**Press Release –** 18th January 2017



**Automatic Guardianship for Some Unmarried Fathers for the First Time**

From the 18th January 2017, for the first time in Irish law, a non-marital father will automatically become a joint legal guardian of his child if he has cohabited with the child's mother for a minimum of 12 consecutive months, including at least 3 months after the child's birth. Treoir, the National Specialist Information Service for Unmarried Parents, is raising awareness that this groundbreaking provision of the Children and Family Relationships Act 2015 comes into effect today, as the 12 consecutive months must occur after the date of its commencement on the 18th of January last year.

Guardianship refers to the rights, duties and responsibilities that a parent has in respect of a child. A guardian has a duty to maintain and properly care for the child and has the right to make decisions in major areas of the child's life such as religion, school, adoption, consent to medical treatment, [passports](http://www.treoir.ie/information-passports.php) and decisions about taking the child out of the country, where the child lives and other matters affecting the welfare of the child. Where joint guardians disagree, either party can go to the court for its direction.

“*This is a significant and impactful development considering that where a child is born outside of marriage, only the mother is automatically the sole guardian of her child. Prior to this provision, an unmarried father could only become a legal guardian following the execution of a statutory declaration by agreement with the mother or through a court order. However, the provision does nothing for unmarried parents who are in a committed relationship but are not cohabitating due to personal circumstances such as employment or financial constraints. This may present difficulties in respect of compliance with the need to respect family life under Article 8 ECHR*” said Greg Straton, CEO Treoir.

The three months period does not have to take place directly after the birth of the child. It can take place at any time before the child turns 18 years of age provided that it is part of the 12 consecutive months during which the parents have lived together. If there is uncertainty or disagreement as to whether or not the mother and father have cohabited for the required length of time, a declaration that a person is or is not a guardian can be applied for by either parent through the courts. The court will make a declaration that a person is or is not a guardian if, having heard the evidence offered, it is satisfied that the required cohabitation occurred on the balance of probabilities.

Unmarried parents may still complete and sign a statutory declaration for joint guardianship by agreement at any point. When this form is signed and witnessed it needs to be kept in a safe place because there is no central register for these Statutory Declarations and therefore it is the only evidence that the father is a legal guardian. “*Following this provision coming into effect, the establishment of a Guardianship Central Register is becoming increasingly critical to safeguard the best interest of the child particularly in situations where, for instance, the Adoption Authority of Ireland or TUSLA are trying to ascertain who the legal guardian of a child may be for consent purposes*” said Greg Straton, CEO.

Treoir highlights that the provision of the Children and Family Relationships Act 2015 enabling unmarried couples to become joint guardians of their children by agreement at the point of birth registration has not yet been commenced. Dr. Ruth Barrington, Chair of Treoir said *“This provision would not only serve the purpose of facilitating guardianship but it would also alert unmarried parents to the fact that even where the father’s name is on the child's birth certificate it does not give him any legal rights in respect of his child. We call on Minister for Social Protection, Leo Varadkar, to make every effort to resolve the issues in the Civil Registration System causing the delay so that a greater number of children will have the opportunity of having both their parents as their legal guardians*, which is very much in their interest”.

\_\_\_\_ ENDS \_\_\_\_\_\_

**For further information contact:**

Greg Straton, Beatrice Cronin

CEO, Information Officer

Mobile: 087 698 42 73 Mobile: 087 672 89 32

Landline: 01 6700 120 Landline: 01 6700 120

Email: [greg@treoir.ie](mailto:greg@treoir.ie) Email: beatrice@treoir.ie

**Notes to the Editor:**

**About Treoir**

Treoir is the Irish word for direction and guidance. Treoir is a membership organisation which promotes the rights of unmarried parents (both opposite and same sex) and their children in Ireland.

Treoir operates a National Specialist Information Service for unmarried expectant parents, unmarried parents, their families and those involved with them and advocates on their behalf.

Treoir believes that unmarried families should have the same right to respect, support, protection and recognition as families based on marriage.

Treoir, the national federation of services for unmarried parents and their children, is a company limited by guarantee not having a share capital, registered in Dublin, Ireland, registered company number 82321. Treoir is also a charity with CHY number 8877

Website: [www.treoir.ie](http://www.treoir.ie)

Ph: 01 6700 120

LoCall: 1890 252 084

Email: [info@treoir.ie](mailto:info@treoir.ie)

Follow us on [Facebook](https://www.facebook.com/Treoir/) and [Twitter](https://twitter.com/TREOIR)