



Information Sheet: Parental Responsibility

What is Parental Responsibility?

Parental Responsibility is defined as "all rights, duties, powers and responsibilities and authority which, by Law, a parent of the child has in relation to the child and his/her property.

Having Parental Responsibility allows the absent parent to be involved in the major decisions that affect the upbringing of a child. In reality however it will be the party with whom the child lives who will make the day to day decisions affecting the child. Having Parental Responsibility will not allow the absent parent to interfere. It will however entitle you to obtain information about the child's health, education etc.

Who has Parental Responsibility automatically?

- The mother of the child
- The father of the child who was married to the mother at the time of the child's birth, or has subsequently married the mother.
- The father of the child if he is registered as the child's father after 1st December 2003. (This does not apply to registrations before this date. If the father is registered as the child's father before this date then he will only have parental responsibility automatically if he is, or subsequently becomes married to the mother.)

I am an unmarried father - how can I get Parental Responsibility?

- By marrying the child's mother
- By entering into a formal Parental Responsibility Agreement with the child's mother

If the child's mother agrees that you should have Parental Responsibility you can both enter into a Parental Responsibility Agreement. This must be done on a prescribed form. We can assist you in completing the form.

The mother and yourself must attend either a Family Proceedings Court or the County Court office taking with you the completed Agreement together with the child's Birth Certificate and proof of your identity (which must have your photograph and signature on it). When the Agreement has been witnessed by the Court it must be lodged with the Principal Registry in London. We can do this for you.



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Once the Agreement is registered you will be sent a sealed copy which is your proof that you have Parental Responsibility. You must keep this in a safe place as you may need to produce it.

- By obtaining a Parental Responsibility Order from the Court

An unmarried father over the age of 18 can apply to the Court for a Parental Responsibility Order either on its own or together with an application for any other Order under the Children Act such as a Residence Order or a Contact Order (please ask for our information leaflets in respect of these).

An application can be issued in either the Family Proceedings Court or the County Court - we will advise you which is the most appropriate Court to use. There will be a fee to pay to issue the application, the amount of the fee is £175. If you are in receipt of Public Funding the cost of the Court fee will be met by your Public Funding Certificate, subject to the statutory charge, you will be exempt from paying this.

Public Funding is available to bring such an application provided that the Legal Services Commission considers that there are sufficient merits and you are financially eligible, however you may be required to attend mediation before the Legal Services Commission will grant you a Certificate. We will advise you fully about this.

Once the application has been issued, it will be passed to CAFCASS and the application will be dealt with under the "Dispute Resolution" process.

Dispute Resolution

The First Stage:

When there has been an application to the Court about your child(ren), the court arranges for you to meet a CAFCASS Family Court Adviser to discuss your application and what options are open to you and the court.

The meeting (which may last for up to an hour) is aimed at helping you to reach an agreement and will take place at the CAFCASS offices.

First, you will be seen by the CAFCASS Family Court Adviser who will discuss your views and any concerns you have. He or she will need to be made aware of any possible risk to yourself or your children.



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A joint meeting may also be arranged with the CAFCASS Family Court Adviser and the other party with the aim of reaching an agreed plan for your child. At this joint meeting you may reach an agreement. The CAFCASS Family Court Adviser may record the details with you or may encourage you to discuss them with your solicitor.



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You may feel that some further time is needed to consider ideas to help resolve your differences. You may need to try out a temporary arrangement, which could be reviewed at a future court date.



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If at any time, issues arise that concern the CAFCASS Family Court Adviser, and he or she decides it is not in the child's best interests to continue Dispute Resolution, the court would be advised and Dispute Resolution procedure will cease and will proceed through the Court process and will either proceed to a Hearing or a "Welfare Report".

A "Welfare Report" will address "Welfare Issues" such as allegations that one party to the proceedings abuses drugs/alcohol/has a criminal record/is violent etc. A Welfare Report usually take approximately 20 weeks to prepare and the Court will list your case for another short hearing after the report is ready.

The parties will be required to see the Welfare Officers at their Offices, and explain their case. This is usually a meeting with both parties, however you can request separate appointments if you feel strongly about this. The Welfare Officer may also wish to see the child, and if appropriate, to ask the child's view.

Will my child be involved?

Your child(ren)'s views are important and, in law, have to be taken into account when official decisions are being made about them.

The CAFCASS Family Court Adviser will discuss with you how your child(ren) should be involved.

Child(ren) should not be brought to court.

The Welfare Officer may also wish to make home visits to examine the current and proposed homes for the child.

The Welfare Officer will make a recommendation at the end of the report as to how the Court should deal with the application. It may be that during the preparation of the report an agreement will be reached in which case the parties can ask the Court to make an Order at the next hearing.

If the matter is to be listed for the Court to make a decision, the parties and any witnesses they wish to call will be required to prepare a statement of their evidence for the Court. These statements must be sent to the Court and to the other parties by a certain date fixed by the Court.



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At the final hearing, you will be represented by a Solicitor from this Firm, or by a Barrister. The Court will hear evidence on oath from the parties and their witnesses who will be cross examined by the representatives for the other parties. The hearing will be in a closed Court where the public are not allowed to watch.



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Either party can require the Welfare Officer to attend the hearing and give evidence if they do not agree with the report or its conclusions.

The Court must then make a decision as to what if any Order should be made. The Court will base its decision on the "Welfare Checklist". This is a list of factors set down by the Law that the Court **MUST** consider in all contested proceedings. These factors are:-
The ascertainable wishes and feelings of the child, considered in the light of his age and understanding

The child's physical, emotional and educational needs

The likely effect on the child of any change in the child's circumstances

The child's age, sex, background and any characteristics that the Court considers relevant

Any harm suffered or likely to be suffered by the child

How capable each parent, and any other person in relation to whom the Court considered the question to be relevant, is of meeting the child's needs

The range of powers available to the Court in the proceedings in question.

The Court will consider the above in the light of the evidence it has heard and read and also the recommendation of the Welfare Officer. The Court will always start from the presumption that there should be contact for natural parents, and the welfare of the child is the Court's paramount consideration.

If the Family Proceedings Court makes an Order it must give its reasons in writing stating why they have made that Order.

When making the Order the Court will examine the relationship the father has had with the child, and the degree of commitment he has demonstrated in this. If they are satisfied that there is a bond between father and child, and that father has shown commitment, then they will most likely make a Parental Responsibility Order.

The paramount consideration of the Court will always be the welfare of the child and what is best for them. The Court should always consider whether it would be better for the child for there to be an Order, or whether there should be no Order.



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- By obtaining a Residence Order and applying for Parental Responsibility from the Court

A person with a Residence Order will be granted Parental Responsibility at the same time. If the Residence Order is brought to an end, the Parental Responsibility will end also. Please see our leaflet on Residence Orders.

- By being appointed as Guardian of the child

If the child's mother appoints you to be the child's guardian after her death, you would automatically gain Parental Responsibility as soon as the Guardianship begins.

- By becoming registered as the child's father in accordance with the Births and Deaths Registration Act 1953. (This only applies to registrations after 1st December 2003)

Following a change in the law that came into effect on the 1st December 2003 unmarried fathers automatically have parental responsibility when they are registered as a child's father after this date.

This will usually apply when first registering a child's birth. You can become registered as the father at the joint request of yourself and the mother of the child. Both of you will need to attend to register the birth.

In certain circumstances, where a birth has been registered but no person has been registered as the child's father the birth can be re-registered with the authority of the Registrar General.

Who else can gain Parental Responsibility?

- Any person who obtains a Residence Order in respect of the child including a step parent
- The Local Authority (Social Services) where the child is subject to a Care Order, whether it is a full Order or an Interim Order - the Parental Responsibility will only last as long as the Care Order
- Any person who adopts the child
- Any person who has a pre-existing Custody or Care and Control Order.



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Sharing Parental Responsibility



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More than one person can have Parental Responsibility for the same child. Usually a mother and father share Parental Responsibility, however any of the persons above can share Parental Responsibility. There is not a limited amount of Parental Responsibility, so sharing it does not decrease the amount that the mother has. Any person with Parental Responsibility can act independently in meeting the responsibility so long as they do not do anything that is incompatible with any Order the Court has made under the Children Act.

How long does Parental Responsibility last?

Parental Responsibility lasts until a child is 18 unless it is ended in some other way.

How can Parental Responsibility be terminated?

A person who has Parental Responsibility because they are a married parent cannot have their Parental Responsibility taken away **EXCEPT** where the child is adopted. Divorce does not end Parental Responsibility.

A person who has acquired Parental Responsibility as the result of entering into an agreement or obtaining a Court Order can lose their Parental Responsibility if

- there is a successful application to the Court by a person with Parental Responsibility to discharge another person's Parental Responsibility
- with the Court's permission, the child successfully applies to discharge a person's Parental Responsibility
- the Order that has provided the Parental Responsibility i.e. Residence Order or Care Order is discharged by the Court.

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If you need any further information about matters in this information sheet, please do not hesitate to contact us.