some were confident and happy for their relationship to be distinctive from marriage and/ or did not perceive their status to be any less valid or legitimate than that of civil partners. However, others did express concern about being viewed as less equal than civil partners (and married couples) – in particular that their relationship could be treated with less respect or viewed less seriously as a result of the legislation. This is discussed further in 6.4.2, below.

6.4 Impacts of civil partnership on visibility and recognition

6.4.1 Impact of civil partnership on the visibility of same-sex relationships

The degree to which couples felt that they had become more visible through civil partnership varied. It was also the case that increased visibility was felt to have both benefits and drawbacks.

Little or no impact on visibility

One type of response was to feel that the legislation had had no impact on the visibility of the relationship in certain settings; included amongst those holding this perspective were both civil partners and non-civil partners. Often this feeling was a result of positive reasons, with participants who felt like this saying that they already felt comfortable about being unreservedly open about

their relationship in certain settings. For example, they spoke about living in communities where they were already well known and accepted; living in places where same-sex couples were not at all unusual; and having accepting families who had known about their sexual orientation for a long time. Notably, although such feelings were expressed by people living in places with existing visible LGB communities or 'scenes', they were also expressed by people living in communities without such established communities.

Another type of response was to feel that the legislation had made no difference to a disinclination to be open about one's sexual orientation in some settings, because fear of discrimination or hostile responses in these settings continued. This response was evident amongst both civil partners and non-civil partners. It was also evident amongst some of those who spoke about having been confident for a long time about being open in different settings (see above). For example, people spoke in this context about continuing to feel reservations about displaying affection in public places, or indicating their sexual orientation to certain colleagues or acquaintances who they feared might react negatively – for example 'other mums in the playground'. Participants who felt like this had experienced what they had perceived to have been discrimination against or negative responses towards their sexual orientation in the past in these settings, sometimes after they had become civil partners. This was what seemed to have had a formative effect on their continued lack of comfort about being open in these settings.

Impact on visibility through increased confidence

Conversely, another perspective was that the civil partnership legislation had been the cause, or one of the causes, of a greater propensity to be open about the relationship. Sometimes this was attributed to the legislation specifically; in other cases, people also speculated about whether factors such as their age and other cultural changes in society (see Section 6.6 below) had also played a role. Interestingly, this sub-set included both people who had become civil partners and those who had not, who nevertheless felt that they had experienced knock-on benefits from the legislation. Importantly it also included people who had been in long-term relationships – often ten years or more.

People talked about feeling more confident about being open about their relationship and sexual orientation as a result or partly as a result of the civil partnership legislation in several different contexts. One of these was in contact with services, whether public or private – for example, being more likely to be open about the status of their relationship when booking hotel rooms, and when in contact with services such as health professionals or schools. In some of these cases, becoming civil partners had specifically prompted this openness, because they had felt that they wanted to inform institutions such as doctor's surgeries, schools or banks of their change to their legal partnership status. As a result it had acted as a catalyst to disclosing more about the relationship to people who the couple would not previously have informed (there were also reservations about this situation however, see the following section). Whilst usually limited to those who had become civil partners, this was not always the case; for example Keith, who was not a civil partner, said that the civil partnership legislation had nevertheless prompted him to disclose the fact that he was in a same-sex relationship to immigration officials (*Keith, undecided about civil partnership, 35-49, together 2-5 years*).

A greater openness with family members was also sometimes talked about, with civil partnership acting as the spur to their coming out to families or to being more open with family members about being in same-sex relationships (see 6.3.2, below). Other impacts in this context were greater openness with work colleagues about their sexual orientation and relationships, or even being

more publicly demonstrable with their affection for their partner, for example when walking down the street.

Three main factors were attributed with having produced this greater openness. The first was a the strong sense of confidence imparted by the feeling of being backed up by the law; the sense here was that because same-sex relationships now had specific legal backing, society had been given a clear signal that they were normal and acceptable. Norman described how he felt happier about disclosing his sexual orientation out of a feeling that if someone displayed intolerance it was now they who were clearly in the wrong and in conflict with the assumptions of the legal system.

> *I think perhaps what I was aware of was a difference in my…eagerness, to announce this [civil partner] to people. Because the tables have turned in that if they've got a problem with it, it's their problem because it's the whole of the legal establishment and the state recognises our situation. So I felt differently about communicating that type of information…rather than expecting a negative response, I should be surprised by a negative response (Norman, civil partner, 50 plus, over 10 years).*

The second was a sense that as a result of the civil partnership legislation, same-sex relationships were now on the public agenda more than they had been in the past – for example in the media and through everyday discussion of relationships – and therefore better understood by society as a whole, and as several put it, more 'normalised' (discussed further in 6.3.3 and 6.5, below; see also Weeks, 2007 p. 198). A result was felt to be greater comfort about being open.

> *When I first came out there was that sense that there were no other gay men around, you know, it was just me all on my own. And…I wasn't certain in my own mind whether I could be both gay and a teacher…But I can see for a lot of guys and women coming out [now] that there's a sense that you can have a perfectly ordinary life, you know, you're not condemned to live all on your own in the garret and be unhappy all your life (Iain, civil partner, 50 plus, together 6-10 years).*

Notably, as mentioned above, these two factors were talked about by those who had decided against civil partnerships for themselves as well as those who had had them. For example Andrew, who was opposed to civil partnership for himself (referring to it at one point as a *'an institution imposed on us by the straight world'*) nevertheless felt that the legislation had backed up society's support for his relationship, signalled that it was normal or less unusual to be gay and as a result given him greater confidence in being open about his same-sex relationship in public settings (*Andrew, rejected civil partner, 35-49, together over 10 years*).

The third factor was the feeling that the legislation had given them and other people a formal set of terms of employ when talking about their relationship which they had previously lacked. As Ross put it, *'it's easier to tell people you're in a civil partner than that you're gay'* (*Ross, civil partner, 35-49, together over 10 years*). This was felt to be particularly important in exchanges with heterosexual people who were felt to have struggled in the past to find an appropriate 'way in' to talk about same-sex relationships. Civil partnership was felt to provide an easy talking point that was easy to relate to for those whose world was largely defined by heterosexual norms, and therefore acted as a facilitator for greater openness about and discussion of same-sex relationships.

In this context as well as being more open with people themselves, some also talked about relatives now finding it easier to discuss their relationship with friends and other family members (see also Section 6.4.2, below).

If I introduced myself to someone new that I was gay, that's kind of the next question,…'Oh, you know, are you married?'…So it provides a talking point, if you like, and it's increased people's awareness (Nancy, undecided about civil partnership, 35-49, together over 10 years).

Concerns about increased visibility

However alongside the broad welcoming of the new legal rights and responsibilities offered by civil partnership, there could sometimes be a feeling that they could create a degree of loss of privacy and control over who to tell about their relationship status and sexual orientation. Coupled with this could be concern that disclosure of the change to legal partnership status to public and private service providers could actually result in discrimination (discussed in more detail in Section 6.5, below).

There were two main sets of participants who felt like this. The first consisted of younger people who were unsure about whether to enter a civil partnership, and who felt anxiety about needing to disclose relationships in a number of settings (e.g. immigration, loan applications, and mortgage applications) where they might still feel wary about doing so. This was particularly the case where they imagined having to explain what being a civil partner meant to people less familiar with the institution. It was notable that those who felt like this were also reticent about being open about their relationship for other reasons; for example, they had not yet been accepted by one of the partner's families.

The second set who expressed this view were those who seemed to feel personally predisposed to be reserved about disclosing details of their private life; they spoke, for example, about only wanting to discuss their relationship with people they were close to and people who needed to know (similar to those wanting a 'minimalist' style of civil partnership ceremony discussed in section 5.2.2). As a result of these feelings, they said that they would be as selective as before about whom they told about their civil partnership, and exceptionally, one participant said she would not wear a ring when she became a civil partner so that it would not raise questions about her 'marital' status or sexual orientation.

It was not unusual for feelings in relation to this area to be mixed, however, with acknowledgement of the benefits as well as disadvantages of the legislation in this respect. One participant, for example, said she had felt much more confident about who she felt able to tell about her relationship since becoming a civil partnership whilst simultaneously expressing reservation about the perceived loss of choice as to whether people such as doctors or dentists needed to know she was in a same-sex relationship.

6.4.2 Impact on social recognition and validation by family, friends and wider society

Social recognition and validation by family

As described in Chapter 1, part of the embrace of civil partnership by the British government was related to the idea that it would help to reinforce patterns of relationships and family life that increase social stability (Women and Equality Unit, 2003a). This section describes how whilst some felt that civil partnership had had no impact on their family's views about their relationship and responses to them and their partner, in others it was felt to have led to greater acceptance of the couple by families.

In some cases, becoming civil partners was felt to have had limited impacts on the recognition and validation of the relationship by friends and family. This was typically where people said that their

families had already fully accepted their partners and regarded them as long-established and committed couples.

> **Interviewer:** *Has it [civil partner] changed how you are viewed by your family or friends or other people who know you?*
> **Roberta:** *It hasn't changed anything I don't think because we've been together so long, you see, people have had time to get used to us (Roberta, civil partner, 35-49, together over 10 years).*

However, others talked about having experienced a number of impacts in this area following their civil partnership. Interestingly, a number said that they had been surprised by the fact that these impacts had occurred. This surprise had either occurred because family members had reacted much more positively than they had been expected to or, conversely, because partners were already believed to be accepted amongst family members; the 'sometimes subtle' differences brought about by civil partnership had therefore been unexpected. As with impacts on the stability and security of relationships, therefore, this was for some an unanticipated result of civil partnership that had not featured prominently in the decision-making process. A further interesting feature relating to this area was that many of the impacts below were described by people who had already been in long-term relationships prior to the civil partnership. This suggests that the civil partnership itself had a significant impact on the way family members viewed the relationship, and that longevity of a relationship in itself did not always achieve similar results.

There was a sense that becoming civil partners had helped to 'validate' the relationship in the eyes of family members, making it seem more secure, stable and acceptable to them. Knock- on affects of this sense of validation amongst family members were partners achieving 'higher status' in their partner's family circles, for example being more likely to be involved in family decision-making, talked about openly, and treated in an open and welcoming way. Whilst sometimes these changes were felt to have been obvious, more often they were felt to have been subtle, involving not a huge sea-change in attitude towards their partners, but rather small changes which indicated greater acceptance. It was sometimes also acknowledged by participants that these changes might stem from their own perceptions and assumptions about their changed status, rather than those of family members.

> **Isobelle:** *I felt much more accepted…even with family members…I suppose for years I must have…had this, subconsciously…where I didn't feel actually part of my partner's family and then now I am, I definitely am, and I just felt there was a…very, very slight change in the relationship between myself and some of her close family.*
> **Interviewer:** *Can you think of any examples of that, because it's really interesting?*
> **Isobelle:** *Well, her sister for example…for years we've got on really well, not a problem, but now I feel she rings up and she as much wants to talk to me as she does to talk to her partner, I just feel we're closer in a way. I don't know if that's maybe on her part because she now feels that she knows exactly where the boundary is or whatever, I don't know (Isobelle, civil partner, 50 plus, together over 10 years).*

Whilst usually there was a sense that this increased sense of validation had been accompanied by greater acceptance and approval, there were cases too where it was felt that even though family members maintained some degree of opposition to the relationship, the act of civil partnership ceremony had brought them on board to a greater extent than they had been before. In this respect participants talked about family members demonstrating their acknowledgment of the relationship, if not their tacit approval, by attending the ceremony and through discussion of the civil partnership.

The act of civil partnership was also sometimes said to have helped bring about an open discussion with, and amongst, family members about the relationship of a nature that had not occurred in the past. For example, participants described the way in which family members said to them that they had always wanted to discuss their relationship with them, but had never before known how to broach the issue. Others talked about how they had felt able to speak to a parent or parents about their partner in a very different and more open way since they had become civil partners. More unusually, civil partnership had in one instance been used as a springboard for coming out to family members about the nature of the relationship.

A further impact of a couple becoming civil partners was to give family members 'peace of mind' that the couple were committed to staying together forever and looking after each other's interests. This seemed particularly important in cases where children were involved, and indeed several of those with children thought that their children had benefited too from the added sense of security they felt civil partnership had given the relationship.

There were felt to be a number of different factors behind the impacts described above. Sometimes speculation occurred as to whether civil partnership was the sole cause of these impacts; in some cases, for example, participants talked about other events having occurred around the time of the civil partnership ceremony that had given their partner a bigger profile in their family life and thereby helped to cement the relationship in their family's eyes – examples including the birth of a child or the death of a family member.

However, it was also the case that some were specifically related to civil partnership. The first was the sense that validation had occurred because, through the civil partnership event, the relationship was placed in a context that family members could identify with. In this respect it was often felt that family members had viewed the civil partnership as similar to a marriage, with its attendant expectations around commitment and stability. This sense was perceived to have been helped by the rituals which could surround the ceremony and its aftermath. Acts such as deciding what to wear, sending round photographs of the event and sending congratulations and anniversary cards were felt to have drawn the family into the event and given them and established and well-understood frame of reference within which to operate, and to place the relationship. Whilst attitudes to this development were usually positive, others felt more mixed, particularly where they had not wanted their civil partnership to be viewed as a means of aping heterosexual family structures.

Linked to this, there was a feeling that the civil partnership had given family members a new and acceptable language by which to refer to the relationship both amongst themselves, with the civil partners themselves and when talking to other people. This removal of any conceptual or language difficulties around referring to the relationship was sometimes attributed with leading to greater openness about and acceptance of the relationship amongst family members. In this context people also talked about how they or their family members had either changed the terms they used to refer to their partners or their partner's parents, or used the terms with more comfort; for example, the terms 'mother-in-law', 'son-in-law' or 'daughter-in-law'. This echoes early research following the implementation of the Civil Partnership Act, which also found that same-sex 'marriages' or commitment ceremonies helped to create new forms of kinship with families of origin, with same-sex partners being seen as son-in-laws, sister-in-laws etc, and being put on a 'new footing' with the wider family (Smart, 2005).

> *She [Partner's mum] introduced me to a nurse as 'My daughter-in-law'. And I was gobsmacked,*
> *because it's just not language that she would have ever used. And, and she said it with a big*

smile on her face. And I thought, 'Oh good on you'…And I feel really validated with her. Because I've been [partner's] 'friend' for 17 years, you know? (Jackie, civil partner, 35-49, together over 10 years).

Finally, the fact that civil partnership was known to be recognised and validated by the state was felt to have been important in conferring a sense of legitimacy on the relationship in the eyes of family members. In particular, it was felt that it lent more credence to same-sex relationship and helped to make the relationship seem acceptable and normal.

Social recognition and validation by friends

Perhaps unsurprisingly, impacts amongst friends were felt to have been less significant than amongst family members, the main explanatory factor for this being that friends were already likely to have acknowledged and approved the relationship. However, some spoke about having felt that their civil partnership had acted as a positive affirmation of their relationship to their friends, and a signal that the relationship was not a 'phase' but something that they were committed to for the long-term. Certain heterosexual friends were also felt – like family members – to have been given by civil partnership a frame of reference for the relationship that they had previously lacked. In this context Tom talked about friends to him and his partner after their civil partnership, *'you're a couple now'* in spite of the fact they had been together over 40 years (*Tom, civil partner, 50 plus, together over 10 years*).

Amongst lesbian and gay friends specifically, several said that their civil partnership had been welcomed even by those who did not view it as acceptable for themselves. However, others talked about having experienced some degree of opposition from friends – *'feminist types' (Jackie, civil partner, 35-49, together over 10 years), 'unreconstructed libertarian Tories' (Lionel, civil partner, 50 and over, together over 10 years)* - who were politically opposed to civil partnership on the grounds that they regarded it as an unwelcome and unnecessary attempt by the government to regulate their lives (see also Harding, 2008).

Impact on recognition and validation by wider social circles

In addition to the impact on family and friends, participants sometimes also talked about the impact they felt that civil partnership had had on their reception in wider social circles. Here, there was often a sense – as with family members – that becoming civil partnership had provided people with a means of acknowledging and discussing their relationship; or 'a wonderful opportunity to say hello'. Positive examples in this context were of neighbours and work colleagues attending the ceremony, or sending congratulations cards and of new civil partners receiving a congratulatory bunch of flowers from their children's school.

Negative impacts on those who did not enter civil partnerships?

A number of those who had chosen not to become civil partners or were as yet undecided did not feel that they had experienced any increase in pressure from friends or family members as a result of the civil partnership legislation, or that friends or family viewed their relationship as any less valid or committed. Reasons for this were that family and/ or friends already knew that they were committed or, in some cases, understood that they had good reasons for not embarking on a civil partnership, be they political, financial or personal. Another was that family members were not in any case felt to be 'ready' to deal with a civil partnership (see Chapter 4).

However, there were also a number of non-civil partners who felt that they had come under increased pressure to explain to family or friends why they and their partners were not civil

partners, which echoed previous concerns expressed by LGB people and commentators (Harding, 2008 p. 750; Warner, 1999). This was felt to stem from the feeling amongst family or friends that civil partnership gave extra status and legitimacy to relationships, and was therefore something that they desired for the couple. This was not always the case however, as described in Chapter 4 there were also participants who worried in fact that entering civil partnership status might be received negatively by their families.

6.4.3 Impact of recognition and validation by the state

Chapter 1 described how previous literature has suggested that the new involvement of the state in the shaping of same-sex relationships and family life has raised tensions between the desire for equality, social recognition and social validation, on the one hand, and the desire for self-defined and negotiated commitments on the other (Weeks et al., 2001; Weeks, 2008 p. 788). This section describes how the impact of civil partnership on feelings around state recognition and validation were diverse.

Where impacts were felt to have resulted from the fact that civil partnerships were now legally recognised and validated by the state, these were varied and sometimes unanticipated. One was having gained a strong sense of legitimacy in society now that they were legally recognised, with implications such as a greater sense of 'belonging' and feeling 'more grown up' in their relationship with society and in the way that they viewed themselves. There was also a strong sense in some quarters that being formally acknowledged by the government was a way of conferring 'normality' on same-sex couples and increasing tolerance towards them in society (the perceived effects of this conferral of normality on society's attitudes towards same-sex couples are discussed in 6.5, below).

> *It feels that we're acknowledged at the very highest level of government and… in the most sophisticated way that a society can acknowledge you. And that's… I think that's good. It's very good for tolerance, I think it's very good for equality, I think it's very good for society at large for those things to be the case (Lionel, civil partner, 50 plus, together over 10 years).*

Related to this was a sense of having achieved a greater sense of validation that the relationship was official and legal, rather than something unusual, unacceptable or, as Heather put it, *'a kind of perversion'* (*Heather, civil partner, 25-34, together 6-10 years*).

In some cases, it was evident that achieving this sense of belonging and legitimacy had been part of the decision-making process around whether to become civil partners, as discussed in Chapter 4. A prime example here was Roberta, who said that they had always wanted to be a given a sanctioned legal name that gave them recognition and transparency in society (*Roberta, civil partner, 35-49, together over 10 years*). However, there were also instances where the sense of security and validation gained from the state recognition of had not been a reason for having a civil partnership, but a slightly surprising after-effect. This was particularly the case where, as with Gill below, pleasure had previously been taken in forming and defining a relationship outside of the confines of state protection and definition.

> *I think I feel both ways about it [government recognition and validation]. I think given our circumstances I'm quite pleased that we are recognised as a couple. I think the state validation is useful for us…If we were younger I don't know I would feel that way. I think over the years I felt a kind of freedom that we were making it up as we went along (Gill, civil partner, 50 plus, together over 10 years).*

A number of chosen non-civil partners felt that the existence of state sanctioning for same-sex relationships had only helped reinforced their preference for a relationship that existed outside of these confines. However, this could sometimes be accompanied by concern that their relationship - by being thrown into contrast with civil partnerships - was viewed as somehow less valid by society and the state, supporting concerns previously articulated by commentators (e.g. Donovan, 2004; Robinson, 2005; Rothblum, 2005; Weeks, 2007 p. 192)   This sense of being made to feel that their commitment was being devalued could be particularly resented by those who had worked hard over the years, as they saw it, to define and establish their relationships.

> *We've made our…relationship work without that and despite that. And so kind of now I feel like, 'Well, actually, I don't, why do I need public validation of something that actually we've made work and that I know that is, is perfectly fine'? So it's kind of, somehow there's an implication that without that the relationship isn't quite valid (Frank, undecided about civil partnership, 35-49, together over 10 years).*

6.5   Impact of civil partnership on experiences of discrimination

6.5.1 Positive impacts on discrimination

In a number of areas, the civil partnership legislation was felt to have reduced, or have the potential to reduce, discrimination against same-sex couples in society. The first obvious way that this had happened was in relation to access to rights and responsibilities; as described above, participants were usually positive about the fact that lesbian and gay couples were no longer discriminated against in relation to pension rights, inheritance rights, access to parental responsibility, next of kin rights and access to other employment benefits and lack of social recognition of the relationship.

There was also a strong sense amongst some civil partners and non-civil partners that the civil partnership legislation had de-legitimised discrimination against lesbian and gay couples from services through its public signalling that gay and lesbian relationships were normal and acceptable. Specifically, people talked about feeling that discrimination was no longer acceptable as a result of the legislation for discriminatory opinions or actions against same-sex to be expressed by service providers; moreover there was a feeling of added security in having legal protection against such discrimination[20]. Jackie, for example said that she felt that if she experienced discrimination, she would have more '*recourse*' to do something about it (*Jackie, civil partner, 35-49, together over 10 years*).

There was also a sense that discrimination was much less likely to occur as a result of these changes, and some – again both civil partners and non-civil partners - talked specifically about being more optimistic about their reception by members of the public and service providers than they had been in the past.

> *If gay people are protected by the law…it has to have an impact on [people] at some point. They have to go, 'Well the law says it's okay. The law says it's wrong to discriminate against someone because cause of their sexuality'. There will always be prejudiced people, you can't get rid of prejudice…But if you know the law's on your side it gives you a lot more confidence to think about yourself and your identity. It's not alright for people to discriminate against you (John, rejected civil partnership, 50 plus, together 6-10 years).*

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20 Technically in some of the instances cited the added protection actually stemmed from the Equality Avt (Sexual Orientation) Regulations (2007) (discussed in section 1.1.2), not from the Civil Partnership Act.

In relation to these areas, several examples were provided of how discrimination experienced in the past would no longer be acceptable, and would no longer be likely to occur. These included negative treatment from the police, the refusal of double rooms in a hotel, refusal of medical staff to acknowledge a same-sex partner, and an inappropriate and misguided diagnosis of AIDS by a hospital doctor[21]. Indeed, some specifically talked about having received recent positive treatment in these settings.

Examples were given too of how greater formal recognition would now be available to same-sex couples through the legislation that had not been available before. One pertinent example in this context would be the ability to name a partner as a 'civil partner' in the next Census, conferring added recognition and legitimacy to relationships that had previously gone undefined and unrecorded.

An important knock-on affect of these changes was a feeling – again both amongst some civil partners and non-civil partners – that they were now more greatly predisposed to stand up to discrimination, and to assert their rights, than they had been in the past. They attributed this to their greater sense of security as a same-sex couple as a result of the legislation, coupled with the enhanced sense of public legitimacy and legal back-up against negative treatment. For example, Esther talked about how becoming a civil partner had given her long-term partner a new confidence to ask for time off to care for Esther when she was ill; something she had previously been nervous about doing (*Esther, civil partner, 50 plus, together over 10 years*). Being open with service providers about the status of the relationship was another example.

Limited impacts on discrimination

Where the civil partnership legislation was felt to have had more limited or mixed impacts on discrimination, this was for several reasons.

In some cases the legislation was felt to have had a limited impact because no discrimination had been perceived to have been experienced. This tended to be the case for participants – both civil partners and non-civil partners - who had been comfortably out for the some time, never experienced discrimination from family or service providers, who lived in what they deemed 'gay-friendly' areas, and who had progressive employers who recognised the rights of same-sex couples to survivor pension rights and other workplace benefits prior to the civil partnership legislation (see also Chapter 7, which discusses the impact of the Employment Equality Regulations). This was also the case for those who said they had previously established shared rights and responsibilities; for example through joint home ownerships, power of attorney and through drafting wills to the benefit of their partner.

Less positively, there were also instances where difficulties in acknowledging same-sex relationships at best and discrimination at worst had continued to occur subsequent to participants becoming civil partners. In relation to acknowledgement, problems experienced included: lack of space to include civil partners on Criminal Records Bureau, student loan and insurance forms; the civil partner not being allowed to attend their children's room at hospital; and being refused permission to register a civil partner at a doctor's surgery. With regard to discrimination or harassment specifically, examples post legislation were of being refused a table at a restaurant, and of work colleagues treating civil partnership in a disrespectful and mocking way. More generally, there was a feeling in some quarters that it still remained acceptable for religious bodies to express hostility to same-sex couples, particularly in the context of the refusal to allow religious

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21 Once again, these technically result from the goods and services provisions of the Equality Act (Sexual Orientation) Regulations (2007) rather than the Civil Partnership Act.

elements to civil partnership ceremonies, opposition to same-sex adopting amongst Catholic adoption agencies, and in the religious exemptions clauses of the Employment Equality Regulations.

More generally, there was a sense that some forms of discriminatory behaviour – particularly negativity and name-calling on the part of the general public – were unlikely to change as a result of the legislation, at least not quickly. In particular, residual hostility was felt by some to remain in relation to same-sex couples showing affection in public. To affect any changes to cultural attitudes, more than legislation was felt to be needed (see discussion in Chapter 9, below).

Finally, those who were negative about the fact that civil partnership continued to be unequal to marriage argued that it would only really impact on discrimination in this respect when it achieved parity to marriage in all respects (see Chapter 3).

Do civil partnerships have the potential to increase discrimination?

Section 6.4.1 above has described how a degree of loss or privacy and control over who to tell about relationships and sexual orientation had been felt as a result of the legislation. In this context, there was some specific feeling that informing certain bodies and service providers of civil partnership status could result in discriminatory attitudes from them that would not have been able to have occurred had the status of the relationship remained undisclosed. In this respect, the legislation was felt by some to have been a 'double edged sword', on the one hand conferring greater legitimacy but on the other opening the couple up, through greater public exposure, to an increase likelihood of hostility. For example, Kath stated:

> *In terms of kind of discrimination from random bodies that you come into contact [with], like banks and estate agents and HR at work and all this kind of stuff, I think it [civil partner] would make us more visible, which might increase the level of ignorance or discrimination that we came across (Kath, undecided about civil partnership, 25-34, together 2-5 years).*

Ofemi went further still and expressed the view that the civil partnership institution had actually provided people with a mechanism by which to express disapprobation of same-sex relationships; she felt, for example, that her doctor's refusal to allow her civil partner to register had given them a *'power trip',* and a concrete way of illustrating their disapproval. As an illustration of the complexity of feelings and experiences, however, she talked about feeling that other service providers had treated her partner with more *'openness and respect'* since they had been civil partners (*Ofemi, civil partner, 25-39, together 2-5 years*).

A further concern in this context was that whilst greater visibility was desirable and beneficial where there was legislative backing, there was a danger that if society's views changed, greater visibility could lead to increased discrimination in the future. This was not felt to be an argument against civil partnership however; merely an illustration of the importance of the legislation continuing to be supported and put into practice in the future. Such issues of discrimination may also be addressed through the introduction of the Equality Act (Sexual Orientation) Regulations (2007) - that were introduced during this research - that prohibit discrimination in the provision of goods, services and the exercise of public functions (DCLG, 2007). Further research will be needed, however, to confirm whether this is the case.

6.6   Impact of civil partnership legislation on views about attitudes towards gay and lesbian people in society more widely

It was hoped that one of the results of the Civil Partnership Act – alongside the EERs and the Adoption and Children Act – would be to produce a shift in social-cultural attitudes to lesbian, gay and bisexual people and to same-sex relationships (Women and Equality Unit, 2006c). At the same time, commentary has already begun to suggest that social recognition of same-sex relationships will produce greater social acceptance of these relationships (King and Bartlett, 2006; Weeks, 2007).

In this sample, there were differences of nuance between participants around whether the civil partnership legislation itself – whilst indubitably part of wider changes - was significant in bringing about changes to lesbian and gay people in society, versus whether the civil partnership legislation had ridden on the back of other more significant changes and was more of an indicator than trigger of attitudinal changes. A number of other factors were also talked about as having brought about positive changes in attitudes towards gay and lesbian couples, notably: the work over the years of campaigning organisations such as *Stonewall* and *Outrage!*; the higher profile accorded to the LGB community following the onset of AIDS; greater prominence of lesbian and gay people in the media and in soap opera plots; government ministers having been open about their sexual orientation; breakdown of more traditional concepts of marriage in the 1960s and 1970s; the rise of individual consumerism; decriminalisation; the lowering of the age of consent; and the removal of Section 28 of the Local Government Act (1988)[22]. There was also a feeling in some quarters that other changes also needed to occur in order for real attitudinal changes to be brought about – these are discussed in Chapter 9, below.

There were differences too about the extent to which the civil partnership legislation was felt to have been able to impact on societal attitudes. Those who felt most negatively about this argued that it was not possible to legislate against attitudes and that perhaps the legislation was only really likely to have changed the views of those who felt more positively towards same-sex couples in the first place. Others felt differently and expressed the view that whilst legislation could not in itself change attitudes, it could act as a significant 'signpost' to society about how they should think and behave and could be responsible in this respect for changing attitudes over time. As Matt articulated this, *'it's important to legislate so that society listens'* (*Matt, civil partner, 35-49, together over 10 years*).

Where the legislation was attributed with having played a role in affecting attitudes towards lesbian and gay people in society, this was in three main ways. First, there was a strong sense that the legislation - alongside other changes described above - had played a role in normalising lesbian and gay couples in society's eyes. Specifically, there was a feeling that through their ability to enter legally protected long-term partnerships – alongside the publicity given to this in the media - lesbian and gay people were increasingly no longer viewed as unusual, but as normal people getting on with normal lives, 'ordinary and dull'*.*

A knock-on effect of this perceived normalisation and legitimacy for some was also a sense that being lesbian or gay no longer needed to be a defining factor in the way that the couple identified themselves to other people. Instead, they were simply able to say that they had a 'civil partner' and move on to other areas of discussion; a liberating and 'empowering' development for some.

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22 The Local Government Act (1988) prohibited local authorities to (a) 'intentionally promote homosexuality or publish material with the intention of promoting homosexuality'; (b) 'promote the teaching in any maintained school of the acceptability of homosexuality as a protected family relationship'. The act was repealed in Scotland in 2000 and in England and Wales in 2003.

You know we always had this great thing that if you're gay, you shouldn't be determined by your sexuality. It's much more important that you believe in this, that you believe in that, that you do this kind of work, that you've written this.. you know, the mass of things that make you an individual rather than that you're gay which kind of sits of top of you like a…great big sort of weight and sometimes seems to obliterate your individuality…Having the civil partner is a way of avoiding that because you say well I am simply partnered, I have a husband we had a wedding, a marriage, ceremony so you know therefore that I'm gay and in a relationship…I'm not that thing which you either associate with a lot of…campery or a lot of kind of clubbing and endless partners or HIV or…You say, 'Well I'm a civil partner and I'm with this person you know'…and people don't sort of maybe do that gay thing if you see what I mean (Lionel, civil partner, 50 plus, together over 10 years).

Secondly, related to the first impact, there was a feeling that accompanying the normalisation of same-sex was an increasing openness and knowledge about the existence and role of same-sex couples in society. This in turn was felt to be a development that was helping to dispel what were seen as harmful or inaccurate stereotypes such as that gay people were *'incredibly promiscuous'* or *'hairdressers and dizzy queens' (Iain, civil partner, 50 and over, together 6-10 years).* Instead, people were felt to be becoming gradually aware that same-sex couples were diverse and could not all be put into one box.

Finally, there was a sense – as discussed in Section 6.4 above - that through the normalisation and legitimacy conferred on lesbian and gay couples by the legislation and the increased legal protection it bestowed, it had become much less acceptable to express homophobic views than it had been in the past.

Significantly, these benefits were not solely described by those who had become civil partners, but also by some of those who were unsure or even who were firmly against becoming civil partners for either personal or political reasons; evidence again that the legislation had important positive repercussions even outside of the community who had specifically 'bought into' it.

7 Experiences and impact of the Employment Equality (SO) Regulations

Chapter 3 has described knowledge about and attitudes towards the Employment Equality (SO) Regulations (referred to in the main text as EERs). This chapter now looks at perceptions of discrimination and being out in the workplace and the extent to which the EERs impacted on these areas. It then goes on to look at impacts participants felt the EERs had had on their entitlements at work and feelings of security. Finally, the chapter looks at the extent to which employers and Trades Unions were perceived to have responded to the EERs and views about the adequacy of this response.

7.1 Summary of main findings relating to impact of EERs

Table 7.1 below provides a map of the main findings relating to the impact of the EERs – discussed in more detail in the remainder of the chapter.

Table 7.1 – Impact of the EERs

Impact of EERs on…	Some impact because…	Limited impact because…
Addressing perceived harassment/ discrimination (post implementation)		Issue resolved with line manager Concern that taking action would cause stress and result in media intrusion Harassment not significant enough to merit action Concerns that it would be difficult to prove lack of progression had been down to sexual orientation
Feelings of security and confidence at work	Feel 'better protected' at work because of legislative back-up	Already comfortable at work - other lesbian/ gay employees - progressive employment policies - OR without such policies, employers informally accommodating Reservations about using EERs… - anticipated emotional/ financial impacts - negative impact on career - having to use was a sign that employer poor – better off just moving on - only really appropriate for 'blatant'/ 'extreme' situations
Access to rights	Benefiting from organisational policy changes attributed to EERs – e.g 'paternity' leave, time off to care for partner, access to benefits packages	Comprehensive package of rights available prior to EERs
Being 'out' at work	Legislative backing against sexual orientation discrimination in workplace means might be more likely than before to be open with colleagues from outset about sexuality	Already comfortable being 'out' at work… - comfortable working environment (see above) - feel protected by seniority of rank - open personality Still choose to be out on discretionary basis only… - personal choice - fear of people forming early, stereotypical judgements

7.2 Experiences of discrimination at work before and after the EERs

Participants worked for a large range of employers, including large public sector employers (NHS, Local Education Authorities, Local Authorities, government departments, social services, police) the charitable and voluntary sectors, small to medium sized private sector employers, the transport sector, and academia. There were also the self-employed, working in diverse fields such as acting, theatre directing, recruitment, marketing, publishing, editing, writing and graphic and web design. The sample purposively included people on different types of benefits, so a number were not in work, either because they had retired or were off due to ill health. Some of these were doing voluntary work, for example for Trades Unions, the health sector, the Citizens Advice Bureau (CAB) or LGBT charities.

There were a number who had switched jobs or careers at some point, or had changed from being employed to self-employed. Whilst in some cases such change had been unrelated to their sexual orientation, there were other instances (described below) where negative experiences in previous jobs in relation to sexual orientation had been one or the main factor in participants' change of type of employment.

7.2.1 Perceptions of discrimination

One set of participants said that they had never experienced any discrimination in employment. There were several explanations for this. Some said that they were working in sectors which attracted a large number of gay and/ or lesbian employees, which meant that they were protected from discrimination, even though, arguably, this restricted their employment opportunities. Examples of these sectors included the HIV sector, acting, theatre directing, and male nursing. Progressive employment policies on the part of employers were attributed with producing comfortable and accepting work environments for gay or lesbian employees. Often these were formal policies which had been in place before the EERs, such as same-sex partners being accorded the same pension rights as heterosexual partners and being recognised as next of kin. There were also instances where people said that their employers had informally been accommodating even if official policy did not exist; for example allowing them compassionate leave when their partners were ill, or in one case when the employee was suffering from stress as a result of a 'rough patch' in a relationship. Whilst the employers attributed with positive policies and actions were often larger public sector bodies this was not universally the case, and some smaller to medium sized private organisations were also said to have had positive and progressive policies in place.

> Keith, 42, works in a medium sized private sector organisation, and has been there for eight years. He is aware that the organisation has two gay heads of department, and he regards them as *'forward thinking'* in their recognition of same-sex couples. They have always recognised his partner as his next of kin, as he has had no trouble organising health insurance to cover both of them (*Keith, undecided about civil partnership, 35-49, together 2-5 years*).
>
> Gavin, 38, works for a large public sector organisation, and feels that the equal opportunities policies they already had in place went beyond what the legislation required of them. For example his partner was already recognised as his next of kin, and he was able to nominate his partner as the person his money would go to in the event of death in service. His partner also receives his survivor pension in the event of his death (*Gavin, undecided about civil partnership, 35-49, together 6-10 years*).

The extent to which these participants felt they had taken active control of their working environment to ensure that they did not experience discrimination varied. In some cases the impression was given that the lack of discrimination was not due to any deliberative action on their part, but more to the fact that they had been 'lucky' by their choice of careers to end up working in sectors or with employers that were liberal, progressive and non-discriminatory.

However, others said that choosing what they termed a *'gay-friendly'* environment had been an active consideration for them, either when moving into their first line of employment, or when changing careers following less happy experiences (see also Colgan, 2006). Frank, for example, described how they had deliberately chosen to work in the HIV sector following their Masters degree out of a perception that he would be more comfortable there than in a private sector environment where people would be *'predominantly straight and predominantly men' (Frank, undecided about civil partnership, 35-49, together over 10 years).* This strategy was also adopted by other participants who told of how they had looked for *'comfortable'* working environments following what they perceived to be discrimination in a different firm and line of wor*k.).*

There were also participants who said that they had experienced what they had perceived to be unfair treatment at work on the grounds of their sexual orientation, either in their current or previous jobs. In a small number of instances (treated separately in the next section), the perceived unfair treatment had occurred after the new EERs had come into force. In all of the others, the perceived discrimination had occurred before the EERs were in place. Six types of discrimination were mentioned and in some cases, participants had experienced more than one of these either concurrently or at separate times in their careers. They echo strongly experiences of discrimination amongst LGB employees set out in earlier research, both before and following the implementation of the EERs (Palmer, 1993; Robinson and Williams, 2003; Denvir et al., 2007; Colgan et al, 2006; Guasp and Belfour, 2008):

The first was perceived **harassment at work on the grounds of their sexual orientation**. In some cases the harassment was felt to have been serious, involving for example persistent negative comments and actions such as hostile notes or objects left in lockers or, in one case, the constant challenge of a female employee by her male manager over her sexual orientation. Another manifestation was an employee being forbidden by their employer to disclose their sexual orientation, out of a fear that their largely Christian funding body would be offended. There were also cases where the harassment was perceived to have been more low level, and was described as taking the form of 'negative comments' by certain colleagues either in relation to them personally, or gay and lesbian people in general. For example, Adam had been aware of several colleagues describing his civil partnership ceremony as '*wrong*' and saying that they *'could not believe they were doing that' (Adam, civil partner, 35-49, together 2-5 years).*

The second type of unfair treatment that was perceived to have occurred was **discrimination in an organisation's recruitment process as a result of the applicant's sexual orientation,** specifically where participants felt that they had not been offered posts that they were otherwise well qualified for as a result of disclosure of their sexual orientation. These posts included teaching, a legal role, and accountancy and administrative roles in smaller organisations. In none of these cases did the applicant have concrete evidence that their sexual orientation was the reason why they had been turned down, although in some instances specific questions had been asked which had caused them discomfort; for example, Andrew recalled being asked if he was married with a family or was planning to get married and recalls the interview being *'taken aback'* when he said no *(Andrew, does not want to be a civil partner, 35-49, together over 10 years).* Similarly, Gerry felt he had met the criteria but had then been *'turned down flat'* when asked about his sexual orientation *(Gerry, civil partner, 50 and over, together over 10 years).*

Another type of perceived discrimination was around **career progression**. In the cases of two participants there was a specific belief that their chosen professions - teaching and journalism - had had 'glass ceilings' for gay people in the 1980s and 1990s. They felt that they had as a result been prevented from reaching the highest posts. More recently, Nancy, a senior public sector manager felt that she had failed to progress through her organisation's promotions board to the next level on account of her sexual orientation. They felt this difficult to prove decisively, however, having been told that her *'manner'* had let her down *(Nancy, undecided about whether to be a civil partner, 35-49, together over 10 years)*.

A further experience was the feeling of having been **unfairly dismissed** as a result of sexual orientation. One former public sector employee described how they and two fellow lesbian employees had all been sacked at the same time for what had seemed like a spurious reason. Another described how they had been dismissed following a false allegation, which they felt had really stemmed from discovery of their sexual orientation. In another case, an employee's contract had not been renewed following what they had perceived to be a long run of anti-gay comments in their department.

> Walter held an administrative post in an academic environment. He feels there was *'plenty of homophobia'* in the department, for example he was teased about wanting to set up a gay and lesbian group, and had to put up with colleagues making negative remarks about gay and lesbian people. He feels that being a gay man was a significant contributing factor to why his contract was not renewed, although he did not feel that it would be easy to prove that this had been the case (*Walter, undecided about civil partnership, 50 plus, together over 10 years*).

A further category of perceived unfair treatment was where employer's **policies** had been felt to be discriminatory. In one case, Norman, a local authority employee had been told by his pension administrator that there was *'no chance'* of his partner gaining rights to his pension after his death *(Norman, civil partner, 50 and over, together over 10 years)*. In another an NHS employee described how they had been refused paternity leave because they did not live under the same roof as the mother of the child (he was in a gay relationship); although in this instance the policy had been successfully challenged.

Finally, there were instances where participants had not experienced direct harassment or discrimination, but felt that they were working, or had worked, in **cultures** where it could feel uneasy to be gay or lesbian. This applied in particular to cultures where negative comments about lesbian and gay people were felt to be socially acceptable. One Local Authority employee, for example, said that they were aware of a strong undercurrent of hostility to gay and lesbian people within the organisation, manifested by Registrars refusing to perform same-sex marriages and staff preventing same-sex education materials going to schools.

7.2.2 Responses to discrimination after the EERs

There were four instances where perceived negative or unfair treatment on the grounds of sexual orientation occurred after the EERs had come into effect. Because the number was so small, these are treated individually in this section. Further research with a larger sample of such people would be needed to explore whether these experiences were typical.

Three of these were harassment cases, where the employee had experienced negative actions or comments by employees in relation to their sexual orientation. In the first case, the participant had talked about the problem to his manager, and felt that it had been resolved. In the second, the

participant had made an internal complaint but when nothing had happened they had not taken it further out of a feeling that it would be 'more trouble than it was worth' and a fear that there would be an unwanted 'media invasion'. Neither of these employees had been aware of what the EERs entailed.

> Jack works for a large public sector organisation. He thinks he is the only gay person in his local department. He has had pink wrist bands and gay magazines left in his locker. Recently he approached his boss about what has been happening, and it has not happened since. He assumes that his boss spoke to staff, and told them that such actions were unacceptable (*Jack, undecided about civil partnership, under 25, together 2-5 years*).

In the third case, Vic was aware of the EERs but felt that the comments made had been too small to justify using them. The feeling was that the EERs were only really worth invoking in cases of *'blatant discrimination (Vic, civil partner, 50 and over, together over 10 years).*

In the final case, the employee was well aware of the details of the EERs. Following a failure to get through their organisation's promotions board, they had requested an internal investigation, out of the belief that their sexual orientation had been a barrier to promotion. After what they had regarded as an unsatisfactory outcome they had decided not to take the case to an Employment Tribunal, for two main reasons. The first was a feeling that it would be very difficult for them to prove that their failure to progress had been due to their sexual orientation. The second was their feeling that taking the case to an Employment Tribunal could leave them feeling *'disengaged'*, *'disenfranchised'* or *marginalised,* and that any success they achieved would be at the expense of that. Participants were also critical of what they saw as the EER's placing the burden of proof on the employee, and some said that they did not feel better protected as a result of the EERs than before.

7.2.3 Responses to discrimination before the EERs

In all of the other instances, the perceived discrimination had occurred before the EERs were in place, and responses are described below.

Where action against what was perceived to have been unfair treatment on the grounds of sexual orientation had been taken, this took the form of invoking the organisation's complaints procedure, or taking the issue to their manager or their union. In some of these cases, the action had been successful and the colleagues in question had been strongly reprimanded. In others, there had either been no reaction or action, or even a negative response from employers as in the case example below.

> Darren feels that he experienced regular discrimination in his former job, which was in transport. He had negative notes left on the windscreen of his car and in his locker, and had a colleague refuse to sit next to him and say, *'I don't want to get AIDS'.* He let a few incidents go, but then it got a bit *'frightening'* so he went to his line manager. The manager said it was to be expected, and if he wanted to live a life like that he had to accept it. Darren left soon after, because the job was affecting his health. He now feels that leaving was the best thing he ever did (*Darren, undecided about civil partnership, 35-49, together over 10 years*).

Another type of response to perceived discrimination had been to move to a different employer or area of employment. This echoes previous recent research (Colgan, 2006). However, whilst Colgan's research found that the decision to leave an employer could reduce employment and wider life opportunities, this research suggests that it can also have the potential to improve

people's opportunities and job satisfaction. This was particularly the case where employees (usually the more highly qualified) were able to exercise a degree of control over their next employment move, for example by moving to an area of employment which they knew would provide a more comfortable working environment for them. Indicators of this were knowing that there were other gay employees there, and knowing that the organisation they were moving to had progressive Equal Opportunities polces, and, in some cases, LGBT forums.

> Andrew, 48, remembers being asked in the mid 1980s at a job interview if he had a family or was getting married. He did not feel able to be out in this area of work because he did not feel gay people were accepted. He later moved into a different line of employment where he felt he was likely to meet with more tolerance - his employer was friends with a friend of his who was also gay. It is difficult for him to imagine being discriminated against at work now, because he runs his own business (*Andrew, rejected civil partnership, 35-49, together over 10 years*).

In cases where no action had been taken, a range of different reasons were given for this. One had been the understanding that at the time, there had been no legal redress for victims of harassment or discrimination on the grounds of sexual orientation. Consequently, participants had felt that any challenge they made could easily be quashed. A related reason was the perception that discrimination on the grounds of sexual orientation would have been extremely difficult to prove. Those who perceived themselves to have been dismissed unfairly, for example, felt that it would have been relatively easy for their employer to stick to a different story of why they had been dismissed, and conversely difficult for them to show that this story was erroneous. These views are supported in previous research by Denvir et al. (2007) which showed that the performance of LGB employees was often called into question in the context of complaints of sexual orientation discrimination.

A further reason was related to personal disposition or personal circumstances at the time. One participant, for example, said that they had not challenged the harassment of their employer because they had felt unsupported at the time by their partner and family. As a result they had lacked the will for a confrontation. Others also talked about having personalities which meant they preferred to avoid confrontation.

Attitudes towards a job could also affect people's willingness to challenge perceived discrimination. Where people had felt uncommitted to their employment, there could be a feeling that they would in any case be better off looking for a job where they felt happier and more comfortable. Conversely though, there were also instances where employees failed to challenge what they felt could be classed as discrimination or harassment because they were otherwise happy in their jobs. This was particularly the case where the harassment was perceived to have been relatively minor, and came from colleagues who were not perceived to have the power to influence the employee's progression at work, for example someone in a different department.

Others spoke about having remained in their roles because of a lack of obvious alternatives to them at the time, or out of a more passive perception resulting from life circumstances and personal disposition at the time that this was 'how things were', and they had to put up with it. A further reason for remaining in post was that people did not want to let the people doing the harassing 'feel that they had won'.

7.3   Experiences of being 'out' at work and impact of EERs on this area

7.3.1 'Out' at work?

The extent to which participants were 'out' at work varied. Whilst some said that they were open to everyone at work about their sexual orientation, others said that they only disclosed it on a discretionary basis. There was only one instance where a participant had not told anyone at work about their sexual orientation. A number of factors explained people's willingness to be 'out', described below.

There was unsurprisingly a strong relationship between being 'out' at work and working in what were perceived to be 'gay-friendly' environments. Characteristics of such environments were felt to include having other openly gay people within the organisation, liberal and progressive cultures, and forward-looking Equal Opportunities policies. In this respect, it was notable that that there were several instances where organisations had given same-sex couples equal status to heterosexual couples in terms of benefits some time before the EERs came into play.

There were a number of other reasons too for people being 'out' at work, some of which applied to people who worked in less overtly 'gay-friendly' environments, as well as those who were in such environments. One of these was seniority of rank, which felt in some cases to act as a protecting shield against discrimination, giving the employee influence over employment practices and culture. Personality was another, with some people describing themselves as very open, or jokingly as 'thick skinned'. Related to this, there was often an association between people being 'out' at work and in their private lives, including instances where people had chosen to come 'out' to family and work colleagues simultaneously. A further reason for coming 'out' at work could be negative past experiences of not disclosing sexual orientation. There were two cases, for example, of people having suffered from ill health due to stress as a result of not disclosing their sexual orientation in the past, and deciding that in future they would work in environments where they felt able to be open.

In the case of people who were 'out' on a more discretionary basis, this was sometimes down to personality, with people saying for example that they only liked to discuss their private life with people that they had already built up personal relationships with. It could also be due to the nature of people's employment; the self-employed, for example, seemed particularly likely to adopt a discretionary approach, believing that it was not necessary or relevant for clients they had little day to day contact with to know about their sexual orientation.

> *I run my own business, I have a lot of clients, a lot of people out there and it [sexuality] is just not relevant really to some people…I will never be one of these people who feels that everyone has a right to know about what I'm up to (Jill, civil partner, 35-49, together over 10 years).*

There were cases too where a discretionary approach stemmed from fear of discrimination, echoing previous research which has also shown repeatedly that a significant proportion of LGB employees fear discrimination and harassment if they are open about their sexual orientation at work (for example Frost, 2006). These participants said that they would only disclose their sexual orientation in the workplace once they felt that they had either 'proved' themselves, or had a chance to 'suss out' how tolerant colleagues were likely to be. A particular concern was that disclosing sexual orientation before colleagues had got to know them and their abilities could result in stereotypical judgements about them being formed about them - 'a dyke with opinions', 'he's the new queer advisor, so he will be useless'. Unsurprisingly, those who adopted this stance tended to have experienced some form of discrimination in the past.

> Roberta was told in a previous job not to disclose her sexual orientation, out of fear that her organisation's main funding body might react negatively. Lying about her sexual orientation was stressful and impacted on her health. She is currently self employed, but feels that if she went back to full time employment again she would never *'go back in the closet'* because of the impact it had on her. However, she would prefer people got to know her and that she had a chance to prove she was good at her job first - she would then *'slip her background'* in later. She would never disclose her sexual orientation on a monitoring form, as she feels that people make assumptions about *'bolshie dykes'* (*Roberta, civil partner, 35-49, together over 10 years*).

Finally, Antony who was employed within a particular Christian religious role, adopted a discretionary approach to disclosure. This was felt to be a necessary consequence of his church's official stance towards lesbian and gay people working within his religion, which was to permit same-sex relationships provided they were not sexual *(Antony, intended civil partner, 35-49, together over 10 years)*.

Colin, who had not disclosed his sexual orientation at all, said his main reason was that one of the voluntary organisations he worked for treated gay clients *'quite badly'*. This participant was also not uniformly 'out' in his private life, suggesting again a link between openness at home and openness at work *(Colin, does not want to become a civil partner, under 35, together 2-5 years)*. There were cases though of people who were currently not working, or in new lines of employment, who said that they had not been 'out' in the past. They felt that their previous working environments had not been particularly comfortable for gay employees either because of their social make-up - white, middle class, married, middle aged men - or, in one case, because the employee had specifically been told not to disclose their sexual orientation for fear of offending the organisation's funding body. As a result, they had felt that lack of disclosure was a way of avoiding discrimination.

7.3.2 Impact of the EERs on being 'out' at work

Usually, the EERs were not felt to have made very much difference to being 'out' at work. This was either because people already felt comfortable being 'out' at work, or because they were determined for other reasons to be 'out' (see above). Positively though, there were also cases where participants who had expressed reservations about coming 'out' before they had had a chance to get to know colleagues (7.2.1 above) felt that in the future feel more comfortable about being open from the outset. They said that they felt better protected as a result of the recent package of legislation - including the EERS - from experiencing judgemental and negative remarks and treatment as a result of their sexual orientation.

> *I think probably if I do secure further employment…I will certainly have more confidence in just saying [I'm gay]…I don't think I would have problem in declaring it. After all it's been hard fought for and won, so why not declare it? (Gerry, civil partner, 50 plus, together over 10 years).*

7.4 Personal impacts of the Employment Equality (SO) Regulations, and likelihood of use

Sections 7.2 and 7.3 have looked at the impact of the EERs on people's responses to discrimination and being 'out' at work specifically. The following section now describes participants' views about the impact the EERs had on their entitlements at work and on their feelings of security at work.

7.4.1 Positive personal impacts

The EERs were felt to have had some positive personal impacts. The first type of impact in this respect was practical; several said that they had been the beneficiaries of organisational policy changes that they perceived to have occurred as a direct result of the EERs. These included a partner being granted 'paternity leave' to spend time with her new family, an employee being permitted time off to care for their ill partner, and a government department adapting their pension policy, to the benefit of the employee, so that survivor pension rights were granted to all same-sex partners nominated, and not just those in a civil partnership.

More generally, using the EERs to ensure due access to equal rights, such as pension rights or parental leave was generally regarded as non-contentious, and for this reason participants usually thought that they would be likely to employ them in this context if necessary – although they did not usually anticipate that they would need to take any action beyond reminding employers of their legal rights in this respect.

There were also participants who envisaged using the EERs in response to discrimination or harassment cases in the workplace and said that they felt 'better protected' either at work, or in applying for work, as a result of the EERs or having greater 'security' or 'peace of mind' in their jobs. What seemed to bring peace of mind in particular was the understanding that if there was a real and valid case to fight, there was legislation, and help available, to back them up (also found by Colgan, 2007). In some instances, participants specifically contrasted the positive situation now to their situation in the past, where they had felt what one person described as a 'real vulnerability'.

> *[Before] I would have had to gone down the line of a grievance and that would have been about being insulted but there would have been no legal kind of backup with it. Whereas now I go in and say you do know there is legislation behind this, you can't discriminate or say things like that, it's actually against the law, you know. Before it was just an insult, now it's law. So it makes me more confident (Darren, intended civil partner, 35-49, together over 10 years).*

Some of those who envisaged using the EERs in harassment and discrimination cases if necessary were quite bullish in relation to this area, describing themselves as 'thick skinned' people who would relish a fight if there was one to be had. Often the participants who expressed this view worked in what they regarded as tolerant environments however, and as a result did not really anticipate having to use the EERs; this perhaps was what permitted their lack of reservation and caution. There were also instances where people's professed likelihood of using the EERs in the future stemmed from experiences of discrimination in the past; there was a strong sense here that the EERs permitted them to stand up for themselves in a way that they could not have done previously, and therefore go some way towards putting right past wrongs . This seemed to be a largely emotional or political response, as opposed to a response based on considered awareness of what taking action would actually practically involve. These participants also tended to be those more inclined towards taking action for other personal reasons. In particular they talked about having become more confident about standing up for their rights as they got older.

> *I do my job well, I work hard, I've been very committed to my job, and if out of the blue they came up with some excuse to get rid of me that just didn't stack up, I would definitely fight that corner. And also I've got older I've got more fight in me. I think as you mature you stand up for your rights and you stand up for what you believe in a lot more than when you're younger (Barbara, civil partner, 35-49, together 6-10 years).*

7.4.2 Limited personal impacts

There was also a group who felt that the EERs had not had any personal impacts. For one sub-set, this was for positive reasons, namely that they already felt so well protected by existing workplace policies and so comfortable in their working environments that they did not feel the EERs would make much difference to them (also found by Colgan, 2007). These were people working for employers already perceived to be 'gay-friendly' in terms of culture, attitude and policies (see 7.1.1, above), and usually broadly welcomed the EERs in principle.

Others, however, felt that the EERs had not helped them overcome problems they had experienced in their workplace. A Local Authority employee who felt that there was an undercurrent of homophobia within the organisation felt that if anything the regulations had served to highlight the employer's lack of interest in taking action in this area, particularly when contrasted to its approach to religious belief issues in the workplace (see also 7.4, below). As described in 7.1.2 above, it was also the case that those who had experienced perceived discrimination after the implementation of the legislation felt that it had had little influence on the situation, either because the situation had been resolved internally, because it was not perceived to be have been significant enough to merit action, or out of concern that taking action would be a stressful and ultimately self-defeating course to take.

There were a number too who had no personal experience of the legislation, but harboured strong reservations about their likelihood of ever using it. In particular, there was the perception that taking a case forward could have significant personal and financial impacts, and potentially leave an employee unpopular, marginalised and unhappy at work whether they won or not (this finding echoes earlier research post implementation, et al., 2006; Denvir et al., 2007). This was sometimes coupled with the concern that using them could 'ruin a career', whereby litigants working in certain industries might be branded as 'trouble makers' across the industry. While such concerns are not necessarily restricted to sexual orientation discrimination (Savage, 2007), a further specific concern that aggravated this perception was that while taking such action under the EERs was still relatively unusual a result might be that it would be likely to attract a significant amount of unwanted media coverage. The complainant's sexual orientation could be disclosed in the wider community in a way that would be outside of their control.

In addition to these reasons, there was a feeling that if action was necessary an employee had already *'lost the battle'* because the implication was that they worked in an intolerant or even hostile environment. Far better, these people thought, to look for another job in a more comfortable environment, where the employer was progressive, tolerant and unlikely to need challenging. This was articulated well by Peter, now retired, who said that they would only want to work for an employer that they could *'reason with'*, not one that they had to *'hold the arm of the law over'* *(Peter, civil partner, 35 to 49, together 6-10 years).*

Another response was to feel using the EERs would only be appropriate in certain specific - and usually what were termed 'blatant' or 'extreme' - situations; for example, if it was a highly paid job where there was a lot to lose; if there was a clear source of useful practical and emotional support for the litigant; and if all informal channels for addressing the problem had been exhausted. Working for a larger organisation was also sometimes anticipated to be an easier context in which to use the EERs than in a smaller. Specifically, people envisaged that in a large company or organisation taking action would be somehow less personal an affair than doing so in a smaller one, because the complaint was less likely to be dealt with by a department other than the one directly worked for.

7.5   Reactions of employers to the Employment Equality (SO) Regulations

People who worked in HR or senior management said that they were aware of their employers having reacted to the new EERs by informing senior staff of the changes, or updating organisational manuals. There was no knowledge however, of organisations having done anything to promote awareness of the new EERs to staff in general; this resonates with other recent research which has suggested that some managers have a poor understanding of the issues and are not well-trained in how to handle them (DFID, 2007; Dickens et al., 2009). Those with what they perceived to be progressive employers speculated that perhaps this was because they saw no need to; if they already had forward-looking Equal Opportunities policies and a tolerant culture, the EERs did not significantly affect the working environment. However, the lack of perceived action on the part of employers was not always viewed so positively, especially where people felt their working environments were less overtly tolerant. The concern was that, the less employers did to promote awareness of the legislation, the less confident people would feel about challenging what they perceived as discriminatory behaviour.

In one case, an employee of a Local Authority was explicitly critical of what he regarded as his employer's lack of reaction to the EERs as they affected sexual orientation. Their perception was that whilst the Equality and Diversity Officer had promoted the legislation relating to anti-discrimination in employment on the basis of religion and belief[23], they had deliberately chosen not to promote the sexual orientation regulations to the same degree. This was attributed to hostility on the part of the Officer to the sexual orientation elements of the EERs, thought to derive in part from fear of offending the very vociferous religious belief lobby in the workplace. The perceived result was that the EERs had in advertently made the working environment less comfortable for gay and lesbian employees than it had been before, by shining a light on the employer's poor response in this area.

There was no mention either of Trades Unions having been involved in educating employees about the new legislation, with the exception of a Trades Union worker who said that their Union had been working hard to promote awareness. As a result of the perception that little had been done to promote the new EERs to the workforce, there was no discussion of the way that colleagues had reacted to the legislation; the general assumption here was that most people were probably still unaware that the EERs had come into existence.

Those who were unhappy about what they perceived to be the SO EERs having 'singled out' gay and lesbian employees (Chapter 3, 3.3.2, above) did not mind that little had been done to promote awareness of the EERs in the workplace; their concern was that promotion of the SO EERs could produce a backlash of opinion against gay and lesbian employees by making it look as though they were somehow receiving special treatment. However, there was also a strong strand of feeling that much more needed to be done to promote awareness of the EERs amongst employers and their employees. In particular, it was argued that the SO EERs could only have a successful preventative role if people were aware of what they entailed (see also Chapter 9). This is also suggested by reviews of Employment Tribunal cases; incidents of prejudiced handling of grievances have been taken to indicate the importance of all senior staff receiving comprehensive training on avoidance of homophobia during disciplinary proceedings, and more broadly that all workers are given training on treating LBG workers with respect (Fitzpatrick, 2005). More recent research has also indicated that managers and employers may lack the knowledge and capacity to handle sexual orientation discrimination complaints in the workplace (Dickens, et al., 2009).

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23 The Employment Equality (Relgion or Belief) Regulations, that prohibit discrimination in employment in this area, came into force at the same time as the Employment Equality (Sexual Orientation) Regulations in December 2003.

8 Experiences and impact of the Adoption and Children Act

This chapter looks at participants' awareness of and attitudes towards the Adoption and Children Act. It then sets out the different family structures and outlooks present in the sample, before going on to describe the impact of the Act on people's feelings about adoption, and actual experiences of adoption both before and after the implementation of the Act. The chapter ends by describing people's experiences as same-sex parents more generally, and whether the Act was perceived to have made a difference in this respect.

8.1 Summary of main chapter findings in relation to impact of Adoption and Children Act

Table 8.1 below summarise the perceived impact of the Adoption and Children Act on feelings about adopting, experiences of adopting and experiences of being same-sex parents.

Table 8.1 – Impacts of Adoption and Children Act

Impact of Adoption and Children Act on…	Some positive impact because…	Limited impact or positive impact tempered because…
Feelings about adopting	Opened up possibility (to adopt as couple) that was not there in past Idea of equal responsibility for child enshrined in Act attractive	Do not want children Preference for different family structure … - own biological child through donor insemination - partner gaining parental responsibility over their biological child rather than adoption Adoption perceived to be timely and costly process Cultural attitudes lag behind letter of Act - likelihood of professional prejudice Perception gay and lesbian couples placed with 'difficult' children Children will face prejudice
Experiences of adopting	Those applying after Act talked about… - helpful and supportive professionals - assurance of no differential treatment	Courts/ professionals still lack expertise in this area Gay and lesbian parents still have to work harder to prove parental capability New requirement to sustain relationship with birth parents following adoption might make gay and lesbian adoptions difficult (because of anticipated hostility of birth parents)
Experiences of being same-sex parents	Hard to attribute to Adoption and Children Act specifically (as opposed to Civil Partnership Act/ more general shift in societal attitudes) but… - gay and lesbian parents more accepted and better understood in some circumstances (schools, ante-natal groups, health professionals)	Perception more effort still required to be gay or lesbian parent… - health professionals still sometimes lack knowledge/ sensitivity - needs proactive 'addressing' by same-sex couples – i.e. dialogue with schools, thinking about who to tell - Difficult balance between being open with children on one hand/ ensuring on other that children do not feel too different or too marginalised

8.2   Family structures and outlooks

A wide range of family structures and attitudes towards family were represented in the sample. A large proportion consisted of those without children. Some in this category were explicit that they had never wanted children, either because they did not feel an affinity to children, because they felt that their lifestyles precluded children, or because they felt that they had all the involvement with children that they wanted via relatives (e.g. nieces, nephews, and godchildren). An additional reason for some of these was a feeling that it was not desirable for children to be brought up in families headed by same-sex couples because of social prejudices towards them. Another sub-set of those without children said that they had not ruled out having them in the future, either when they were older, or when they felt that their life circumstances were more suitable in other ways. Finally, there were people who said that whilst their circumstances were not right for children now because of age or lifestyle, they might have considered parenthood in the past had they not felt that there were considerable barriers to same-sex couples and lesbian or gay people having children. They referred to having had a strong sense that it was not the 'done thing', and in some cases having specifically believed that adoption would be a 'battle' that was best avoided*.

Of those with children, a number of different structures were evident. One was where they had either had children from previous heterosexual relationships themselves, or had partners with children from previous heterosexual relationships. In none of these cases did the non-biological parent in the partnership have parental responsibility, primarily because the children were grown up, and the other parent was still involved. Another sub-set consisted of those who had either had children using donor insemination themselves, or whose partners had had children via donor insemination. These were all lesbian parents, with one exception, which was a man who had had a child via donor insemination with a lesbian friend, and who had parental responsibility for that child. In the case of the lesbian partnerships, the partner who was not the biological parent was without exception spoken of as a second parent, although the extent to which this was formalised via parental responsibility varied. In some cases where the other partner did not have parental responsibility this was because it was not deemed necessary – civil partnership status was felt to have accorded the partner the role of 'legal step parent' anyway. In another two cases it was because the partner was either considering or actually applying for parental responsibility for their partner's biological child.

Finally, there were also participants in the sample who were adopting or fostering, or applying to adopt as couples. In one of these cases, the one member of the couple had adopted prior to the Adoption and Children Act, which meant that the other member of the partnership had had to apply to adopt the child after the act.

8.3   Impacts of the Adoption and Children Act

This section describes the impact of the Adoption and Children Act on people's feelings about adoption, experiences of adoption both before and after the Act, and perceptions about being same-sex parents.

8.3.1 Impact of Adoption and Children Act on feelings about adopting

The extent to which the Adoption and Children Act had had an impact on participant's feelings about adopting varied, and was closely related to their family circumstances and broader feelings about having children.

Positive impact on feelings about adopting

One perspective was to feel that the Adoption and Children Act had had positive impacts on feelings towards adopting. Some of those who felt like this were people who said that they might

consider adopting in the future, and who perceived that the Act made adoption more appealing than it had been in the past, because it no longer appeared as though same-sex couples would have to do 'extra' work over heterosexual couples in order to justify their application. They also felt that the right to apply as a couple made adoption much more attractive to them than it had been when one of the partners would effectively have had to remain concealed during the process. One couple who were currently applying to adopt also felt that the Act had had a positive impact on their feelings about applying; they said that whilst there were other personal reasons for their application - for example feeling that they had reached the 'right' point in their relationship - they were also encouraged because they liked the idea of equal responsibility for the child enshrined in the Act. Indeed, this couple felt that adoption was now the route that offered the best option for equal responsibility to gay and lesbian parents.

There were also people who felt that had the Act been in place at an earlier point in their lives, it might have encouraged them to think differently about adoption as opposed to viewing it as a closed door.

> *I guess that because it's never really been an option it's never been worth considering, so… it just kind of…gone to the bottom of the agenda and I've kind of got used to it being there. So I suppose, yeah, if it had always been possible I might, it might well be somewhere else on the agenda because I would've kind of got used to thinking about it differently (Daniel, undecided about civil partnership, 25-34, together 6-10 years).*

Limited or no impact on feelings about adopting

Another perspective was that the Act had only had a limited impact on feelings about adopting, or no real impact at all. Already being certain for strong personal reasons that they did not want children (see Section 8.2, above) was one reason for feeling like this.

Another reason was the feeling that the Act had made little difference to them because of their preference for another family structure over adoption. Those who had had children by donor insemination talked of having had a strong desire to have their own biological child; this feeling was sometimes accompanied by a sense that an adopted child might be less committed to them than their own biological children, and want to find their real parents one day. One parent who had gone down the route of donor insemination also talked about specifically wanting the biological father to be named on the birth certificate (see below). It was also the case that some partnerships where one partner was a biological parent had favoured the route of the other partner gaining parental responsibility by residence order over adoption. This was because it was perceived to be a less arduous and expensive process which offered, as Barbara put it, *'95% the same as adoption' (Barbara, civil partner, 35-49, together 6-10 years).*

> Heather is the biological mother of a baby son. The son was conceived with a known donor, who is named on the birth certificate. Her partner is a *'legal step parent'* to the child; having the child was the reason for their civil partnership. It is important to her that the father of the child is named on the birth certificate, so that the child can know from the start who their father is, rather than find out when they are eighteen. She is aware that having the father on the birth certificate can preclude her partner from adopting the child. Ideally she would like there to be a space on the birth certificate for her partner as well as for the biological father (*Heather, civil partner, 25-34, together 6-10 years*).

However, there were also some explanations which related to perceptions of the adoption process itself, and attitudes towards gay and lesbian parents in society; which in some cases had

contributed towards favouring another model of family life, described above. First, there was sometimes a strong concern that adopting was likely to be a timely and costly process; indeed, one biological mother who wanted to apply for her partner to adopt her child had put it off for this reason. Whilst it was often acknowledged that this was likely to be the case for *any* adoptive parents rather than same-sex parents exclusively, the expectation that such parents would have to work harder to prove their suitability was not unusual.

Second, concern was sometimes expressed that cultural attitudes had not yet caught up with the letter of the Act, which might mean that the adoption process and experiences of being same-sex parents could still be fraught with difficulty, and meet with potential prejudice[24]. In this respect there was the fear that social workers and adoption panels might be unable to cast aside personal opinions, and would persist despite the Act in asking questions that they would not ask heterosexual couples. There was also anxiety that adopting a child – either as a couple, or as one half of a lesbian couple where the other partner was the biological parent – would not in itself make prejudice less likely on the part of institutions such as hospitals or schools, either against the children or to one or both parents.

> Ofemi is in a civil partnership and is the biological mother of a six year old child. She and her partner would ideally like to adopt a child, but have been put off because of bad experiences with social services in the past. She thinks that social services feel as a lesbian parent, *'you're akin to a child abuser'*. They are worried about what the adoption process might do to them *'financially and emotionally'*, for example that they might be asked questions such as whether they sleep in the same bed, *'because people think that when you're gay they can ask you anything.'* They also regard the process as prohibitively expensive, costing up to £2,000. She has tried to find out more about adoption on the internet, but feels that the information available has been *'poor'*, much worse than that available for heterosexual couples (*Ofemi, civil partner, 25-34, together 2-5 years*).

Finally, there was concern about same-sex parents being placed with what they regarded as more 'difficult' children, or older children who were as a result of their age harder to place. This belief was echoed by others in the sample, who had gained this impression from talking to friends about the process or from hearsay.

> *I think they [friends going through process of adoption] were put down the route of special needs children because they're very hard to adopt. [And gay relationships], they're new, they might be seen as being very difficult too, so they tie the two of them up…it's putting two minorities or two desperate groups of people together and I don't think that should be the case. (Ross, civil partner, 35-49, together over 10 years)*

Significantly, two of the lesbian couples in the sample who were applying to adopt since the implementation of the Act said they had been unaware until the process was underway that the situation had previously been different. As a result, they did not attribute the Act with any impact on their decision to adopt, although they did feel with their present knowledge that it had probably made the process easier (see 8.2.2, below).

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24 See Chapter 2 for a description of how until recently questions were raised by social services, adoption agencies, fertility clinics and family courts about whether LGB people would be suitable parents in terms of gender identity role models. It also describes how recent research has suggested that society still has concerns that LGB people may be inappropriate role models for children (British Social Attitudes Survey, 2008).

8.3.2 Experiences of applying to adopt before and after the Adoption and Children Act

Applying to adopt before the Act

Chapter 2 described how prior to the Adoption and Children Act, research has shown that social workers worked within a 'heteronormative' context in which the fitness of heterosexual applicants relative to lesbians was assumed, with some lesbian applicants being characterised as a 'threat' or 'militant' and others as 'automatically safe', conforming to a model of the 'good lesbian' (Hicks, 2000). Judgements about the suitability of parents for adoption were also based on traditional heterosexual views about what the structure and form of family life, relationships and gender roles should look like rather than acknowledging new forms of positive family structures and role models (Clarke, 2002).

There was only one instance of a couple having adopted children prior to the Adoption and Children Act, and both worked in the field of adoption themselves. They felt clear that they had experienced discrimination, most notably being unable to apply as a couple, with one partner instead applying for a shared residency order, which had meant extra work and an extra set of court fees. More generally, they felt that they had been *'kept out of sight'* as much as possible during the process *(Jackie, civil partner, 35-49, together over 10 years)*. For example, they said that their local authority had denied them approval to attend the adoption panel meeting, and that their social worker had been reluctant to inform the birth parents that their children had been taken on by a same-sex couple. There was an understanding too that birth families had in fact reacted badly to them; their first offer had been withdrawn because social workers had feared such a bad reaction, whilst they had not as yet met the birth parents of the children they had adopted because of the parents' apparent hostility to them. This couple also felt that having adopted a male child they had to demonstrate that he would receive 'appropriate' male role models, which they questioned in a context where the child had not received particularly positive male role models to date (e.g. having had an abusive father).

Applying to adopt after the Act

Of the three lesbian couples who had applied to adopt after the Act, experiences seemed to have been more positive. None of these had experience of applying prior to the Act, so were unable to compare experiences directly, although there was a broad feeling that the process was probably smoother for them than it had been in the past. There was uncertainty though about whether this was down to the Act or broader attitudinal changes in society. There was a sense that the authorities involved had been comfortable with and open about the process; for example people talked about having experienced helpful and supportive social workers and apparently sympathetic adoption panels. They spoke positively too about having been assured that there would be no differential treatment in terms of the types of children that would be placed with them, and of having experienced a lack of the type of questions they worried they might have to face, for example about the stability of their relationships in comparison to heterosexual couples, or about their suitability as role models where adopting children of a different sex to themselves.

> *Luckily she [adoption social worker they were assigned with] is really nice and really cool in lots of ways about us, and clearly knows lesbians and is a bit of a feminist…she recognises who we are (Sara, rejected civil partnership, 35-49, together over 10 years).*

One also talked about having been assured that gaining the best possible placement for a child would be given priority over the feelings of the birth parents about same-sex couples adopting.

That experiences of adopting had become smoother for gay and lesbian couples was backed up by one of the participants who worked in the field of adoption in sample who, as described above, had applied to adopt with her partner prior to the Act. She felt that gay couples were no longer kept hidden, for example being welcomed at Magistrate's Courts, and that, even where there might be negative views, people were now professionally obliged to prevent personal views from influencing the way that they handled the case. Another reported change was that it was now much easier to proceed with successful lesbian and gay adoptions through family courts, in contrast to the previous situation, where they often used to go to county court for approval. As a result of these positive changes, she had seen increased numbers of lesbians and gays applying to adopt in her professional role. Another positive indicator of the change was that a lesbian and gay adoption support and campaigning group she was involved with had now reportedly switched its emphasis from tackling discrimination in the adoption process, to supporting the needs of the children cared for.

> *We've been onto the support group [for lesbian and gay parents seeking to adopt], which originally was very much around campaigning, and, you know? I think the group's really struggled to sustain itself because people don't feel discriminated against in the same way. So the whole focus of what the group's about has had to change. It's become much more about mainstream support, about the needs of the children that we care for, rather than about our struggles as lesbian and gay men doing this frowned upon thing (Jackie, civil partner, 35-49, together over 10 years).*

A number of difficulties had been experienced, however. A couple where one partner already had a biological child felt that social services had placed too much emphasis on eliciting the details of the biological father, assuming that this child would otherwise be disadvantaged in relation to the adoptive child, who would know who their birth parents were. This perceived emphasis on genetic relationships over 'solid social relationships' was thought inappropriate, and disrespectful to the partner, and moreover a sign that social services continued to regard lesbian parents as controversial[25]. In another case, a couple where one civil partner was seeking to apply for parental responsibility for the biological child of the other, felt that she and her partner had experienced legal *'ineptitude'* in the courts' lack of knowledge about how to deal with their application and the fact that the biological father wanted some other role rather than a parental role while her partner actively sought this role *(Roberta, civil partner, 35-49, together over 10 years)*. Lack of knowledge on the part of professionals was also reported by some couples seeking parental responsibility for one partner; in one case, for example, a local family court had told a couple that as a civil partner they needed to apply to court to gain parental responsibility, being apparently unaware of the prescribed form that civil partners are able to use.

More generally, there was a sense amongst the couples that perhaps being a lesbian or same-sex couple could add an extra 'layer of difficulty' to the process in terms of proving their parental capacity and coming across as 'normal'. This was articulated well by Nancy who also confessed to a lack of clarity about whether the extra difficulties were real or just perceived.

> *Was it [going through adoption process] additional stress because we were gay? Yes, it was…Now whether that was reality or our perception I can't say, because we always felt we had to work…twice as hard to get half the credit. We always felt that we had to be a little bit more, I don't know…if I was speaking in football terms, you know, we always feel that we had to*

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25 Recent research around the issue of birth registration (which included some lesbian parents) also found that some lesbian parents saw the rights of donor fathers being privileged over the lesbian co-parents and discrimination, particularly where it was agreed with the male donor prior to conception that he wanted limited or no involvement with the child (Graham et al, 2007).

be premier league players rather than third division, you know. And whether that was because it was our perception or whether that was the reality, I think it's a bit of both really (Nancy, undecided about civil partnership, 35-49, together over 10 years).

Finally, the participant working in the adoption field felt that changes in the Act which meant that adoptive children now had placement orders seeking to sustain relationships with birth parents might inadvertently be discriminatory to same-sex couples. This was because she felt that it opened them up to potential hostility from birth parents.

8.3.3 Experience of being same-sex parents before and after the Adoption and Children Act

There was no real sense of the Act having been perceived to have brought about a significant sea - change in people's experiences of being same-sex parents. Instead, experiences seemed to be based instead around the individuals that people came into contact with and their ability to tap into support networks of couples in similar situations. For example, the lesbian couple who had adopted prior to the Act said that they had experienced little discrimination because they had deliberately made themselves part of a network of other lesbian and gay adopters, and had used this community to help them choose a school for their children where there were other same-sex parents and other forms of diversity.

There was perhaps a sense, however, that some types of circumstances had become easier for same-sex parents. For example, whilst one parent said that eight years ago they had been the only lesbian parents in their National Childbirth Trust (NCT) group and had felt self conscious about being open, more recent parents spoke of having been accepted relatively easily in such groups albeit having felt initially nervous about such situations. Participants also sometimes spoke of their sense of health professionals having been perhaps more informed and understanding of same-sex parenthood than they had been in the past. The causes of this were felt difficult to pinpoint however, some speculating that perhaps the Civil Partnership Act had been instrumental in normalising same-sex relationships in other people's eyes.

Discrimination was still perceived to exist however, and there was a general feeling that it required 'more effort' to be a lesbian or gay parent. Some spoke about a lack of understanding or tolerance of their situation as gay or lesbian parents from other parents, child care settings, or society more generally; for example work colleagues. This seemed to be regardless of whether or not their partners had parental responsibility. There was some sense too that whilst health professionals did not actively discriminate, they would benefit from more training, in particular around making systems sufficiently flexible to allow a same-sex couple to be clear about their situation. One example given was of hospital forms using the words 'partner' and 'parent' interchangeably. In another case a parent said she had to think carefully about how to identify her partner in health settings and at parent's evenings in a way she would not have to if she was in a heterosexual relationship.

When I see the way that some of my heterosexual… [for example] my sister parents her child, it's just kind of whatever happens. Whereas for us every decision is, you know, intensely thought over and decided on, and, 'Are we doing…' it's ridiculous, but that's what we do…When I put her in school the first thing I do when I look round [is look at] how they're going to react, and we wouldn't put her anywhere where they reacted badly. My sister doesn't have to do that, and it wouldn't occur to her to do that because she learns parenting as she goes along…I see it with other heterosexual people too. It's less conscious…When I got pregnant I had to think about myself first as a lesbian parent, it wasn't just something that happened. I don't know how else to put it (Ofemi, civil partner, under 25-34, together 2-5 years).

More broadly, across the sample of same-sex parents, the impression given was that parenthood was still something that needed proactive 'addressing' on the part of the parents, for example through choosing carefully who to tell about their family form, and through the perceived need for regular communication channels with schools. This was both to ensure that their situation was understood, and to try to prevent their children being made to feel embarrassed, stigmatised, or even bullied. Generally, there was a sense amongst these parents of aspiring to achieve a rather difficult balance between on the one hand being open about the issue with their children, with professionals, and with parents of their children's friends, whilst on the other ensuring that their children did not feel too different or marginalised (see also Stevens and Perry, 2003). There was a feeling too though that the more lesbian and gay parents there were, the easier it would to be open without their children experiencing negative attitudes, and that perhaps in this respect the Act might make a difference.

9 Future changes to legislation, policy and practice

This chapter explores whether participants felt that there was a need for further legislation or work to reinforce and help embed the messages imparted by the three main pieces of legislation under discussion in this report. It also sets out suggested changes or improvements to the legislation specifically, or to the context in which the legislation operates.

9.1 Is there a need for more legislation?

As described throughout the report, there was a view that strongly welcomed parts of the new legislation, or the legislative package as a whole. It was regarded as a timely recognition of the rights of lesbian and gay people, and a signal that same-sex relationships were normal, legitimate, and deserving of respect and equal treatment. Where there were reservations, these were based either on: concerns about the threat to the self-definition of gay and lesbian people posed by legislation regarded as conforming to the heterosexual norm, or offering a 'blanket', non-negotiable package of rights (civil partnership legislation in particular); a feeling (in relation to the EERs in particular) that they perhaps unnecessarily singled gay and lesbian people out; and the related worry that the legislation could be counter-productive and could result in a 'backlash' if gay and lesbian people were seen as being singled out for special treatment and protection (evident in relation to the adoption legislation in particular).

Across this spectrum of opinion, the broad consensus was that rather than there being a need for additional legislation at this point in time, the priority was to allow the current legislation to bed down and to help it to do so by working in other ways to improve knowledge about and attitudes towards same-sex couples. Indeed, one perspective was specifically that introducing further major legislation might in fact disturb the ongoing process of stabilisation and gradual acceptance.

Some went on to argue that as the legislation bedded down and same-sex couples became consequently increasingly visible and normalised, a range of other accompanying needs would become visible and need addressing. In addition, a number of current priorities were named, work on which was felt would help support and embed the messages o the current legislation:

- **Homophobic bullying in schools**: this was still felt to be widespread and aimed particularly at lesbian and gay young people but also young people with same-sex parents[26]. In particular, there was concern that the word 'gay' was used in playgrounds in a pejorative way, with insufficient challenge from teaching staff who perhaps lacked the confidence to raise the issue appropriately, or who still felt the 'hangover from Section 28'. At the same time, however, this was felt to be a difficult area to legislate for. Instead, it was felt important for groups such as Stonewall to be funded to continue working with schools; and specifically for schools to be educated about the likely problems encountered by children of same-sex couples[27].

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26 it has been estimated that almost 17 million adults have witnessed such bullying at school (Cowan, 2007). Hunt and Dick (2008) report that while only 27 per cent of lesbian and gay people over the age of 50 experienced homophobic bullying, Stonewall's School Report found that 65 per cent of young lesbian and gay people at school in 2007 had experienced homophobic bullying. Rivers and Duncan (2002) found that homophobic name-calling in the classroom often went unchallenged.

27 Warwick et al (2004) have produced an audit checklist to help schools challenge homophobia. Creegan et al (2007) have provided a checklist for staff involved with education working in local authorities. A number of bodies have also produced resources and initiatives for schools to help them tackle homophobia, including Stonewall, DCSF, the *Education Action Challenging Homophobia group*, *Schools Out* and the *Joint Action Against Homophobic Bullying* project.

- **Hate crime legislation**[28]: some argued that there should be a specific law against incitement to homophobic hatred similar to incitement to racial hatred and that this was a current legislative anomaly. Others were aware however that the Criminal Justice Act and other legislation contained, or would contain, provisions in this respect[29].

- **Tackling prejudice in the media**: whilst there were felt to have been significant improvements in the coverage of gay and lesbian in the media in recent years (see 6.4 above) there was also a feeling that certain presenters were still allowed to get away with using the word 'gay' in a negative and disrespectful way. It was felt important for broadcasters to be disciplined for doing this[30].

- **Ensuring that institutions' practices and procedures recognise the legislative changes**: in several places in the report it has been noted how people felt that they were still inadvertently discriminated against by institutions who had not adapted their language or procedures to take account of the new realities. Pertinent examples included hospital forms which did not include categories to indicate same-sex or civil partners and insurance companies that did not explicitly extend terms and conditions applied to married couples to civil partners. Experience of these types of exclusion – whether perceived to be intentional or as a result of oversight – were felt to indicate the need for further public education about the rights of lesbian and gay couples, particularly around implications of the Civil Partnership Act. It was also taken as indicative of the distance still to be travelled in terms of the bedding down of the current legislation[31].

9.1.1 Should there be same-sex 'marriage' and/ or civil partnerships?

Much of the discussion in relation to possible changes to the civil partnership legislation focused on the fact that marriage and civil partnerships remained different institutions with different names and associated meanings.

As has been described in this report, one view was that this situation was wrong, and that it created an unnecessary divide which gave the unfortunate impression of looking as though it was based on prejudice. This was particularly as the origin of the situation was felt to have been the government's attempt to evade public squabbling by 'pandering' to opposition groups, most notably the religious establishment. One undesirable consequence of the current differences between civil partnerships and marriage was felt to be the signal that lesbian and gay couples were still different and, to some, of a 'lower' status than heterosexual couples. Practically too, participants talked of having struggled with forms which did not include a 'civil partnership' option. Far better and braver, these people felt, for the government to face up to opposition groups and call civil partnerships 'marriage' as well. This argument was strengthened by the feeling that the term 'civil partnership' was awkward and practically unusable (Chapter 5, above).

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28 It was recently found that 'one in five lesbian and gay people had experienced a homophobic hate crime or incident in the last three years, while one in eight had been a victim in the last year' (Dick, 2008)

29 Whilst the Criminal Justice Act (2003) does not create a separate offence for homophobic assault, from 2005 it required judges to treat homophobia as an aggravating factor in assaults involving or motivated by it (Purdam et al., 2007). The Criminal Justice and Immigration Bill (May 2008) also extended the provisions on incitement to racial hatred to create the new criminal offence of incitement to homophobic hatred.

30 Recent research has found that nearly half of lesbian and gay people think the overall portrayal of lesbian and gay people on television is unrealistic (Hunt and Dick, 2008). In their survey of *Living Together*, Stonewall found that nearly three-quarters of their respondents felt that the media frequently used gay people as the subject of jokes; 83% also believe that the media relies heavily on clichéd stereotypes of gay people (Cowan, 2007).

31 Awareness of the existence or coverage of the Equality Act in this area was varied, specifically its clause around making unlawful discrimination on the grounds of SO in the provisions of goods, facilities and services.

Another suggested way around this situation was to open up civil partnerships to heterosexual couples who after all, some argued, were being discriminated against too (see Tatchell, 2002). Others suggested that there should be a formal distinction between legal marriage and religious marriage as in France or Spain, and that both of these institutions should be open to heterosexual and gay and lesbian couples alike.

The desire to rename civil partnerships 'marriage' was not universal however. Indifference was sometimes expressed on the grounds that if they offered similar legal rights, the name was unimportant. Others felt that it was politically undesirable for the two institutions to share a name. The strongest expression of this was the view that marriage was a 'straight' term, and that lesbian and gay couples should have their own separate institution to reflect their different identity and egalitarian culture (see Chapter 5). Indeed, elsewhere it has been suggested that same-sex couples have welcomed civil partnership as a secular, non-religious alternative to marriage that is more fitting with the times and their desires (Harding, 2008 p. 750; Weeks, 2008 p. 791).

There was also some sympathy for the government. This resulted from the feeling being that they had been as brave as they could be in what had been a difficult situation and that lobbying for full equality with marriage would be a step too far in the current climate; better first to allow the current situation to become widely accepted.

> *I'm amazed that they were as brave as they were, to be honest. So again I think, you know, it takes time for attitudes to change, and it doesn't worry me. I mean I think we've made so much progress over the last few years it can only move on now of its own momentum (Gerry, civil partner, 50 plus, together over 10 years).*

9.1.2 Whether there should be alternatives to civil partnerships

There was some discussion about whether any other alternatives to civil partnerships were desirable. In this context one view was that the legal rights accorded to married couples and couples in civil partnerships should be extended to couples who had been cohabiting for a certain length of time given certain conditions[32]. This stemmed from the feeling that it seemed unfair that couples in long-term cohabiting relationships did not have options other than marriage or civil partnership to prove their commitment, and did not have the legal right to the employment benefits of their partner.

This idea offended the libertarian instincts of others however, who felt that this would take away the element of choice that couples currently had about whether to enter into a legal partnership with each other. Moreover, there was a feeling that this could be hard to implement in practice because of the dangers around the state making erroneous assumptions about the nature of people's cohabiting arrangements. A further argument against this idea was that if cohabiting couples wanted to make an arrangement that was not based on marriage or civil partnership they could do so in any case, by having a solicitor draw up a legally binding agreement for them.

There was discussion too about whether other types of relationships – for example siblings and friends - should be allowed to enter civil partnership status[33]. Views were divided on this. Some

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[32] This chimes with proposals put forward by the Law Commission in 2006 to introduce new rights for heterosexual and same-sex couples who do not enter marriages or civil partnerships (see Weeks, 2007 p. 191) and, to some extent, with other proposals to recognise wider forms of commitments other than those in 'marriages' through 'civil commitment pacts' (Wilkinson and Kitzinger, 2005).
[33] See Mitchell (2004) for discussion of whether other people such as friends, siblings, carers, etc. should be permitted to enter into civil partnership type relationships in the context of the need to provide care for independent, single households among gay and bisexual men.

strongly supported the idea, believing that all types of relationships should be recognised if there was a desire for this to happen. There were also concerns. A particular one was that opening up 'civil partnership' status to non-sexual relationships could have the undesirable consequence of down-grading lesbian and gay civil partnerships to 'friendships' in other people's eyes, thereby taking civil partnerships further away from the parity with marriage that some were hoping to achieve[34]. More practically there were concerns about where the line would then be drawn, and whether society was ready at this stage to recognise non-sexual relationships too.

Finally, some considered whether instead of the current set package of rights and responsibilities that civil partnership entailed, couples should be offered a 'menu' from which to choose. However, there was little broader support for this idea, the feeling being that it would be fiendishly difficult to implement and might again risk diminishing the status of civil partnerships in the public's eyes.

9.1.3 Changes to the process of civil partnership

The civil partnership ceremony

Continuing the theme of parity with marriage, a number were keen for civil partners to be allowed to add a religious element to their ceremony if they wished. They felt that the government should have *'stood up'* to the church over this issue and not given them *'let out clauses'*.

There was also call for intended civil partners to have more control over the formal process, although views differed about how this should be done. Those who disliked the idea of a ceremony on the grounds that it was a heterosexual imposition wanted it to be possible to sign a piece of paper giving couples the legal rights of a civil partnership without a ceremony. Conversely others argued that the registration process should be accorded more 'formal dignity', lending gravitas to the procedure for those who did not want a big ceremony. Given the degree of flexibility that civil partners experienced in relation to their ceremonies, and the fit with a variety of personal-political styles described in sections 5.1 and 5.2, it seems that these options could have been made available if clearer information about the process had been provided early on by government and Registrars.

Civil partnership rights

As described above, those who felt that civil partnership aped marriage in an undesirable way felt there should be an easily available legal means for couples to gain the same legal protection as accorded by a civil partnership without the need to go through the ceremony. There were also calls for any differences with marriage in terms of rights and legal position to be ironed out, as described in Chapters 3 and 4 above. Whilst civil partnership was often understood to give equal legal rights to marriage, there was also awareness in some quarters that discrepancies remained (for example the fact that the introduction of some pensions rights had not been fully backdated).

There was discussion too about whether civil partnership status should affect benefit rights. One view was that this was logical and fair given that this was now the case for any cohabiting couples; it was not right to argue for parity with heterosexual couples only to take issue with clauses which might then put and lesbian couples at a financial disadvantage. Others felt the benefit system should be reformed so that any types of couples were accepted for the purpose of benefit calculations as two individuals; they argued that this would prevent the financial penalisation of cohabitation.

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34 This was in fact the view expressed by government during the passage of the Civil Partnership Bill in relation to an amendment that attempted to extent civil partnerships to housemates carers and siblings (see Women and Equality Unit, 2003b p. 17; Townley, 2004).

Information needs

Finally, a number felt there was a need for clear, accessible information about civil partnership, particularly in relation to how it affects tax, benefits, pensions and other rights. The feeling was that whilst there was a lot out there, a condensed, easy to understand version should be publicised and made freely available.

9.2   Employment regulations

Chapter 7 described how participants felt there were a number of barriers to using the EERs in practice, particularly in relation to harassment and discrimination cases. A lot of the discussion around changes focused on overcoming these barriers.

9.2.1 Raising awareness of the EERs

One means of overcoming barriers to using the EERs was felt to be to improve awareness both amongst employees and employers. Employers were often thought to be unaware of the regulations, a result of which was felt to be a lack of knowledge about how to deal with sexual orientation issues in the workplace. A consequence of the perceived lack of ability of employers to address sexual orientation issues internally in a suitable and balanced way was felt to be a missing middle ground for employees between taking no action on the one hand, and going to an Employment Tribunal on the other. However, as described in Chapter 7 above, the latter resort was often viewed strongly undesirable on account of the anticipated emotional impact on the litigant and the cost. It was hoped therefore that educating employers about the content and implication of the legislation would encourage them to see the value of preventative work, have appropriate and workable grievance and conciliatory policies in place and ensure that line managers were adequately trained in dealing with sexual orientation issues in the workplace.

There was also felt to be a need for employers to raise awareness of the legislation amongst their employees more widely. In this respect there was some feeling that the SO EERs had been given much less coverage by the media and employers than those that related to other strands, for example race. Indeed, this view reflected previous evidence that other equality 'strands' such as 'race' were given greater prominence in equalities training compared to sexual orientation (Dickens et al., 2009). It was hoped that wider awareness of the legislation in workplaces would both prevent harassment and discrimination from occurring in the first place, and give staff the confidence to challenge unacceptable behaviour before the situation became inflamed.

However, there was also a feeling that those who did need to take legal action would benefit from information about where to go for support – in particular legal advice, financial support and counselling. It was felt preferable that this information was available in one place and could be accessed easily, for example by a helpline.

9.2.2 Shifting the burden of proof from employee to employer

Chapter 7 described how there was significant concern about how easy it would be for employees to prove that harassment or discrimination in the workplace had occurred on the grounds of sexual orientation, rather than for other reasons. In relation to the legal parameters of the legislation, there was some call from the well-informed in particular for the burden of proof to be shifted from the person being discriminated against to the organisation being accused of discrimination. In a discrimination charge around promotion, for example, such a change would make it the employer's responsibility to disprove that lack of promotion had been related to an employee's sexual orientation, rather than the employee's to prove that it had been. It was hoped that such a shift would encourage more people to take action in what they perceived to be clear discrimination

cases. It was suggested that a further desirable effect of this would be to reduce the chances of discrimination on the grounds of sexual orientation occurring in the first place.

9.2.3 Removing the religious exemptions

As with civil partnership there was a strong strand of feeling that the religious exemptions to the EERs had given too much influence to religious establishments. That the parameters of the religious exemptions were unclear and therefore potentially open to abuse (as described in Chapter 3; see also Mitchell et al., forthcoming) was felt to be a particular problem. This perceived muddying of the water was usually felt to be strongly undesirable, evidence that the government had again 'pandered' to religious groups and by doing so denied lesbian and gay employees true equality. Unsurprisingly, those who felt like this called for the religious exemptions to be scrapped.

Where there was a modicum of sympathy for the exemptions, this was on the grounds that organisations with a strong ethos might understandably want to ensure that employees shared that ethos. One participant argued, the gay and lesbian charity he worked for preferred to recruit LBGT staff because it was assumed they had a greater understanding of the issues and acknowledged that they were only allowed to do this due to similar exemptions under the EERs. This strand of opinion tended to reflect the idea that instead of scrapping the exemptions it should be made clear that they were only to be applied in very limited and special circumstances.

9.2.4 Should it be compulsory to monitor employees on the grounds of their SO?

There was discussion of how appropriate it would be for monitoring employees on the grounds of their sexual orientation to be made compulsory. Whilst some were strongly in favour, others disliked the idea or felt undecided because they could see arguments both for and against.

The strongest argument that was felt to exist in favour of monitoring was that it allowed employers to assess how well their equal opportunities policies were working in practice. In this context monitoring on sexual orientation grounds was viewed by some as an inevitable and desirable consequence of the equality agenda.

> *We monitor black staff, we monitor how many black people, Asian people, Irish people, white people, women, you know [but] we don't monitor how many gay staff we have. And…I'll be a bit glib now, but to me, in a performance driven culture, if you're not counted you don't count (Nancy, undecided about civil partnership, 35-49, together over 10 years).*

However, support for monitoring was usually accompanied by the feeling that there was a clear need for employers to explain to employers why they were monitoring and how the information was going to be used.

Other participants had reservations about the desirability of monitoring for sexual orientation, reflecting previous research in this area (Creegan et al., 2007; Guasp and Balfour, 2008). Contrary to those who believed it was a way to reduce discrimination, there was concern in these quarters that it could actually increase it. This school of thought was that if sexual orientation was not out in the open, people had less reason to discriminate. Conversely, disclosing it could open the doors for those who harboured prejudices to form opinions about them based on their sexual orientation rather than on their personalities and abilities to do the job. Unsurprisingly, those who felt this way had been on the receiving end in the past of what they had perceived to be prejudice.

There was also reservation on libertarian or privacy grounds, the view here being that a person's sexual orientation should be allowed to remain a private issue and not be made public information. However, this was not always felt to be a clear cut issue; in particular it was felt to be difficult for lesbian and gay people to decide on whether, on the one hand, to preserve their individual liberties from the state, and on the other, trusting the state to step in and protect their liberties for them. Context was one influencing factor in this respect; for example Norman, quoted below, felt that whilst he did not mind such information being available in the current climate, he did harbour reservations that future climates might not be so accepting.

> *I think it's a difficult one because always at the back of my mind you know, there is the worry that you get to the, you know, the 1984 type situation. It's all very well if you've got a government which is supportive of all minorities and wants to see people treated fairly, that's no problem. But what if you get the extreme sort of right wing parties elected into power?...At various stages in my life I would have been… I would have wanted to jealously guard my liberty from the State as much as I would have wanted to see the State intervening to protect my liberties. And that's a very difficult balance to strike (Norman, civil partner, 50 plus, together over 10 years).*

A further concern around monitoring was that its implication was that being lesbian or gay was somehow a problem in the workplace, or an area where positive discrimination might be needed. The people who felt like this argued that their sexual orientation was irrelevant to their performance and that monitoring for sexual orientation seemed like an unnecessary and arbitrary way of segmenting staff. Participants who felt like this also tended to take issue with the wider principle of the SO EERs (see Chapter 3 above).

Finally, there were also reservations about how practical it was to monitor on the grounds of employees' sexual orientation. It was argued that sexuality can sometimes be fluid and that as a result it was misguided and difficult to try to 'put people in boxes'*.*

These concerns suggest a strong need for employers to reassure employees about the rationale behind monitoring for sexual orientation, and how the information will be treated. They also demonstrate an obvious need for the decision about whether to disclose sexual orientation to remain a personal choice for employees.

9.3   Legislation relating to same-sex parenthood

9.3.1 The adoption legislation

Suggestions about the adoption legislation focused not so much on changes to the legislation – which was broadly supported – but on making the legislation more accessible to same-sex couples in practice by improving the context in which it operated.

Chapter 8 described how there were a number of reservations amongst same-sex couples about going down the adoption route to parenthood, in particular that the process was likely to be timely and costly and that they might experience residual prejudice from professionals working in the field. Difficulties had also been experienced in some quarters in accessing clear information about the legislation. As with the employment regulations, there was call for information about adoption for same-sex couples to be easily accessible and perhaps accessed through one simple port of call such as a helpline. It was felt that this information should include advice about what the process entailed, how long it was likely to take, how much it would cost, what sort of preparation was necessary, and what the legal implications of adoption were – for example how custody arrangements would be managed were a couple to split. The concerns outlined above also

suggest a need to reassure gay and lesbian parents that they should not be treated differently or asked different questions to heterosexual couples during the adoption process, and also that they will not be treated differently in terms of the types of children that are placed with them.

Related to this, there was a feeling that same-sex couples looking to adopt should be able to access professional support as well support from networks of family and friends. In this respect whilst professionals working in this area were felt by those with experience to have adapted to this area well, there was felt to be a continuing need to educate them about the likely issues and concerns that would be presented by same-sex adoptive parents.

As with the civil partnership and employment legislation, the influence of religious bodies was again something that was raised. In relation to adoption specifically, there were differences in understanding. Some thought that Catholic adoption agencies had been granted the right to refuse adoption to gay and lesbian couples and argued as with the other two pieces of legislation that any exemptions were wrong and unfair. Others understood that Catholic agencies were not exempt from the legislation and praised the government for this[35].

Finally, in relation to the legislation specifically, a participant with detailed knowledge of its content through her work and past experience of adoption questioned how sensible it had been of the Act to seek to give adopted children placements that sustained relationships with the birth parents. Her fear was that negative feelings about gay and lesbian people amongst birth parents could mean it was difficult for same-sex adoptive parents to find families that would accept them.

9.3.2 Parental responsibility

Echoing previous research (Graham et al., 2007), a number called for biological parents who had had children through donor insemination to be able to name their same-sex partners on their child's birth certificate, thus automatically conferring parental responsibility. A sensible route forwards in this respect was felt to be to have a space for the biological donor – if they wished to be named – alongside the other same-sex parent. Adopting this approach was felt to be a way around the barrier to same-sex parents gaining parental responsibility or adoptive rights over their partner's child, namely another parent being named on the birth certificate[36].

There was also some feeling that society should re-evaluate the way that it looked at parental roles and responsibilities by allowing existing systems the flexibility to recognise alternative models of parenthood to the two parent norm. A father who had a son with a female friend through artificial insemination argued for example that it should be possible for his partner, as well as himself and his friend to have parental responsibility; this would give legal recognition to the role his partner played in practice. There was also felt to be a need to recognise same-sex couples in the artificial insemination process – for example by artificial insemination clinics welcoming same-sex couples and supporting them through the process with advice about their rights.

Finally, there was discussion about whether becoming a civil partner should automatically confer parental responsibility for the other partner's children. Some felt strongly that it should do; this was particularly the case where there were perceived to be barriers to one partner gaining parental responsibility or adoptive rights, for example another parent being named on the birth certificate.

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35 There was no specific awareness that the exercise of public functions clause of the 2007 Equality Act prohibited religious charities providing adoption services for Local Authorities from turning down lesbian and gay applications.
36 The Human Fertilisation and Embryology Act (2008) states that same-sex parents can both be named on the birth certificate in a situation where there has been conception through sperm donation.

Others disagreed however, and felt it right that parental responsibility should remain a choice – i.e. something that had to be applied for – rather than something that was automatically conferred.

9.3.3 Improving public acceptance of same-sex parents

Chapter 8 also described the feeling amongst gay and lesbian parents that being a gay or lesbian parent still somehow involved 'more effort', particularly in terms of needing proactively to 'address' same-sex parenthood by considering carefully who to tell, and through their communications with professionals, for example in health settings and in schools.

Generally, there was a sense that it was difficult to affect any quick changes to this situation; instead it was largely a case of sitting out the changes in legislation and waiting for the greater visibility and legitimacy conferred on same-sex couples and adoptive parents to result in greater public awareness and acceptance. However, there were felt to be a number of areas that could be practically addressed immediately, in particular: ensuring that institutional forms were worded sufficiently carefully to allow for recognition of same-sex parents; training the appropriate professionals – for example midwives, social workers, health visitors and teaching staff - about the issues and challenges faced by same-sex couples and their children; and ensuring schools had policies with how to deal with homophobic bullying of children of same-sex couples (see also 9.2 above)[37].

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37 Creegan et al (2007) have produced a 'checklist for action' for local authorities in relation to LGB fostering and adoption. Pink Parents is a national project, managed by The D'Arcy Lainey Foundation and aims to reduce the isolation and discrimination that LGBT families and families face.

10 Conclusions

These conclusions draw together the main findings of the report in relation to the two overarching research questions set out in Chapter 1. First, they set out how the legislative package as a whole impacted on feelings about social inclusion and discrimination amongst gay and lesbian couples and employees. Second, they set out the impact that state involvement in the areas of life covered by the legislation had on the self-definition of members of lesbian and gay couples, with particular reference to their feelings about being 'inside' or 'outside' of formal regulative socio-legal structures.

10.1 The impact of the legislation on social inclusion and discrimination

In setting out this legislative programme, the government made it clear that one of the purposes of the legislative changes discussed in this report was to produce a shift in social and cultural attitudes towards same-sex relationships and thereby to make discrimination against people on the basis of their sexual orientation no longer acceptable (Women and Equality Unit, 2006c; Weeks, 2007 p. 190-91). The intended consequences of the legislation are to reduce social exclusion by reinforcing patterns of relationships and family life that enhance social stability, improving the self-respect of lesbians, gay men and bisexuals (King and Bartlett, 2006; Franklin, 2004).

This research strongly suggests that the package of legislation under discussion has had some significant positive impacts around improving the sense of social inclusion amongst members of same-sex couples and amongst lesbian, gay and bisexual employees. In terms of people's relationship with and position within society, it has provided same-sex couples with a concrete and visible set of rights, and access to a legal status they had previously been denied; most strikingly those encompassed by the Civil Partnership Act and the right to apply to adopt as a couple. It shows how the legal backing given to same-sex couples, parents and lesbian, gay and bisexual employees has been significant for some in increasing their sense of 'belonging' and 'legitimacy' as a couples in society, as same-sex parents and/ or as employees.

The legislation has also been viewed from some quarters as an important 'signpost' to society about how they should think about lesbian, gay and bisexual people; in particular, as an indication that same-sex relationships and parenthood are legitimate and acceptable, and that discrimination against same-sex couples, and lesbian, gay and bisexual parents and employees will not be tolerated. This has had important consequences, notably greater confidence about being open about one's sexual orientation as a result of discrimination being outlawed by the state and greater propensity to stand up for one's identity and rights and/ or against discrimination as a member of a same-sex couple or a lesbian, gay or bisexual employee.

It has also been described how the legislative package has helped in some cases to make same-sex couples and lesbian, gay and bisexual employees feel part of mainstream society, rather than an unusual group who stand outside it. This was strongly evident in the way people talked (in relationship to civil partnership and adoption in particular) about feeling that the legislation helped to 'normalise' same-sex couples and parents in society's eyes. Consequences of this 'normalisation' or growing 'ordinariness' were felt to be the gradual dispelling of negative or unhelpful stereotypes about lesbians, gay men and bisexuals, increased knowledge in society about the diversity of same-sex relationships and lesbian, gay and bisexual people, and a greater likelihood that in the future being lesbian, gay or bisexual would be seen by society as being *part* of one's identity, rather than the dominant feature by which to define a person (see 10.2 below for more discussion of the extent to which 'normalisation' was welcomed).

In addition, the report has described how these perceived impacts had important repercussions on people's personal worlds, in particular their self-perception and self-confidence, relationships with their partners and relationships with their families. In terms of same-sex relationships, it has described how the availability of a new package of legal rights (the acceptance of which in themselves signalled commitment and a sense of responsibility for a partner), the sense of legitimacy conferred by legal backing, and the opportunity to demonstrate this commitment in a formal sense to each other, family and wider social circles all met together to have knock-on effects on the internal lives of relationships, including long-term ones. In particular, some couples - including those in long-term relationships - talked of having felt a greater sense of 'comfort' and 'security' because of the bonding and reaffirming effect they felt civil partnership had had on their relationship. It could also lead to children feeling a greater sense of security and of being a 'family'[38]. These factors – alongside the feeling that civil partnership had given heterosexual people a frame of reference that they were familiar and comfortable with – had also in some cases led to sense of being welcomed and accepted to a greater or at least more overt level by family and wider social networks. The feeling was that civil partnership had given people a 'way in' to discuss and openly embrace the relationship; neatly encapsulated by the participant in a long-term relationship who said that their civil partnership had given people a *'wonderful opportunity to say hello'* (see section 6.4.2) *.*

What was particularly significant about these impacts in relation to civil partnership was that they were sometimes strongly felt by those who had not become civil partners, as well as those who had, including in some cases those who had rejected civil partnership (see 10.2 below). In particular, non-civil partners spoke of feeling that the legal backing the legislation had given to same-sex relationships meant a greater propensity to being open about their relationship, more confidence that they would not experience discrimination and more inclination to stand up to any discrimination that did occur. There was also a sense amongst some non-civil partners that the legitimacy conferred on same-sex couples by the legislation had actually resulted in more positive responses towards them from certain public bodies; for example in relation to adoption or in relation to immigration. Another significant finding was that the positive impacts described above were often strongly experienced by those who had been in long-term relationships (ten years together, or considerably more) suggesting that they do not stem from longevity alone, but that they needed the 'boost' of the legislation to occur.

All this said, the research also identified a number of areas where the legislation had posed a threat to participants' sense of social inclusion. It has shown that the requirement for *all* cohabiting couples to be treated as couples for the purpose of means-tested benefits and tax credits enshrined in the Civil Partnership Act (as opposed to just married couples and civil partners) can put financial and emotional strain on non-civil partners in particular, who can resent being penalised by a piece of legislation they have not explicitly signed up for. The research also suggests this clause will lead some cohabiting non-civil partners to be *less* rather than more likely to be open about the nature of their relationship, on the grounds that they need to avoid the financial penalties of the Act by, in certain circumstances at least, by avoiding the extra visibility that becoming a civil partner would bring to various authorities.

It has shown as well how from some people's perspective, civil partnership has helped to emphasise *difference* and therefore exclusion from the mainstream, rather than inclusion. For some, this is most notable in the fact that civil partnership remains different in a number of ways to marriage. Whilst one perspective is that this situation is to be welcomed (see Section 10.2 below),

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38 This finding is based on parent's perceptions about how their children felt about civil partnerships. More research around this area would be needed – preferably amongst children as well – to confirm the finding.

another (echoing the views of Tatchell, 2005) is that this situation actually perpetuates discrimination and the sense that gay and lesbian people remain, as one participant put it, a '*funny sort of race'* (see section 3.2.2). Another set of people for whom civil partnership can sometimes be perceived to have emphasised difference are the non-civil partners described in this research who fear that they are in danger of being viewed as somehow less serious or valid by the state or by family in comparison to civil partners, thereby reflecting the concerns of previous commentators and researchers (Donovan, 2004; Harding, 2008; Robinson, 2005; Rothblum, 2005)

The report has discussed as well how the legislation can also result in fear that through conferring greater visibility on same-sex couples, employees and parents - through the civil partnership process, through sexual orientation monitoring at work, through the publicity given to same-sex parenthood - there is an inherent danger of 'backlash', or of being in fact more open to discrimination than prior to the passing of the legislation. In particular, it has described how there was concern that informing certain public and private service providers of civil partnership status could provide them with a 'mechanism' which they had previously lacked to display hostility and how it could be felt by employees that in fact the SO EERs had only served to highlight their employer's lack of predisposition to taking action, or lack of sympathy in relation to this area. More broadly the fear was sometimes expressed that whilst greater visibility was currently beneficial, there could be negative repercussions if a more hostile political administration or environment were ever to come into being.

It was also the case that the impacts of the legislation around social inclusion were felt by some to be significantly tempered by their perception that social attitudes still had a long journey to make before same-sex couples and parents – or lesbians, gay men and bisexuals more broadly – were viewed as socially acceptable. In particular, it has described how same-sex couples still often feared public displays of affection, and how they felt that they were still (either wittingly or unwittingly) off the radar of certain public and/ or private service providers. It has described too how same-sex parents continued - in spite of the existence of the Civil Partnership Act and Adoption and Children Act - to fear that their children might experience harassment or stigmatisation, and to harbour reservations themselves about the ability of some professionals (for example health professionals and childcare providers) and heterosexual parents to handle their situation with empathy and understanding. Continuing this theme, it has discussed how the Employment Equality (SO) Regulations were felt to have insufficient 'teeth' on their own to alter lesbian, gay and bisexual employees' experiences in working environments where ignorance and/ or hostile reactions were commonplace and/ or where employers were reluctant to support the legislation in anything but name.

To counter this, however, it is important to emphasise that feelings in relation to the above areas were often complex and did not sit neatly in one 'school' or another but rather depended on the circumstances being discussed. For example, there were cases where on the one hand participants talked about feeling more confident about being open about their status as a result of the legislation but on the other continuing to feel nervousness about disclosing their status in certain settings. As another example of this complexity, there were participants who on the one hand bemoaned the loss of income they had experienced through the Civil Partnership Act, (referring to the treatment as a couple for assessment of means-tested benefits) whilst on the other welcomed the principle of being treated 'legitimately' as married couples by the state and society.

Overall, the findings in relation to this area suggest that whilst the legislation has had strongly positive effects on feelings of social inclusion, these feelings will be enhanced if it continues to be supported by work to improve attitudes towards gay men and lesbians in society more widely. Chapter 9 set out participants' views about the main areas where this needs to happen; most

notably in schools and in the media as well as amongst public sector professionals who will be dealing with same-sex couples and parents through their work (teachers, childcare providers, health professionals, etc.). The findings also suggest that opening marriage up to same-sex and civil partnership to heterosexual couples would further help to reduce feelings of continuing inequality (see also Section 10.2, below).

10.2 The implications of the legislation on self-definition of gay and lesbian couples

Chapters 1 and 2 described how previous research has highlighted tensions amongst lesbians, gay men and bisexuals between the desire for equality, social recognition and social validation on the one hand, and for self-defined negotiations and commitments on the other (Harding, 2008; Weeks et al., 2001; Peel and Harding, 2008; Weeks, 2008). It also describes how past research and commentary has emphasised the way that same-sex couples have had to form their relationships largely 'outside' heterosexual social and legal structures, with this leading to greater individualisation, reflexivity and democratisation in patterns of same-sex relationships (Giddens, 1992; Weeks, et al. 2001). It has argued that because they often constructed their commitments in direct contrast to heterosexual structures of marriage and family life (Weeks, et al., 1999, 2001), there was a commitment to an 'egalitarian ideal' in which commitments should be negotiated between the individuals concerned, rather than pre-defined by an external authority such as the church or the state (Weeks, et al. 2001; Mitchell, 2004). These feelings seemed to be encapsulated in the mixed feelings that same-sex couples documented in previous research to the idea of same-sex marriage and partnership, with the embrace of the idea of civil partnership mainly reflecting the practical issues and concerns involved (Weeks, et al., 2001).

Concerns were also expressed prior to the Civil Partnership Act that civil partnership would represent the extension of assumptions about monogamy, inter-dependency and economic dependence between partners based on traditional models of heterosexual marriage (Brandzel, 2005; Knights, 2006; Tatchell, 2005). There have been concerns too that civil partnership will 'normalise' same-sex relationships thereby jeopardising the egalitarian, negotiated and democratic qualities found among same-sex couples that were described above (Burns et al., 2008).

The findings of this study suggest that in fact there were four different perspectives on this issue, which differed according to the respondent's position in relation to two key issues:

1. the degree to which same-sex relationships were viewed as different from or similar to traditional heterosexual relationships;
2. their views about the value of creating and preserving new forms of relationships among same-sex couples .

State intervention is an unwanted imposition

The first of these usually voiced by those who had specifically rejected civil partnership echoed the opinions outlined above. In particular, they emphasised the way that they had worked hard - often over years - to create their own definitions and parameters for the relationships they were in, and how this had been done without the involvement of the state. Indeed, to some the lack of state involvement was to be welcomed as it had given them the freedom to create a relationship under terms that suited them, rather than terms that suited state and society more widely. For these participants, civil partnership did indeed represent an 'imposition' from the state that they felt they did not need to sign up to. This view was sometimes extended to the Employment Equality (SO) Regulations on the grounds that they did not feel that lesbian, gay and bisexual employees needed

specifically to be 'singled out' by the state, and that such employees were capable of forging successful careers without this involvement.

Rejection of state involvement in relationships but welcomed in the spheres of employment and adoption rights

The second position was one where the rejection of state involvement in same-sex relationships existed alongside the welcoming of state involvement in employment and around adoption. The difference for these participants seemed to be that whilst with civil partnership the state was (as they saw it) imposing a set of definitions on pre-existing and self-defined relationships, the other legislation was viewed as introducing new rights and outlawing discrimination. The fact that these mixed views existed can be taken as evidence that state involvement is not something that is uniformly rejected, but rather viewed on its merits for different pieces of legislation and areas of life.

The research has also shown that some of those who rejected state involvement in their relationships were also willing to acknowledge positive impacts of civil partnership, even when they were against it for their own relationship. In particular, it has described how some of those who rejected civil partnership (and hence state involvement) for themselves nevertheless acknowledged that it had had positive impacts on their propensity to be open about their relationship, on reducing the likelihood of discrimination, and on their likelihood of standing up for their rights as a same sex couple (see 10.1, above). This reflects a theme evident throughout the report, which is that views about civil partnership and state involvement were not neatly situated in one 'school of thought' or another, but in fact complex, and could vary depending on which angle of the issue was being looked at.

Ambivalence towards state involvement

A third position was voiced by those who had concerns about the loss to self-definition but went ahead with civil partnerships anyway, out of a sense that there were other strong advantages to be gained by doing so. Importantly, none of those who had done so expressed any regret about their decision in practice. Instead, one response was to feel that the benefits of greater social recognition and legitimacy in fact outweighed any concerns around loss of freedom to self-define. Indeed, Weeks (2007) has argued exactly this point, that civil partnership can be seen as a part of the struggle for the social recognition of same-sex relationships, and the assertion of their dignity and worth, rather than simply the extension of regulation and power over same-sex couples (Weeks, 2007 p. 198; Weeks, 2008 p. 790).

Another response, sometimes experienced in tandem, was to feel strongly in any case that civil partnership did not need to entail accepting a pre-defined 'package' in terms of ritual and behaviour, but in fact offered couples the freedom to continue to create their own parameters for their relationship; albeit accompanied by legal recognition and certain legal rights. It is clear from the experiences recounted by civil partners in this study that, in relation to both the ceremony and life afterwards, it is possible to 'choose' the civil partnership model that is most appropriate to one's relationship within fairly broad parameters. This could mean a large ceremony or small ceremony, formal vows or their own vows, the merging or continuing separation of household finances, accepting or rejecting monogamy, and sharing the paid employment and/ or childcare equally, versus one partner taking more responsibility for one of these areas than another. This shows that in fact it is possible for couples to feel that they retain the 'egalitarian ideal' in their relationships after civil partnership. This reflects the view that discussion of same-sex relationships should move beyond the 'normative' debate to look empirically at the way in which same-sex couples are shaping civil partnerships for themselves (Peel and Harding, 2008). It also shows that civil partnerships can be seen in terms of agency and opportunity rather the solely as regulation. For

example, this research would appear to suggest that for some participants civil partnership could be a 'substantively different form of organizing relationships even though it has been modelled on marriage' (Harding, 2008 p. 749). At the same time, civil partnerships have the possibility of to 'transform the normative meaning of marriage, and the everyday practices of LGBT people themselves' (Weeks, 2007 p. 198).

State involvement welcomed and a desire to be part of the mainstream

The final perspective was voiced by those who already firmly regarded themselves as part of the mainstream in terms of the dynamic of their relationship and its place within society, or who regarded the Civil Partnership Act and/ or Adoption and Children Act as offering an important opportunity to become part of the mainstream that they felt they had previously been to some degree excluded from. Far from emphasising a desire to sit 'outside' of heterosexual social and legal structures, participants coming from this perspective in fact said that they just wanted to be 'normal' and to be viewed as identical to married couples. This view was sometimes accompanied by the feeling that through civil partnership, sexual orientation would cease to be a defining feature for them, instead being viewed as just one aspect of a multi-faceted personal identity (see also Weeks, 2007 p. 183). This finding suggests that in some quarters rather than being feared for bringing about 'normalisation' (see introduction to this section), civil partnership was specifically welcomed for doing just that. Rather than civil partnership being viewed as assimilation, the traditional qualities of heterosexual marriage were already felt to be reflected in these participants' relationships.

This research has also demonstrated that in fact a wider set of factors were considered by couples weighing up civil partnership than anticipated in earlier research (see the introduction to this section, above). Chapter 4 has shown in particular that whilst some couples undoubtedly did focus largely on the practical and legal ramifications of civil partnership in their decision-making processes, others took a much more varied set of factors into account, including the desire to demonstrate commitment, gain social and legal validation, and make a statement to friends, family and wider society about the nature of their relationship and their commitment (see also Shipman and Smart, 2007 for similar views in relation to same-sex 'marriages'). Chapter 6 has shown that even where decision-making *did* focus largely on the practical and legal, in fact civil partners could be positively surprised by the impact their civil partnership had had on other areas of their lives as well; most notably their feelings of security and commitment, family recognition and recognition from wider society, and the feelings of belonging and legitimacy that state recognition was in reality felt to have conferred on the relationship (see also 10.1). This again provides evidence that 'normalisation' and legitimacy under the state umbrella was seen by some same-sex couples to have significant advantages, including by some of those who had not anticipated feeling like this prior to their civil partnership.

Finally, It has been described throughout the report how depending on the perspective that participants took, views differed about whether civil partnership should be made equal to marriage, whether it should remain an institution specifically for same-sex couples, or whether indeed it should be opened up to heterosexual couples or even to other types of relationships (for example siblings and friends). Those most likely to desire equality with marriage in all respects were the people who expressed a desire to be recognised as part of the mainstream (see above). Those who welcomed the idea of a separate institution argued that same-sex relationships were different (and, in some cases, better) and deserved their status. The solution that appeared to have the best fit with the diverse set of views expressed above was for both marriage and civil partnerships to be made open to same-sex and heterosexual couples. This was regarded as a means of

increasing equality (and reducing exclusion) and choice amongst all types of couples about which institution best suited their relationship, if indeed any at all.

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Appendix A   Participant information

Research on Same Sex Couples and the Impact of Legislative Changes

NatCen
National Centre for Social Research

- Are you part of a same sex (lesbian or gay) couple?
- What impact have recent changes in the law relating to partnership, employment and parenting had on your life?
- What impact have these changes had on the views of others about same sex couples?

E·S·R·C
ECONOMIC
& SOCIAL
RESEARCH
COUNCIL

What is this research about?

Recent changes in the law, such as the Civil Partnership Act (2004), the Employment Equality (Sexual Orientation) Regulations (2003) and the Adoption and Children Act (2002), have created a very new social environment for same sex couples. These changes have legally recognised same sex couples for the first time and given them specific new rights. In addition same sex couples have been protected from discrimination in employment and been given the right to apply to adopt. This research will explore the impact of these legislative changes on same sex couples.

Who can take part in the research?

You will need to be part of a same sex couple and to have been together for at least two years. However, you do not have to have to be a civil partner, to have used the new employment rights, or to have applied for an adoption to take part. It is also not necessary to say that you are lesbian or gay to take part as long as you are in a relationship with someone of the same sex. Only one member of each couple can be interviewed (although your partner can be present at the interview if you wish).

We are interested in speaking to people from a number of areas across England and Wales, including:

NAMES OF AREAS WITHELD TO PRESERVE ANONYMITY OF REGISTRATION SERVICES

You will need to live in one of these areas in order to be interviewed. If you are not sure whether you are eligible to take part, please give us a call.

What does taking part in the research involve?

If you agree to take part in the research you will be asked to discuss your experiences and views on the topics above in informal interview with a researcher. The researcher will arrange a convenient time to come to your home or, if you prefer, another suitable local venue of your choice. The interview takes about an hour-and-a-half. As a thank you for your time we will give you a payment of £20. It is not necessary for your partner to be present at the interview, although they can sit in on the interview if you want them to. We can arrange for a signing or foreign language interpreter if you need one.

Research on Same Sex Couples and the Impact of Legislative Changes

Who will know what I say if I am interviewed?

Everything that you say in the interview will be confidential and remain anonymous. We will seek your permission to digitally record the interview so that we have a detailed and accurate record of what you said. However, the sound recording will be stored securely and only the research team will have access to it. When we report the findings, any information that would allow someone to identify you, such as names or places, will be withheld.

How will the research be used?

It is our intention that the research should be as useful as possible and that it should help inform policy and practice in relation to same sex couples. We plan to communicate the findings to key policy makers in government, to people who deliver services to same sex couples and to a number of other interested parties and organisations.

A report of the findings will also be made available to the public. Everyone who agrees to take part in the research will receive a summary of the findings. The findings will also be made available on the NatCen and ESRC Society Today websites.

Who are NatCen?

The National Centre for Social Research (NatCen) is the largest independent social research institute in Britain. We are a registered charity and not for profit organisation that conducts social and public policy research for a number of bodies including government departments, charities and research councils. More information can be found at **www.natcen.ac.uk**.

Who are the ESRC?

The Economic and Social Research Council (ESRC) is a government funded organisation that supports research and training in social and economic issues. More information can be found at **www.esrcsocietytoday.ac.uk**.

What should I do if I am interested in knowing more or I would like to take part?

If you would like more information or would like to take part in the research please call us **free on**   . Alternatively email a member of the research team at either of the addresses below. If you would like a copy of this leaflet as a sound recording please contact a member of the research team.

Research team:

Martin Mitchell

William O'Connor

NatCen 35 Northampton Square London EC1V 0AX Tel: 020 7250 1866 Fax: 020 7250 1524
A company limited by Guarantee Registered in England No. 4392418 Charity No 1091768

Letter sent to participants prior to the interview

[address]

Our ref: 6169016
Email: […]
Direct Line: [….]

[date]

Dear X

Research on Same Sex Couples: Interview Arrangements

Thank you for agreeing to be interviewed. The arrangements for the interview are as follows:

Researcher/s conducting the interview:
Date:
Time:.
Place:

If your plans change and you are not able to keep this appointment please contact the relevant Researcher as soon as possible.

Direct line   Email
[name of interviewer] [tel. number]   […]

The interview will last for about an-hour-and-a-half. It will be informal and take the form of a discussion. If you requested any special arrangements for the interview (e.g. a signing interpreter), we will confirm that they are in place prior to the date of the interview.

Topics

The topics covered during the interview will relate to recent legislative changes to do with civil partnership, employment rights and adoption and their impact (or lack of impact) on your life. The type of topics that we would like to discuss with you includes:

- background details about your relationship, family and household arrangements, sexuality/ sexual identity, employment history and the area in which you live
- experiences of past discrimination in relation to your partnership, employment and (where applicable) attempts to adopt
- knowledge of, and views about, the civil partnership, employment and adoption legislation
- what difference, if any, the legislation has made to your life
- positive and negative impacts of the legislation
- any ways in which the current legislation could be changed or improved

Although we would like to discuss these topics with you, if there are any questions that you do not want to answer, you do not have to do so.

Consent to Take Part

On the day of the interview you will be asked to sign a consent form for the interview to take place and for the discussion to be digitally sound recorded. At the end of the interview you will also be asked to consent for an anonymised typed-up version of the recording to be placed in the Economic and Social Research Council's data archive for the use of other researchers once this research has ended. Any details that would allow someone to identify you will be removed before the transcript of the interview is placed in the archive. You can consent for the interview to take place but decide to withhold consent for the interview to be archived if you want to. We will discuss this with you on the day.

We prefer to interview only one member of each couple in order to give you more time to express your views and to allow you to speak privately. However, we do not want to exclude your partner from the interview if you want them to be there or feel that it is important that they also take part. Please let us know (ideally in advance) if your partner is also going to participate. If they are to contribute to the interview, they will also have to sign a consent form.

Participation is Voluntary

Participation in this research is completely voluntary and you can opt out at any stage. If you have any questions or concerns at all, please do not hesitate to contact me or any other member of the research team. We look forward to meeting you and hearing your views.

Yours sincerely

[interviewer's name]
Qualitative Research Unit

Appendix B   Interview topic guide

P6169 Same Sex Couples and the Impact of Legislative Changes

<u>Topic Guide</u>

Key Aims

- Level of awareness, understanding and experience of legislative changes that affect the lives of same sex couples
- Experiences of exercising the new rights in relation to civil partnership, employment, and adoption
- Reasons for deciding whether or not to exercise new rights under the legislation
- The response of family, friends, employers, adoption services and the wider society to these decisions
- The impact of these new rights on the lives of same sex couples in terms of general everyday experiences, discrimination, social inclusion, legitimacy, visibility, etc.
- Views about the impact of the legislation on the lives of same sex couples more generally
- Ways in which the legislation could be changed or improved, including any other legislative priorities

Introductions and Consent

- Introduce self, NatCen and the ESRC
- Check the respondent has read the information sent previously and whether s/he has any questions
- Explain participation is voluntary and that they do not have to answer questions that they do not want to
- Explain that there are no right or wrong answers, that we are not pro or against civil partnership, etc., we are interested in *their* views
- Explain purpose of digital recording
- Explain confidentiality, anonymity and, where partner is present, check whether the respondent is happy for the interview to go ahead
- Explain two part consent procedure (i.e. Part One - consent to be interviewed at start of interview, Part Two - consent to archive at end of interview) and ask to sign Part One of the form (N.B. the partner must also sign if s/he contributes to the interview)
- Mention respondent payment and that you will give this after the interview

(1) Background Information

The aim of this section is to gain an overview of key aspects of the person's life that are relevant to the research question. Much of the filtering in the rest of the guide will depend on a thorough exploration of these issues.

General and Household
- Age
- Who lives in their household (e.g. whether lives with partner or not; others in household)

The Couple
- When met partner, how long together and lived together, CP status
- Who knows that they are partners and (where appropriate) CPs (e.g. immediate family, wider family, friends, employer, work colleagues, etc.)
- How describes relationship with partner (e.g. partner, girlfriend/ boyfriend, wife/ husband, etc.)
    - explore whether description changes in different circumstances
- Whether been in long term relationship before *(brief details only)*
    - how many
    - whether same/ different sex relationship(s)

Employment
- Whether working at current time, on benefits, looking after family
- Type of work now or in the past (main type/s of work)
- Whether out at work about sexuality and/or about relationship status now and in the past
    - reasons for this

Parenting
- Whether have any children
    - ages
    - biological/ legal relationship of children to her/ him and partner
    - *if not living in the household,* where the child/ren live
- Whether 'out' about being a L or G parent
- *If doesn't have children,* whether ever been interested in having them
- *For all,* whether have ever adopted or fostered in the past OR were interested in doing so, when and circumstances

Sexual Identity
- How describes sexuality/ sexual identity

Environment
- Feelings about area lives in
    - how easy to live there as a same sex couple/ family
- Extent of connection to /involvement with gay community/ scene
    - importance of this

(2) Experiences of Past Discrimination and Attempts to Exercise Rights

In this section try to gain an understanding of the respondent's attempt to exercise rights up to date (viz. to have her/ his relationship recognised, to challenge employment discrimination or to adopt a child. This will involve scanning for past events (i.e. prior to the legislation) and recent events (post

legislation) in each case. Where events happened in the past, they should be dealt with here. Where they are recent, they should be dealt with in subsequent sections.

Note that the Civil Partnership Act (2004) was implemented in 2005, the Employment Equality (Sexual Orientation) Regulations (2003) were implemented at the end of 2003 and the Adoption and Children Act (2002) affected same sex couple from the end of 2006.

Explore partnership for all couples. Employment and adoption should only be explored where Section 1 has indicated this is relevant.

Partnership
- Whether felt partnership not recognised in the past (e.g. by society, legally)
- Whether attempted to 'marry', hold commitment ceremony, register partnership or have relationship recognised with current or ex partner(s) in any way prior to CP (e.g. local authority register, will/ power of attorney, etc.)
- *If yes:*
    - nature of ceremony or arrangement
    - feelings about doing it/meanings attached
    - response of family, employer, others
- *For all,* whether ever felt that they as a couple have been discriminated against (e.g. in terms of pensions, taxation, housing succession, immigration, next of kin, responsibility for partner's children, etc.)
- *If prior to CP introduction:*
    - circumstances surrounding the discrimination
    - whether they challenged it
    - outcome and feelings about

Employment
- Whether have ever felt discriminated against at work (e.g. in relation to type of employment could accept, recruitment, harassment/ bullying, pension, carers leave, promotion, inclusion in social functions, sacking, etc.)
- *If prior to employment regulations:*
    - circumstances surrounding discrimination
    - whether challenged discrimination (e.g. through court cases, trade unions, professional associations, LGB networks, campaigning, etc.)
    - outcome and feelings about

Adoption and Fostering
- *For all,* whether have ever considered adopting/ fostering in the past
- *If no, or did but didn't apply,* key reasons why didn't apply
- *If did apply,* whether felt discriminated against in attempts to adopt/ foster children (e.g. in relation to applying to adopt or foster, response of society, adoption services, family, playgroups, schools to them and their families)
- *If prior to adoption legislation*
    - circumstances surrounding discrimination
    - whether challenged discrimination (e.g. through court cases)
    - outcome of challenge and feelings about
    - *where gained rights as adoptive parents,* circumstances in which this was the case (e.g. partner applied for joint residency, applied as single person, adopted 'hard to place' child, don't ask don't tell policies)

(3) Awareness, Understanding of and Attitudes towards the Legislative Changes

The focus here is on general awareness and understanding of what the legislation will mean for them and same sex couples more generally. Also, here we want to capture their general attitudes towards the various legislative changes.

Awareness and Understanding
- Description of key pieces of legislation affecting partnerships, employment, adoption/ parenting, L&G equality
    - examples of resulting rights in relation to the *CP Act* (e.g. inheritance, pensions, next of kin, immigration, etc.) and responsibilities (e.g. parental responsibility, financial responsibility, etc.)
    - examples of rights under the *Employment Regulations* (e.g. freedom from direct and indirect discrimination, harassment, victimisation, same terms and conditions as married couples OR heterosexual couples)
    - examples of rights under the *Adoption and Children Act* (e.g. right to apply to adopt as a same sex couple)
    - awareness of any differences in the rights afforded to CPs and non-CPs (e.g. impact on benefits entitlements for CPs and non-CPs, some employment terms and conditions only apply to married/ registered partners, both unregistered and registered partners can apply to adopt)
- Degree of certainty about the kinds of rights involved
    - what underpins this
    - what would make for greater certainty
- Sources of information about the changes (e.g. official publications, mainstream or L&G news, media, Internet sites, campaigning, word of mouth)

General Attitudes
- General attitudes towards <u>civil partnership</u> legislation
    - key positives and negatives
    - perceptions why the government has recognised same sex partnerships now
    - views about the state recognising/ legislating on same sex relationships
    - whether they have attended any civil partnership ceremonies and their feelings about doing so
    - feelings about the nature of the ceremonies, whether met with expectations
    - feelings about civil partners not being allowed a religious ceremony

- General attitudes towards <u>employment</u> legislation
    - key advantages and disadvantages for individuals and couples
    - views about whether they think people will use the employment legislation

- General attitudes towards <u>adoption</u> legislation
    - key advantages and disadvantages of changes to adoption legislation
    - perceptions why the government has allowed same sex couples to adopt now (e.g. desire for equality, shortage of adoptive parents)
    - whether will make adoption by same sex couples easier or more difficult (e.g. more difficult to make private arrangements, closer scrutiny by adoption/ social services)?

(4) Significance and Use of Rights afforded by Civil Partnership Legislation

Here the focus should be exploring whether respondents feel that the partnership legislation has held any significance for their everyday lives, specifically whether they have exercised the new rights in any way. It is important to focus on their lived experience and not general statements about the impacts on same sex couples. In relation to decision-making it is important to explore what issues/ factors had an impact on their decisions when they first heard about the legislation and subsequent discussions. The actual impacts of the legislation on the lives of respondents is covered section 7.

Decision Making
- *Own* initial views about what the CP Act meant for their relationship
    - o Whether views have changed over time (and why)
- Whether discussed CP Act with their partner
    - o Nature of the discussion, what aspects of the legislation did they discuss
- Whether/ how they came to a decision about whether to register
- What issues/ factors they considered/ would consider when deciding whether or not to register their partnership *(Seek a spontaneous response first and then explore whether any of the other considerations below played/ would play a part in their decision)*

    social recognition/ personal meaning of civil partnership
    - o recognition by the state or not wanting the state involved in definition of relationship
    - o greater recognition and acceptance by family, friends, employers
    - o symbolism/ meaning of civil partnership to them

    legal protection, financial issues
    - o whether have sufficient or wanted more legal protection for the relationship (e.g. next of kin, immigration)
    - o financial advantages (e.g. pensions, inheritance, tenancy succession) or disadvantages (e.g. benefits, dependency)

    commitment, stability and security
    - o demonstrate/ secure commitment or felt had commitment already
    - o whether necessary to hold the relationship together for longer
    - o whether would offer stability and security for children

    whether or not would change the nature of the relationship
    - o relationship becoming 'normal', like heterosexual relationships, whether this matters
    - o being treated as a 'normal' couple, treated the same as heterosexual couples

    external factors shaping views about CP/ 'marriage'
    - o relationship of parents
    - o previous relationships, relationship breakdown
    - o socio-political views about partnership/ marriage

- Are both partners of the same view in relation to these issues/ factors
- *If they aren't of the same view,* how have they dealt with their differences of view

Registering their Partnership
(people who have registered their partnership only)

- Terminology used to describe civil partnerships/ civil partnership registration (e.g. marriage, wedding, partnership, registration, commitment ceremony, etc.)
    o any difference between the couple's terminology and that used by other (inc. official services)
- Who they invited to the registration and why – e.g. family, children, friends, others
    o relative importance of involving family, friends, others
    o any difficulties arising from who invited
- How treated by the registration services and Registrar:
    o at point of giving notice
    o during the registration
    o whether told about option for withholding address from public register
    o *where applicable,* how treated by immigration officials

- Feelings about registering /meanings attached
    o whether others shared these/ applied other meanings to it
- Views about the various options offered for ceremony wording, length and general design
    o whether used own vows or created their own, feelings about doing so
    o did they include or avoid particular words or concepts (like fidelity, obedience, loyalty, exclusiveness, monogamy)
    o anything else that they did to personalise the ceremony and why
- Whether held a separate ceremony/ celebration away from the registration
    o nature of ceremony/ celebration, why held it
    o whether they had or attempted to have any religious ceremony as well
    o *if had a religious ceremony,* what was the response of religious organisation
    o feelings about not being able to have a combined religious and civil ceremony a religious ceremony
- Whether will changes names, why/ why not,

(5) Significance and Use of Rights afforded by Employment Regulations

Here the focus should be exploring whether they feel the employment regulations have held any significance for the everyday lives of respondents, specifically whether they have exercised the new rights in any way. It is important to focus on their lived experience and not general statements about the differences for same sex couples as a whole.

- Whether has used the new employment rights (e.g. asking partner to be recognised as next of kin, pension beneficiary, employment benefits to be extended to partner, tribunal cases, grievances, etc.)

If has used new employment rights
- Nature of use of regulations (e.g. pension entitlements, work benefits, carers leave, tackling harassment/ bullying, grievance, tribunal, etc.)
- Response of employer, work colleagues, trade union, professional association to the request or grievance as same sex couple, as a non-CP
- Degree of satisfaction with outcome of request or grievance
- Whether felt supported through the process by employer, colleagues, trade union, professional association, etc.
- Positive or negative impacts on work (e.g. increased or reduced stress, easier to be out at work, etc.)

If has not used employment rights (use this section flexibly depending on employment/ work experience)

- What sort of events would prompt them to use the rights in the future (if any)
- Barriers to use of rights (e.g. macho/ non-gay-friendly work environment, no equal opps. policy, lack of support, etc.)
- Facilitators to use (e.g. progressive employers, equal opportunities policies, support from colleagues, etc.)

(6) Significance and Use of Adoption Legislation

Here the focus should be exploring whether they feel the adoption legislation has held any significance for their everyday lives and, if so, exactly what changes it has brought about – both positive and negative. It is important to focus on their lived experience and not general statements about the impact of the changes for L&G people as a whole.

If has attempted to adopt post legislation

- Description of experience of applying for adoption or fostering since the Adoption and Children Act
- Response of adoption agencies, social services, social workers, courts, lawyers, etc. to the application to adopt as a couple, as non-CPs
- Experience at the point of:
  - application
  - assessment, including the need to demonstrate an 'enduring family relationship' or stability/ safety in the family
  - *if applicable,* appeal against being turned-down
  - adoption panel
  - placement
  - issue of informing birth parents that adopted by same sex couple/ L&G parents

(7) Impact of Legislative Changes on their Lives

The purpose of this section is first to explore impacts of the legislative changes on their relationship – whether positive or negative - and to explore how it has affected the respondent's life.

Overall Impact of Partnership Legislation
If a CP, or intending to register
Explore what difference (if any) becoming a civil partner has had/ will have on the following aspects of their relationship

If not a CP or undecided
Explore whether they feel any of the aspects of relationships listed below have been or will be affected by the legislation

Whether the CP legislation has made any difference to:
- **Stability, security or longevity of relationship**
- **Commitment to each other emotionally, in terms of caring commitments**
  - being only/ primary partner, fidelity, monogamy
  - being considered main carer or next of kin
  - responsibility for any children any partner might have
  - value placed on the relationship by either partner

- **Degree of togetherness/ independence on financial matters** (income generation, paying bills, debt, savings and investments, asset ownership etc)
  - o being financially responsible for a partner
- **Visibility/ openness about sexuality**
  - o whether brought about any changes in how open they are about their sexuality or relationship
  - o *if yes,* in what sorts of events/circumstances; with what sort of people
  - o *if no,* do they think the legislative change would make them more open in the future
  - o what prevents them being open and out
- **How they are regarded/ viewed by family, friends and others**
  - o whether being a CP/ not being a CP affects how people they know view their relationship
  - o whether being a CP/ not being a CP affects how their relationship is viewed by society
  - o how they represent their relationship (to family, friends, neighbours etc)
  - o whether is has affected the value placed on their relationship by others
- **Discrimination**
  - o whether legislative change has affected the level of discrimination they experience as a couple
  - o *if less,* in what circumstances do they feel less discriminated against and why
  - o *if more,* how has the legalisation increased discrimination, in what ways/circumstances
  - o *if no change*, why
- **Any other impacts**

Overall Impact of Employment Legislation
- Whether employment regulations have made any difference to their work life
  - o whether feel any different
  - o whether changed how open they are at work about their sexuality or their relationship status
- Whether their employer has recognised and promoted the sexual orientation employment regulations within their workplace (e.g. equal opportunities monitoring, changing policies, supporting LGB network, advertising, etc.)
- Explore whether the employment regulations has affected:
  - o job security
  - o confidence at work
  - o workplace relationships
  - o other impacts at work

Overall Impact of Adoption Legislation
If has not adopted:
- Whether they be more likely to consider adoption/ fostering now
- *If no intention to adopt/ foster,* does the adoption legislation mean anything to them personally (e.g. is it important to know that L&G people can apply to adopt)

If has not adopted, but plans to or is open to the idea:
- What effect has the legislative change had on their plans/ ambitions in relation to family life?

If has adopted after the legislation, explore:
- Positive or negative impacts on self, partner, family
- Explore whether requirements and standards have changed how their relationship is structured or portrayed to others
- How their family set-up is viewed by others they come into contact with:

- o Response of their own parents, other children, family, friends, etc. to the adoption
- o Response of other parents, playgroups, schools, the child's friends, etc. to the adoption and having same sex parents (e.g. overt discrimination, covert discrimination, lack of understanding, tolerance, acceptance)
- How they feel their family set-up is viewed and regarded by society and Government
- Degree of openness about being an LGB adoptive parent, do they tell people that they are part of a same sex couple? Reasons why/ why not?
- Whether they or any children have experienced any discrimination or harassment because of their decision to become an adoptive parent
  - o Explore circumstances

(8) General Impact on Same Sex Couples

This section explores the views of respondents about the impact of the legislation on same sex couples more generally

- Overall views about whether the legislation has changed social attitudes to same sex couples and LGB people?
- Relative impact of legislative changes on attitudes compared to other factors (e.g. visibility of LGB generally, knowing LGB people personally, political campaigns of the past)?
- How do the impacts for them compare with other same sex couples they know
  - o Explore any similarities/ differences and why
  - o Explore any stated increases/decreases

(9) Future Improvements in the Legislation and Legislative Change

Partnership
- Any ways the civil partnership legislation could be improved?
  - Whether it matters that CP is not the same as marriage
  - Views about any move to give it equal status to marriage
- *If not a CP,* anything that would make them more likely to considering registering their partnership in future?
- Are there/ should there be any alternatives to civil partnership (e.g. civil commitment pacts, legal recognition of partnerships in relation to a menu of options such as pensions, housing, insurance, power of attorney, etc.)?

Employment
- Any ways in which the existing regulations could be improved?
  - o Feelings about equal opportunities monitoring for sexual orientation (e.g. confidentiality, is it a private matter, will people be offended, are LGB people treated as less important if sexuality isn't monitored alongside sex, race, disability, etc.)
  - o Feelings about some benefits only applying to married and registered couples?
  - o Feelings about exemptions for the 'purpose of an organised religion'?

Adoption
- Any ways in which the existing adoption legislation could be improved?
- Anything that would facilitate adoption, make consideration more likely in future

- o Feelings about single people and couples being able to apply, registered and unregistered partners?
- o Feelings about transitional arrangements for Catholic adoption agencies (i.e. 20 months transition with a duty to refer to another agency in the interim)

Other Changes
- Are there are other aspects of the lives of same sex couples that could benefit from legislation – explore what these are and how they would benefit
- Advantages and disadvantages of further legislation involving the lives of same sex couples.

After the Interview
- Check whether there is anything the respondent would not feel happy about being recorded or archived and offer reassurances about anonymity and confidentiality where necessary
- Ask to sign consent form Part Two
- Check whether respondent would like a copy of the summary of the findings and where it should be sent
- Give leaflet about 'what happens now'
- Give respondent payment

- ***Mention that we may do a follow-up to this study in a few years time AND/ OR other research with same sex couples and lesbian, gay and bisexual people. Ask whether the respondent would be will for us to contact them about such research in future?***

- ***IF IN AN AREA WHERE WE HAVE FOUND IT DIFFICULT TO RECRUIT RESPONDENTS, ask if they know of anyone else who they think might be interested in taking part and ask them to pass on a leaflet***

Appendix C   Thematic framework

P6169 Thematic Framework: Same Sex Couples study (FINAL VERSION AFTER PILOTING)

CHART 1 – BACKGROUND INFORMATION

1.1 Age
1.2 Relationship
1.3 Household composition/ parenting
1.4 Sexuality, sexual identity, community
1.5 Other
1.6 Interview Cover Sheet (details recorded immediately after the interview)

CHART 2 – GENERAL AWARENESS, UNDERSTANDING, VIEWS AND ATTITUDES

2.1 Nature of awareness/ understanding CP legislation
2.2 Nature of awareness/ understanding of legislation – employment regulations
2.3 Nature of awareness/understanding of adoption legislation
2.4 Sources of information/ satisfaction with
2.5 General views and attitudes towards CP legislation
2.6 General views and attitudes towards the ERs
2.7 General views and attitudes towards the adoption legislation

CHART 3 – DECISION-MAKING PROCESS IN RELATION TO CIVIL PARTNERSHIP

3.1 Extent of discussion whether to become CPs
3.2 Origination of discussion/ keenness
3.3 Who involved in the decision whether to become CPs
3.4 Extent of agreement
3.5 Facilitators/ barriers to decision whether to become CPs
3.6 When decision about CP taken

CHART 4 – FACTORS CONSIDERED IN RELATION TO CIVIL PARTNERSHIP

4.1 Social recognition/ validation by society/state
4.2 Social recognition by family, friends, neighbours, etc.
4.3 Legal, financial, practical issues
4.4 Commitment, stability or security
4.5 Views about normalisation of same sex relationships
4.6 Wider social and political views about relationships
4.7 Previous experience of relationships
4.8 Other issues/ reasons affecting decision
4.9 Most important factors for respondent and partner

CHART 5 – THE CIVIL PARTNERSHIP EXPERIENCES/ EXPECTATIONS

5.1 Terminology used to describe/ discuss CP
5.2 Experience of registration service
5.3 Nature of ceremony/ registration
5.4 Attendees at the registration/ ceremony + involvement in planning

5.5 Personal meaning of the registration, ceremony and celebrations

5.6 Feelings about not being able to have a religious ceremony

5.7 Other issues relating to experience of CP

CHART 6 – IMPACTS OF CP/ DIFFERENCES MADE

6.1 Past discrimination – partnership

6.2 Social recognition/ validation by society/ state

6.3 Social recognition by family, friends, neighbours, etc.

6.4 Legal, financial, practical impacts

6.5 Commitment, stability, security, caring relationships

6.6 Becoming more like heterosexual marriage/ creating something new

6.7 Socio-political views

6.8 Visibility/ openness about relationship

6.9 Discrimination

6.10 Impact - other

6.11 Overall impact on feelings of discrimination and social inclusion

CHART 7 – EXPERIENCES OF SOCIAL INCLUSION AND DISCRIMINATION: EMPLOYMENT

7.1 Working status/ past and current experience of work

7.2 Past discrimination – employment

7.3 Out at work – facilitators/ barriers

7.4 Use of employment regulations

7.5 Significance of employment regulations

7.6 Facilitators/ barriers to using the regulations

7.7 Response of employers

7.8 Response of colleagues, trade unionists, etc.

7.9 Impact of ERs on perception of discrimination and social inclusion

7.10 Other issues relating to the ERs

CHART 8 – EXPERIENCES OF SOCIAL INCLUSION AND DISCRIMINATION: ADOPTION

8.1 Past discrimination parenting/ adoption

8.2 Significance of the adoption legislation

8.3 Facilitators/ barriers to adoption

8.4 Experience of applying to adopt/ adopting

8.5 Response of adoption agencies, social services

8.6 Wider experiences as an adopting same sex couple

8.7 Overall impact of adoption legislation on discrimination/ social inclusion

8.8 Other issues relating to the adoption legislation

CHART 9 – CHANGES TO LEGISLATION

9.1 Change in attitudes towards LGB people?

9.2 If changes needed to CP legislation

9.3 If changes needed to employment regulations

9.4 If changes needed to the adoption legislation

9.5 Any other concerns/ changes needed

Same Sex Couples and the Impact of Legislative Change

Consent Form

Serial No: P6169_____

TO BE COMPLETED PRIOR TO THE INTERVIEW

Part One
I have read information about the study AND/ OR had this information explained to me. I agree to take part in the interview and for the discussion to be sound recorded - YES/ NO (delete as appropriate)

Name ……………………………………………………..

Signature ……………………………………………………..

Date ………………………………………………………………

_____

TO BE COMPLETED AFTER THE INTERVIEW

Part Two
I agree to an anonymised, typed-up version of the interview to be stored in the Economic and Social Research Council's data archive - YES/ NO (delete as appropriate)

Signature ……………………………………………………..

Date ………………………………………………………………

_____

I would like to be contacted about follow-up research relating to this study – YES/ NO

I would like to be contacted about other research relating to same sex couples and lesbian, gay and bisexual people – YES/ NO

I would like to receive a summary of the research findings – YES/ NO. Address to which summary should be sent _____

ACTIVITIES AND ACHIEVEMENTS QUESTIONNAIRE

1.   Non-Technical Summary

A 1000 word (maximum) summary of the main research results, in non-technical language, should be provided below. The summary might be used by ESRC to publicise the research. It should cover the aims and objectives of the project, main research results and significant academic achievements, dissemination activities and potential or actual impacts on policy and practice.

Aims and objectives

Recent legislative changes have created a substantially new socio-legal environment for same-sex couples:

- the Civil Partnership Act (2004) created the legal status of 'civil partner' (CP) and enabled same-sex couples to obtain legal recognition of their relationships and to gain a number of specific rights and responsibilities;
- the Employment Equality (Sexual Orientation) Regulations (2003) made it unlawful for employers to discriminate against an individual on the basis of their sexual orientation;
- the Adoption and Children Act (2002) came into effect in December 2005 and made it possible for adoption orders to be made in favour of unmarried couples, including same-sex couples.

The overall aims of the research were to explore:

- how effective the legislation was perceived to have been in terms of increasing the sense of social inclusion amongst same-sex couples and reducing discrimination;
- the views of same–sex couples about the involvement of the state in defining their relationships since the implementation of the legislation.

Results

Impacts of the legislative changes on social inclusion and discrimination among same-sex couples
The research strongly suggests that the package of legislation has had some significant positive impacts around improving the sense of social inclusion and reducing perceived discrimination amongst members of same sex couples, notably:

- providing a concrete and visible set of rights, significant in increasing participants' sense of *'belonging'* to and *'legitimacy'* in, society;
- signalling to society that discrimination against gay and lesbian couples, parents and employees is unacceptable in the eyes of the law, providing some with greater confidence about being open about their sexual orientation;
- helping to 'normalise' same-sex relationships and parenthood, thus gradually dispelling stereotypes, and reducing the likelihood that gay and lesbian men will be defined by society by their sexual orientation alone;
- increasing the sense of stability of some gay and lesbian relationships and families; both through the *'reaffirming'* impact of civil partnership on the couple, and through the positive impacts it was perceived to have had on their relationship with and recognition from family and wider society.

However, the research also indicated that in some areas the legislation has also posed a threat to participants' sense of social inclusion, most notably:

- the negative impact on the finances, emotional life and propensity to be open about the nature of the relationship, of non-civil partners affected by being treated as couples for the purpose of means-tested benefits and tax credits;
- the sense amongst some that civil partnership, through its difference to marriage, actually perpetuates inequality for same-sex couples;
- the fear that the legislation - by bringing attention to same-sex couples and lesbian and gay employees - might provide certain service providers/ employers with an already unsympathetic disposition towards gay men and lesbians with a mechanism through which to express their disapprobation.

Views of couples towards the involvement of the state in defining their same sex relationships
Views differed according to the extent to which participants viewed same-sex relationships as different from or similar to opposite sex relationships, and their views about the value of creating and preserving new forms of same-sex relationships where they *were* perceived to be different from traditional heterosexual relationships. Four main perspectives were found:

1. State intervention in civil partnership was an unwanted 'imposition' from the state. It was argued that the absence of state involvement had enabled people to create their own definitions and parameters for their relationships and working life. CP was therefore seen to reinforce hetero-normative concepts of relationships.
2. Another perspective rejected state involvement in same-sex relationships, but welcomed it in the sphere of employment law and/ or adoption. Whilst the former was viewed as imposing a set of definitions on pre-existing relationships, the latter were felt to be introducing important new rights and outlawing discrimination.
3. A third perspective was held by those who had had some concerns about loss to self-definition through civil partnership but went ahead with CP anyway for other reasons. It was felt that with hindsight that the benefits of greater social recognition and legitimacy outweighed any concerns about the loss of freedom to self-define. It was also thought to be possible to choose the form of civil partnership one wanted to adopt thereby retaining a sense of agency and self-definition within a broader framework.
4. Finally, there were those who firmly regarded themselves as part of the mainstream already, or saw civil partnership in particular as providing an important opportunity to become part of the mainstream. For these participants, 'normalisation' was not regarded as a negative but in fact embraced.

Opening up CP and marriage to same-sex and heterosexual couples therefore appeared to be the solution that had the best fit with the diverse set of views described above. This would potentially be a means of achieving greater equality between all types of couples as well as offering a choice about which institution best suits a relationship, if any at all.

Achievements and dissemination activities
The study provides the first national study of the impacts of the Civil Partnership Act, Employment Equality (Sexual Orientation) Regulations and the Adoption and Children Acts, both individually and cumulatively. To date papers given and conferences attended have included the Morgan Centre for the Study of Family and Relationships (November, 2008), Centre for Research and Social Policy (January, 2009) and the Equality and Human Rights Commission LGB Research Dissemination Day (March, 2009).

Potential impacts on policy and practice

Although there were a number of positive impacts from the legislation amongst same-sex couples, policy makers and practitioners will also need to be aware of negative impacts on same-sex couples and differing views on state involvement in the lives of such couples in reviews of the form that the legislation should take. Greater support for the legislative changes among same-sex couples may come from emphasising anti-discriminatory aspects of the legislation, the value of social validation and recognition for some couples and the possibilities of defining CPs for one's self within a broad legal framework.