

PARENTAL RESPONSIBILITY

Under the Children Act 1989, "parental responsibility" means all the rights, duties, powers, responsibilities and authority which, by law, a parent of a child has in relation to the child and the child's property. This includes providing a home for the child, protecting and maintaining the child's welfare, and making important decisions on behalf of the child.

WHO HAS PARENTAL RESPONSIBILITY?

A child's mother automatically has parental responsibility whether or not she is married to the father.

A father who is married to or the civil partner of the child's mother when the child is born will automatically have parental responsibility. A child's father can also acquire parental responsibility by marrying the mother or entering into a civil partnership after the child's birth. Parental responsibility is not lost on divorce.

Fathers of children born after 1 December 2003 will have parental responsibility if named on the child's birth certificate. Even if they are not or have not been married to or the child's mother's civil partner.

Specific court orders can confer parental responsibility for a child. A person obtaining parental responsibility through a court order does not have to be a child's parent. However, their parental responsibility will generally only last while the order remains in force.

The situation is more complicated for same-sex couples, depending on how the child was conceived and in what family circumstances. If this is relevant, please ask your family lawyer to assist you.

WHAT IS PARENTAL RESPONSIBILITY?

People with parental responsibility are entitled to have a say in significant decisions affecting the child, such as:

- where the child should live
- where they should go to school
- what (if any) religion the child should have
- what name they should have
- the giving or withholding of medical treatment, and
- dealing with their money or property

Parental responsibility does not entitle someone to interfere with day-to-day decisions such as what the child wears, their hobbies or choice of TV programmes etc.

Generally, parental responsibility lasts until the child reaches 18, but it may come to an end sooner, e.g. if the child is adopted or if it was acquired as a result of a court order. You might hear parental responsibility referred to as 'PR'.

OBTAINING PARENTAL RESPONSIBILITY

For children born after 1 December 2003 where the parents were not and have not been married or civil partners, or the father was not named on the birth certificate, it is possible to re-register the child's birth to add the father's name with the mother's consent.

Parental responsibility can also be granted to a father by written agreement with the child's mother. A parental responsibility agreement is a legal document that must be signed and witnessed by a court officer. It must also be filed at the Principal Registry of the Family Division in London to be effective. A step-parent can also acquire parental responsibility by agreement.

If an agreement is not possible, a father can apply for a parental responsibility order to the court. The child's mother can oppose the application and put forward her reasons for doing so. When considering whether to allow a father to have parental responsibility, a judge will consider the father's commitment and attachment to the child and whether his reasons for applying are genuine. Generally, courts tend to award parental responsibility unless the father poses a risk.

A successful application to the court for a special guardianship order or a parental order after surrogacy will also automatically grant parental responsibility. In addition, parental responsibility may also be granted when the court makes a child arrangements order.

This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different. We would suggest you contact us to obtain complete and proper legal advice.