

Information Pack

Marital Breakdown

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History of Divorce in Ireland

Early History of Divorce

Divorce was legal by mutual consent in Ireland up until the ninth century. Also, women could divorce their husband for reasons such as wife beating, sterility, or failing to pay maintenance. Men could divorce their wives for reasons such as infertility, infidelity, or bad management. This was part of the first written legal system in Ireland, referred to as **Brehon law**. The Roman Catholic Church had supported the idea of divorce for some time, but began insisting that marriage was an 'indissoluble bond' from the twelfth century on. As time went on and English Common Law began liberalize on the topic of divorce, Ireland's legislation remained unchanged.

Bunreacht na hÉireann: The Irish Constitution and Divorce (1937)

Article 41.3.2. states:

No law shall be enacted providing for the grant of dissolution of marriage.

While divorce was prohibited, marital-break down of other forms did exist, in the form of death, desertion, or lack of communication. However, **the social stigma of failed marriages resulted in many people keeping their situation a secret**. At the same time, by the 1979 census, 7,624 people declared a status other than married, single or widowed, a number which increased to 14,117 by 1981.

The Divorce Action Group (DAG)

Formed in 1980, this group began with a group of women in Coolock who aimed to campaign for a referendum removing the Constitutional ban on divorce. Membership rapidly increased, and eventually consisted mainly of separated people, but also political activist who felt the ban on divorce was contrary to civil rights.

Ireland and the European Community

Some worried that by joining the European Community Ireland would be forced to accept more liberal legislation on the issue of divorce. However this did not happen. Although the European Convention on Human Rights does recognise the right to marry, it does not expressly state the right to remarry. Also, the Convention on Human Rights does not state that divorce is a human right. However, the European Commission did find that children born out of wedlock had been and were being discriminated against, and thus forced the Irish Government to pass the **Status of Children Act**, which abolished the concept of illegitimacy in Ireland.

1986 Referendum

On 24 April 1986 the coalition government of Fine Gael and Labour proposed a referendum on divorce. The referendum proposed to add a section to article 41.3.2—which, at the time, stated in section 3.1 that 'the state pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack.' The coalition proposed to amend the article by adding a section 3.2 to state that if a court establishes that a marriage has failed for a period of at least five years and there is **'no reasonable possibility of reconciliation,'** a grant of dissolution of marriage would be provided. At the time, opinion polls suggested that the referendum would pass. However, many felt that the referendum lacked

legislation to back it up. In the end, the referendum was voted down on 26 June 1986 by a 63.1% voting no.

Anti-Divorce Campaign (ADC)

The Anti-Divorce Campaign was established in May of 1986. The ADC felt that women and children would ultimately suffer if divorce were legalized. The ADC has connections with many ultra-conservative groups who influenced government, civil service, and the business world, thus had access to money and power.

The 1995 Referendum

On 24th November 1995, over a million Irish voters decided in favour of lifting the ban on divorce. This **vote was the most narrow margin in the history of Ireland**, with 50.28% voting yes. The 13% increase in 'yes' votes from 1986 is attributed to a large urban turnout and a increase in the involvement of non-governmental organizations.

The 1996 Family Law (Divorce) Act

This act states that the **court will grant a decree of divorce** if the court feels confident that the applicants are aware of the alternatives to divorce and that there is no possibility of reconciliation.

References:

www.bailli.org/ie

Mags O'Brien, ed. *Divorce?: Facing the Issues of Marital Breakdown* 1995: Dublin.

What to Tell Children in the Case of a Separation

(from 'We Are Separating. What do we tell the Children?' By Family Mediation Service)

How do we prepare ourselves?

Discuss together what you will say to the children. Discuss how you might respond to their reactions. Agree that you will not argue with each other or contradict each other in front of the children. This is their time to hear from you.

When should we tell them?

Choose carefully the time to tell the children—most children remember it for the rest of their lives. Pick a time when no-one is in a hurry to go elsewhere.

The amount of time each child needs to adjust to the news depends on their age. A couple weeks before you separate may be an approximate guideline. Older Children may need more time.

Who should tell?

If possible, tell the children together. Everyone then hears the same information and they do not have to worry about 'whether Dad knows what Mum said.'

Follow up with each child individually over the next day or two giving them time on their own with each of you to discuss and share their feelings.

What if we cannot tell them together?

Then, it is important to discuss what they will be told, who will tell them and when. Agree how you will talk to the children and repeat the same message. Do not blame the other parent. Do not criticise each other.

What do we tell the children?

Give a reason for the separation. For example: 'We were happy together when we got married but are not happy together anymore, we do not get on, and believe it will work better if we do not live together.'

- Explain different kinds of loving. For example, you as husband and wife met as adults but were strangers before that. This is different from you as a parent, where you have loved your child from the time she/he was born—a love will never change.
- Help them to understand that parents are forever—you will always be their Mum and Dad, and you will always love them.
- Make sure your children understand the word 'separate,' particularly as friends may say 'your parents are separating'.
- Be clear that this is an adult decision and your children are not to blame, are not responsible, and have no power to change the decision.
- Try to make sure each understands in an age-appropriate way.

Anything else we need to say to the children?

- Tell your children how sorry you are, that you know this is upsetting for them.
- Be as specific and confident as possible about future plans and living arrangements. Let them know they will be informed about changes that concern them.
- Reassure your children that the future is promising for everyone, that you will always be a family, but with two homes. Tell them that change can bring good things.
- Tell your children that you are there for them and they can talk to you at any time about what's happening. Encourage them to talk and make sure you keep listening.

What happens if we cry?

It's OK to allow your sadness to show, acknowledge it and acknowledge your children's sadness. It is a time of loss for everyone.

Acknowledge also that the child may feel angry, and that it's OK to express that anger.

What reactions should we expect?

Each child may respond differently: some may take it lightly or shrug it off, or respond in total disbelief and anger. Your child may be upset, or may pretend she/he doesn't care. Allow time for the child to process the information, to adjust and to express any feelings. There is no standard way to respond.

Should we tell the children why we are separating?

Children need to be told basic information that they can understand, but not the details of their parents' problems. Blaming one parent for the break-up of the marriage is not helpful to children. Your story of separation may have to be retold as children get older. It would be a pity to pretend that there are no regrets and that ending a marriage hardly matters. It is important to remember also the best parts of your marriage.

Who else should I tell?

It is important that teachers, child-minders and other key people in your children's lives should know so that they can support the children as well.

Why do we have to tell our children?

A child has a right to know about anything that affects the family, as separation does. Children know when something is wrong and may imagine it is worse than it is. They may find out the truth from someone else and feel betrayed and isolated within the family.

Children have a great ability and capacity to deal with truth when it is gently and supportively shared with them.

How Children React To Separation or Divorce

There are both long and short term effects of divorce on children. It is important to remember that children are different and will respond to marital breakdown in their own way. The way a child reacts to marital breakdown is dependent on gender, the culture he/she belongs to, the situations leading up to the marital breakdown, his or her coping skills, and social supports. However, studies have been fairly consistent in showing that the way a child responds to a marital breakdown is highly dependent on their age group. The following is a list of common reactions one can possibly expect at each respective age group.

Under 2 years

Babies and toddlers may have difficulty adjusting to the fact that someone they saw often is no longer constantly around. Temper tantrums and sleep problems may occur, and the child might temporarily become clingy, subdued, withdrawn, stubborn, and may try to search for the absent parent.

2 to 5 years

Children in this age group do not have a fully developed sense of time. Therefore, they may constantly ask the same question (when will Daddy be home? Where is Mummy?) repeatedly. Also, this age group might feel a sense of guilt, feeling that they did something to make one parent go away. They also may feel that they can 'wish' their parent back, and may feel the responsibility to reunite their parents. There may be crying before and after time with each parent. Also, they may be worried about their own basic needs and wonder who will take care of them.

6 to 8 years

As their sense of self and time are far more sophisticated, children in this stage often become involved in parental conflict and tend to feel torn between both of his or her parents. They tend to tell each parent what they feel their mother or father would like to hear and feel a loyalty conflict in relation to their parents, assuming the role of peacekeeper. They may become suddenly withdrawn, aggressive and have many nightmares as well as not want to go to school.

9 to 12 years

Children in this stage tend to be very angry, make decisions and judgements as to right and wrong and take sides against and blame one parent. They worry about their parents well-being and might take on a parental role if they have younger siblings. They may suffer from headaches and stomach aches, and may feel helpless, lonely and worried about their future. They may lose interest in school, friends, and favourite activities.

13 to 16 years

Children of this age are already going through a phase of unpredictability and transition. Marital breakdown may cause them to feel a sense of desertion and they may be angry and resentful. They worry about siding with one parent, and therefore tend to spend more time away from home. They worry about the ways the separation will affect them.

While their sense of independence has advanced dramatically, they still need rules and limits. They may use the situation to manipulate parents in order to get money, freedom, etc. Occasionally, acting out behaviour may occur and the child may experiment with the use of alcohol and drugs.

Older Adolescence

While late adolescents often see themselves as disengaging and moving away from family, they can still be deeply emotionally affected by separation. They may experience a sense of embarrassment or shame, and might be extremely angry with both or, more likely, one parent. They may feel the need to become a caretaker to one or both parents. Also, they may lose confidence in their own ability to form and maintain intimate relationships.

While it is natural for children to go through a period of distress after the separation of their parents, they should eventually move on. If children are not advancing emotionally it may be important that the child receives professional counselling before major problems occur.

Counselling is available (see page 11) and it is important that parents are open to counselling. If the child is

- unusually aggressive or apathetic;
- intensely angry and hostile;
- experiencing prolonged mood swings, from extremely loving and affectionate to extremely hostile;
- continually grieving the loss of the absent parent and is not able to cope with everyday tasks;
- having serious behavioural problems;
- not performing in school over much of the academic year

it may be a good idea to consider professional counselling.

Reference:

‘How Children React to Separation or Divorce.’ Family Mediation Service, Dublin

Working with Children Experiencing Divorce or Separation.

(from Pointers to good practice. Working with young children: divorce and separation)

What a children whose parents are separating need above all are familiar faces and stable routines. Childcare practitioners are in a position to offer support during the process of separation and beyond. In fact, research shows that much can be done to reduce the likelihood of long-term difficulties for a child.

Early years practitioners may find themselves:

- Looking after babies and children who show signs of distress. Such as feeding and sleep problems, constant crying, clinging and unwillingness to be left alone.
- Observing unusually quiet or withdrawn children.
- Coping with aggressive behaviour between children.
- Talking to sad, angry and confused parents.
- Liaising with social services departments where a child is thought to be at risk.
- Overseeing practical arrangements for dropping off and picking up the child, especially if there is a risk of abuse from one of the parents.
- Working with children who have witnessed violence between their parents.

Childcare practitioners can support children whose parents are separating by:

- Understanding the child's needs
 - When parents separate the children respond in a variety of ways. They may feel upset and confused at what their parents have done and often want them to come back together. We know from practice that young children often fear that since one parent has left, the other one might go as well. They may remember times when they had been 'naughty' and blame themselves for what has happened. Signs of the turmoil and grief within include bedwetting, worrying, difficult behaviour, unusual quietness, isolation or withdrawal from others. Understanding what the child is feeling is the starting point for providing support.
- Helping Children Play
 - Children who are too young to express their feeling through words need to be carefully observed. They may show their sense of loss and sadness through play and will need encouragement to relax enough to do this. Providing toys and materials that can help them explore their own situation is important. For example, a child who lives in one house and stays regularly with parent in another may want to express what this is like for her by moving small dolls between two different dolls' houses. Or she might want to play with toy cars big enough to contain dolls and little cases.
- Making time and space
 - At times of stress children regress in their behaviour and often need strategies more suited to younger age groups. They may need more adult attention than usual, as well as require more praise and approval and lots of hands-on experiences.

- Offering stability and familiar faces
 - For a child whose life is changing fundamentally at home, the daily support of a playgroup, nursery, childminder, or a school is crucial. At home the routine of bath time, bedtime, and eating may all feel strange to the child because someone else is looking after them or because some of the playful rituals that gave a sense of security are gone. As many people and events in the day as possible therefore need to stay steady and predictable.
- Explaining practical arrangements
 - Children whose homes are disrupted are likely to be anxious about the details of the day. They may need arrangements explained patiently over and over again. Even young children need to know what is happening and when, who is going to pick them up and where they are going.
- Reassuring the Child
 - Where possible, it is also important to reassure the child that he or she has not been abandoned and that the parents are still parents even when they leave the home to live somewhere else. Children need to be able to talk about their feelings, if they want to.
- Interacting with other children
 - The behaviour of some children may antagonise other children and therefore leave them isolated. When an unsettled child is struggling to get on with other children, workers may need to explain to other children that he or she is having a difficult time.
- Special family days
 - Practitioners need to recognise that what may be a happy day for many children, such as mothers' day or fathers' day may feel very complicated for children whose parents have separated.

Childcare practitioners can also support parents by:

- Talking to parents about their child
 - Parents often need help with their relationships with their children at this time. They may be too distressed to provide the support the children need. Or they may be so preoccupied that they do not realise the effect that conflict between the adults is having on the child. Some parents think that their child is 'too young' to notice what is going on. Early years workers need to be sensitive and cautious in communicating with the parent about how the child is coping. Most parents are easily put on the defensive about the way they are bringing up their children and the more difficult things are at home, the more sensitive they are likely to be.
- Providing a place to be together
 - Parents may like to spend time in the classroom/daycare setting if their home is unsettled. Interacting with their children in a supportive environment can be helpful in strengthening relationships at a difficult time.

- Giving Information
 - Most parents want the best for their children and try hard to be committed parents even when they are no longer partners. Information can help them. They may be worried that the separation itself is going to do lasting damage to their child. If so, they can be reassured that for most children the short term distress fades and they settle down into a new way of life. Also, if childcare practitioners become aware that extra help may be needed, they can point parents in the direction of local child and family support services.

Remember...

You need to look after yourself. Some children make great demands on their early years workers and have difficulty in relaxing or becoming engrossed in play. They may not want to be left at the beginning of the day and not want to leave at the end.

Working with children experiencing separation or divorce can also be emotionally draining. Early years workers may have to observe the child's distress and, while they can help, they cannot make it 'all right' for the child. This may be painful and makes good team support structures particularly important. Back-up of colleagues and friends may be helpful in keeping children's problems in perspective. For childminders being part of a childminding network can provide this kind of support.

From:

The National Early Years Network, 'Working with young children: divorce and separation.' (October 2001) London: Joseph Rowntree Foundation.

Websites, Contact Details and Resources for Further Information

Barnardos National Children's Resource Centres:

Christchurch Square, Dublin 8

Tel: 01 4549699

Fax: 01 4530300

Email: ncrc@barnardos.ie

18 Patrick's Hill, Cork

Tel: 021 4552100

Fax: 021 4552120

Email: ncrc@cork.barnardos.ie

10 Sarsfield Street, Limerick

Tel: 061 208680

Fax: 061 440214

Email: ncrc@midwest.barnardos.ie

River Court, Golden Island, Athlone

Tel: 0902 79584

Fax: 0902 79585

Email: ncrc@athlone.barnardos.ie

41 – 43 Prospect Hill, Galway

Tel: 091 565058

Fax: 091 565060

Email: ncrc@galway.barnardos.ie

<http://www.barnardos.ie>

The National Children's Resource Centres have further resources on marital breakdown – please contact your nearest NCRC for more details.

Family Mediation Service

The Family Mediation Service is a state run service staffed by professionally trained mediators. Offices are located in the following areas:

Dublin

Floor 1, St. Stephens Green House

Earlsfort Terrace, Dublin 2

Phone (01) 634 4320

Limerick

1st Floor, Mill House, Henry Street, Limerick

Phone (061) 214310

Cork

Hibernian House, 80A South Mall, Cork

Phone (021) 4252200

Galway

Ross House, Merchants Road, Galway

Phone (091) 503730

Teen Between

Marriage and Relationship Counselling Service, 38 Upper Fitzwilliam Street, Dublin 2

Tel: 01 6785256

Fax: 01 6785260

Email: mracs@eircom.net

This is a service for 12-18-year-olds whose parents are separated or are separating. It is a practical attempt to help these teenagers through the trauma, confusion and even guilt of marital breakdown and by doing so to help them not to carry the same attitudes of despair and helplessness into their own adult relationships.

“Children’s Experiences of Parental Separation” by Diane Hogan, Ann Marie Halpenny and Sheila Greene, was published in 2002 by the Children’s Research Centre, Trinity College Dublin, Dublin 2. *This study explores the experiences of parental separation for children aged 8 to 17. Its aim was to describe how parental separation affects children’s lives, from their own perspectives, including their views and feelings about the changes that occur in the everyday lives, such as at school, at home and in their relationships with parents and other family members. Another aim was to describe what sort of support children experienced and needed and the strategies they used to cope with the changes in their family life.*

To order a copy telephone the centre at 01 608 2901 or email: ccentre@tcd.ie