



What is Parental Responsibility?

Parental Responsibility is defined as “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property”.

If you have parental responsibility, you have the right to be consulted in key decisions about your child's upbringing, for example medical treatment and education. It is solely for the interests of the child and not the parents.

It does not give the parent who does not have day to day care of the child a right to impede on routine daily issues.

Who has Parental Responsibility?

- A mother automatically has it.
- A father usually has parental responsibility if:
 - He is or has been married to the child's mother or
 - He is named on the birth certificate (for births registered after 1st December 2003).
- An unmarried father can only get parental responsibility for his child in one of three ways:
 - Jointly registering the birth of the child with the mother (from 1st December 2003) or
 - Entering a Parental Responsibility Agreement with the mother by mutual agreement or
 - Obtaining a Parental Responsibility Order from the court.

It should be noted that neither parent loses parental responsibility through divorce.

Parental Responsibility Agreements

You can obtain parental responsibility by agreement with all others who already have it. A Parental Responsibility Agreement is a standard form which has to be completed and signed by all those with parental responsibility and wanting parental responsibility. Once signed and witnessed the form has to be lodged at court. Once a Parental Responsibility Agreement has been made and lodged with the court it can only end by court order.

Parental Responsibility Orders

If no agreement can be reached between the mother and unmarried father, then it will be necessary to make an application to the court. When considering whether a Parental Responsibility Order should be made the court will take the following into account:

1. The child's welfare, which is the paramount consideration.
2. Whether the father is committed to his relationship with the child.
3. Whether the father is genuinely attached to the child.

4. Whether the father has genuine reasons for applying for Parental Responsibility.

Can anyone else have Parental Responsibility?

Parents can ask someone else to carry out their parental responsibility on a temporary basis, for example if a parent has to spend some time abroad or in hospital. However, the parents remain ultimately responsible for their child.

Nobody else automatically has parental responsibility, even if a child lives with them for any length of time. Such people can, however, acquire parental responsibility in one of three ways:

- By applying to the court for a Child Arrangements Order that the child lives with them.
- By being appointed Guardian by a parent with parental responsibility.
- By adopting the child.
- By applying for a Special Guardianship Order.

What about Step-Parents?

As a step-parent no matter how involved you are in the lives of your partner's children, or how much you contribute to their upbringing, financially or otherwise, you will not automatically gain parental responsibility. It should be noted that an unmarried partner is not legally a step-parent.

A step-parent can only acquire parental responsibility for a child in very specific circumstances including:

- When the court makes a Child Arrangements Order that the child lives with the stepparent either on their own or with another person. However, these types of 'step parent' orders are uncommon.
- When the step-parent adopts a child which puts him/her in the same position as a birth parent.
- Through the signing of a Step Parent Parental Responsibility Agreement to which all other people with Parental Responsibility consent. This is a formal document which needs to be signed by all the parties and then registered at court.
- When the court has made a Parental Responsibility Order following an application by the step-parent.

If you are not legally a parent or step-parent, you can only acquire parental responsibility via a court order.

On acquiring parental responsibility, that person has the same duties and responsibilities as a natural parent.

The law surrounding parental responsibility of children conceived by people in LGBT relationships can be complicated. Who has it depends on circumstances surrounding conception. The law in this area is still emerging. You should seek legal advice accordingly for tailored advice to your circumstances.

Contact details

If you would like to discuss these issues, please contact our expert Family and Private Client team who will be happy to assist you:

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