



Parental Responsibility

Parental Responsibility is incredibly important. Most people think it simply grants a parent the right to make decisions about their children's schooling and medical matters.

Unless you hold parental responsibility for your child, you have no right to automatic involvement in some court proceedings. This might mean your not being notified of an application by social services to take your children into care, your not being notified of or involved in decisions as to whether your children are placed for adoption should something happen to their other parent or carer, and your consent need not technically be sought prior to the children being removed abroad.

Your child's name can also be changed without your consent.

What is Parental Responsibility?

The legal definition of Parental Responsibility is "All the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and his property."

What does that mean in practice?

Parental Responsibility affords the legal right to take decisions about such things as your children's education, medical matters and religion. Having Parental Responsibility also grants you the automatic right to apply for, or to be involved in, court proceedings that affect your children. This can include matters such as adoption, contact issues involving other family members, care applications by Social Services, changes to your child's surname and appointment of a guardian in the event of the death of the other parent.

By having Parental Responsibility, will I be included in matters that affect my children's lives?

Not necessarily. Either parent with Parental Responsibility has the right to independently make decisions that affect their children. There is, however, an obligation on any person exercising a parental responsibility or parental right to have regard to the views of any other person with the same rights and responsibilities.

If I can't agree with my ex-partner on matters such as schooling or education, what happens?

If you consider the matter to be serious, you can approach the Court to make a Specific Issue Order to resolve the matter.



Will professionals such as doctors and teachers respect my right to be included in decisions that affect my children's lives?

They should, but some professionals are ignorant of parents' rights and their own duty to uphold those rights. This can be a particular problem for non-resident parents, or, in the case of parents with joint residence, where the children live for a majority of the time with their other parent.

Information is included in this Chapter to help you to remind professionals of what your rights are.

As a biological parent, do I have Parental Responsibility for my child?

A mother automatically has Parental Responsibility for her child. A father may not, depending on whether he was married to the mother at the time of the child's birth or subsequently.

How do I obtain Parental Responsibility?

You obtain parental responsibility in the following ways:

1. By being the child's mother (automatic).
2. By having been married to the child's mother if you are the biological father.
3. If you are the child's father and weren't married to the mother, but the child was born on or after 1 December 2003 and you jointly registered the birth of your child, you will automatically have parental responsibility.
4. By having a Residence Order made in your favour by the Court (for Shared or Sole Residence).
5. If the court has granted you parental responsibility via a Parental Responsibility Order.
6. Biological fathers can get parental responsibility by signing a Parental Responsibility Agreement with the child's mother if she will agree to this. A separate agreement is needed for each child.
7. Step-parents can acquire Parental Responsibility by entering into a formal Parental Responsibility Agreement with the mother and all other parties who have parental responsibility for the children. See our separate factsheet for [step parents](#).
8. People other than parents can acquire parental responsibility if they are appointed as a guardian in a parent's will and if those with parental responsibility for the child have died.
9. You will be granted parental responsibility if a Special Guardianship Order is made in your favour (refer to our factsheet on [Special Guardianship Orders](#)).
10. A local authority may gain parental responsibility for a child if it is placed in their care.



As a father, how do I enter into a Parental Responsibility Agreement?

The agreement must be written out in the correct format. A copy of the form to use is available from Her Majesty's Court Service or in the grey column to the right. You could also ask your local Family Court for assistance.

The agreement must be signed in front of a Justice of the Peace (Magistrate), Justices' Clerk or a Court official who is authorised by the Judge to administer oaths. You will need to complete the Parental Responsibility Agreement and present it along with the child's full birth certificate and photographic evidence identifying both parents (ideally a photo driving licence or passport) to a Family Proceedings Court, County Court, or the Principal Registry of the Family Division where it can be signed and witnessed.

Two copies must then be made, and sent along with the original to the Principal Registry of the Family Division.

As a mother, can I make this Agreement with the child's stepfather?

Refer to our factsheet on [step-parents](#).

What do I do if my child's mother won't sign an Agreement?

If the mother refuses to sign a Parental Responsibility Agreement, you can apply to the Court asking them to grant you parental responsibility by making a Parental Responsibility Order in your favour. The form to use is the C100, available from Her Majesty's Court Service or from the grey column to the right.

As a father, are there any organisations that can help me if I can't afford a solicitor and don't qualify for Legal Aid?

Yes, the charity Families Need Fathers (www.fnf.org.uk) provides information and advice on matters such as obtaining parental responsibility. Although the name suggests that the organisation only assists fathers, the charity also helps mothers and the extended family.



What will the Court consider when deciding whether to grant my application?

The following points are likely to be considered by the Court when assessing your application for a Parental Responsibility Order:

1. whether your name appears on the birth certificate.
2. how active you have been in maintaining contact with your children and meeting your commitments to them.
3. your previous involvement in your children's education.
4. what financial support you provide for your children.
5. the reasons for your application.
6. the strength of the relationship between you and your children and the degree of commitment you've previously shown to your children.
7. The Court will also consider the principles set down in the Welfare Checklist.

Is the Court likely to grant an application for Parental Responsibility to fathers?

Yes. Less than 2% of applications made to the Courts in 2004 and 2005 were refused.



Your Right to Medical Information

Do I have a right to ask to see my children's medical records?

If you have Parental Responsibility, yes. Health professionals must provide information when an application is made by an individual with parental responsibility where the child is under the age of sixteen.

If you have Parental Responsibility for your children, a medical practitioner is obliged to see you when you request this, and to discuss matters relating to your children's health.

The Custody Minefield website includes letter templates to assist you in gaining involvement in your child's medical welfare.

Are there circumstances where the health professional can refuse to share information with me?

Yes. Unless the health professional considers the child to be too young to understand the nature of your application and that it is in their best interest that information is shared with you, the health professional can only pass on information if they have the child's consent.

An example of circumstances where a doctor may feel it inappropriate to share your child's records would be where a fifteen-year-old girl had approached the doctor for birth control advice, and the child wanted the matter to be treated in confidence.

The health professional may withhold information if they consider that disclosing it would cause serious harm to the physical or mental health of their patient or any other individual.

A further scenario where information could be withheld is where your child's record contains information about another individual, and to share this record with you would break that other person's right to confidentiality unless you had their consent.

Where one parent is involved in decisions about medical treatment, is the other parent entitled to be involved?

Yes, but only if they also have Parental Responsibility. In such circumstances, your views should be taken into account so long as they are deemed to be in the child's best interests.

Will my consent be required if my child needs medical treatment?

Consent to treatment is only normally required from one person with parental responsibility.



At what age is my child's opinion considered relevant to matters involving the disclosure of information and consent to medical treatment?

In England and Wales, no legislation specifically sets out the rights of children under sixteen to give their consent to medical treatment, so there remains some uncertainty about this in common law.

In the landmark Victoria Gillick case, the Judges held that "parental rights were recognised by the law so long as they were needed for the protection of the child and such rights yielded to the child's right to make his own decisions when he reached a sufficient understanding and intelligence to be capable of making up his own mind". This has become known in law as the Gillick Principle.

Circumstances where a doctor would consider this principle would be where a girl under the age of sixteen asked the doctor for contraceptive advice.

What do I do if I don't know who my children's doctor is?

If you are unable to find out which doctor your children are registered with, you can contact the children's Local Area Health Authority (or Primary Care Trust).

The Local Area Health Authority must provide written details stating where the children are registered to anyone with parental responsibility for the children.

How should I contact the Local Area Health Authority?

Make the request in writing. Include proof of your parental responsibility in relation to the children by providing the Authority with either a copy of your Marriage Certificate, the children's Birth Certificates or a copy of any Parental Responsibility Orders made in your favour.

How should I approach a health professional for information about my children?

It may be more expedient to write to the medical professional to request information. Include a copy of your Marriage Certificate or Parental Responsibility Order or a copy of the birth certificate if your child was born after December 2003 or your Parental Responsibility Agreement. In the event your request is refused, you will have proof that a request was made.

What happens if the medical practitioner refuses my request?

They may have good reason to decide not to disclose information to you. Should your request be refused, ask the professional concerned for information about how you can make a complaint.

You could consider making a complaint either to the head of the medical practice (such as the Practice Manager), the Local Area Health Authority or to the Information Commissioner (if you want access to a copy of your child's medical records but this has been refused).



Your Right to Involvement in Your Child's Schooling

As a parent, do I have a right to be involved in my children's schooling?

Yes. Under education legislation any parent (regardless of whether they hold Parental Responsibility for the children), has the following rights to involvement in their children's schooling:

- To participate in decisions about their child's education (e.g. deciding which subjects the child should study).
- To be treated equally to any other parent by the school and Local Education Authority (LEA) staff.
- To receive information from the school (e.g. copies of the governors' annual report, pupil reports and attendance records).
- To participate in certain school activities (e.g. vote in elections for parent governors, attend sports days and school performances).
- To be asked for their consent for their children to take part in extra-curricular activities.
- To be advised about meetings involving the child (e.g. where a governors' meeting is being held to discuss the possibility of a child's exclusion from school for bad behaviour).
- To be included on an equal basis with the other parent in their children's school records.

The Custody Minefield website includes letter templates to assist you in gaining involvement in your child's education.

What are the school's responsibilities to parents?

- To note the details of Court Orders on the pupil's record.
- Not to allow the name of the child to be changed without the consent of every other person with parental responsibility for the child.
- To ask the resident parent for the address details of the non-resident parent.
- To make the resident parent aware that the other parent is entitled to be involved in the child's education.
- To keep address records for all parents / guardians in the admission register and any written or computerised pupil records, and passing this information on to any new school that a child may attend.
- To provide information to a parent directly if that parent requests such information.
- To seek parental consent in relation to extra-curricular activities.
- To uphold the principle that parental consent has not been given in relation to the child undertaking activities if one parent gives consent and the other withholds it.
- To inform the resident parent as soon as possible when a child has had an accident and the non-resident parent, if they have asked to be kept informed, of events involving the child.



- To consider the welfare of the child to be paramount and try to resolve problems without becoming involved in conflict.
- To involve parents in issues relating to their child's education.
- To keep parents informed about school matters.

What can I do if the school refuses to grant me these rights?

Refer the Headmaster or Headmistress to the Guidance for Head Teachers published by the Department for Education and Skills

If you still have problems, the chain of complaint for maintained schools (state schools) about issues such as admissions policy, behaviour, exclusions and non-receipt of information is: Headteacher, Chair of the governing body, LEA, then the Department for Education and Skills.

Advice is available from the National Education Law Advice Line which provides legal advice and representation to children and/or parents with concerns relating to schools or Local Education Authorities.

Will I need to prove I am the child's parent?

Possibly, but under Education Act legislation you only need to prove you are the biological parent. A copy of a birth certificate naming you as the parent or a letter from the Child Support Agency showing you make maintenance payments in respect of your child should be sufficient to prove parentage.



Your Right to Involvement in Early Years Education and Development

Do I have a right to receive information about my children in relation to their Early Years Education?

The **Statutory Framework for the Early Years Foundation Stage** sets out the child care providers' duty to work in partnership with parents. Paragraph 1.16 states:

"Close working between early years practitioners and parents is vital for the identification of children's learning needs and to ensure a quick response to any area of particular difficulty. Parents and families are central to a child's well-being and practitioners should support this important relationship by sharing information and offering support for extending learning in the home."

The Glossary section within each National Standard document defines a parent as "anyone who holds Parental Responsibility for a child".

The Custody Minefield website includes letter templates to assist you in gaining involvement in your child's early years education.

What do I do if the standards are not followed?

The childcare provider has a duty to investigate your complaint. You have several routes of complaint that you can pursue if the playgroup won't address your concerns.

You could raise a complaint with Ofsted Early Years that the childcare provider is in breach of the National Standards.

If Ofsted won't pursue your complaint, or suggest it's a contractual matter between parents and the playgroup, contact your Member of Parliament and have them challenge Ofsted's interpretation of the National Standards (which make no distinction between either parent other than a need to have Parental Responsibility for the children).

Contact your child's Local Education Authority (LEA) to find out if the childcare provider is LEA maintained or private. If they are LEA maintained, you can ask the LEA to provide you with a copy of your child's educational record.



Other Matters Related to Parental Responsibility

Do I have the right to choose my children's religion?

Yes, but again, only if you hold Parental Responsibility for your child. Where two parents disagree over the choice of religious upbringing for their children, the considerations regarding the children's welfare will prevail should the Court become involved in resolving the conflict.

A religion cannot be imposed on a child if the Court considered that the child would suffer harm as a result of following the religion's tenets. As an example, if a religion stated that a follower shouldn't receive modern medical treatment, the Court may decide the imposition of that belief could cause the child harm.

Can my children choose their own religion?

The Human Rights Act 1998 protects the children's right to make their own decisions as it protects the individual's right to the freedom of thought, conscience and religion. A child who is sufficiently mature to take the decision as to which religion they wish to follow may do so.

Is my consent required if my children wish to marry?

Where the child is aged between 16 and 18 they can only marry if all parties with parental responsibility agree unless the Court is approached to consider the matter as a Specific Issue.

Can anyone change my children's name?

No, unless they have the agreement of all the parties with parental responsibility for the child or the Court give their permission by way of a Specific Issue Order.

Can my child leave home without my consent?

Children under the age of sixteen cannot leave home without parental consent.

Is it legal to use corporal punishment to discipline your child?

Individuals with parental responsibility have the legal right to use "reasonable" physical punishment. It is illegal to punish a child to the extent that the child is a victim of battery, suffers grievous bodily harm, actual bodily harm or experiences punishment that could be considered to be cruelty. Essentially, if you have Parental Responsibility you can smack your child as a form of punishment, but if the smack leaves a mark you may be found guilty of causing actual bodily harm.

The Custody Minefield fully supports the NSPCC Full Stop Campaign.