

Parental responsibility – rights and responsibilities of parents who live apart: information for single parents

What is parental responsibility?

A person with parental responsibility (PR) for a child has the right together with any other person with PR to make important decisions about the upbringing and care of a child. The following are examples of the kind of decisions involved:

- where a child lives;
- whether or not a child receives medical treatment;
- how and where a child is to be educated;
- which, if any, religion a child follows;
- deciding on the child's surname and forenames and registering their birth;
- giving permission or not for a child to go out of the country;
- applying for a passport for a child;
- giving consent or not to the child's marriage or civil partnership if they want to do this before age 18;
- looking after any property the child is entitled to; and
- giving consent or not to the adoption of a child.

When does PR end?

Parental responsibility cannot be removed from biological mothers or fathers who were married when the child was born (unless the child is adopted) and it continues until the child reaches the age of 18. In very exceptional circumstances it may be ended by a court order made as a result of someone else with PR making an application to court to have it removed. In this situation the court would need to be convinced that removing PR was in the child's best interests.

Who automatically has PR?

- Mothers, including young mothers aged under 18.
- The father, as long as the mother and father were married to each other at the time of the child's birth. You keep PR when you separate or divorce.
- Unmarried fathers, if their details are included as the child's father at the registration or re-registration of the child's birth and the registration or re-registration took place after 1 December 2003. Re-registration of a child's birth can only happen in limited circumstances.
- A person who is granted a Residence Order (a court order that states where the child is to live) automatically has PR for the duration of the Residence Order.
- A local authority if it has a Care Order or Emergency Protection Order for the child, for as long as the order lasts.
- A Guardian appointed under the terms of a Will or by the court. Also see Appointing a Guardian to care for your child if you die on page 3.
- A person who has a Special Guardianship Order (this order may be made where the child does not live with a parent, but adoption is not suitable).

Who can acquire or apply for PR?

Biological fathers

A father who was not married to the child's mother when the child was born can acquire PR in any one of the following ways:

- By marrying the mother.
- By agreement with the mother to share PR with her. Both father and mother can sign a Parental Responsibility Agreement in which the mother agrees to share PR with the father.
- By applying to the court for a Parental Responsibility Order. The court will generally award PR to a father who has been involved in the child's life, unless it can be shown that there are good reasons why the order should not be made.
- By applying for and being granted a Residence Order or a Shared Residence Order, where PR will automatically be awarded to the father and will continue even if the Residence Order ends.
- By being appointed as the child's Guardian, when the guardianship comes into force.

Step-parents

Step-parents can acquire PR by:

- agreement with the other parent or parents who already have PR;
- becoming a Special Guardian of the child;
- adopting the child; or
- the court making a Parental Responsibility Order or a Residence Order.

If the relationship subsequently breaks down and the parent and the step-parent divorce, the step-parent will continue to have PR, unless the parent applies to court to have the order discharged (meaning it no longer exists).

Civil partners

Same-sex couples who have registered as civil partners can obtain PR by entering into a Parental Responsibility Agreement with the consent of both parents (if both have PR) or by the court granting a Parental Responsibility Order.

Adoptive parents

Adoptive parents have PR from the date the child is placed with them. They share that with all other holders of PR for that child including the placing agency. That carries on until a final adoption order is made, when the adoptive parents alone have PR, and all the other holders of PR lose it.

A local authority

If there is a Care Order or an Emergency Protection Order (social services can apply for these orders) in force for your child, the local authority has PR. As the parent, you will continue to have PR, but the local authority is able to decide the extent to which you can exercise your parental authority.

What is a Parental Responsibility Agreement?

This is an agreement (usually between a child's parents) to agree to share PR.

Making a Parental Responsibility Agreement

For the agreement to be legally binding, both parents (or step-parent or civil partner) will need to fill in form C(PRA), which is available from your local County Court or Family Proceedings Court (look in your telephone directory for details) or is downloadable from the Court Service website, at www.courtservice.gov.uk. If you are seeking legal advice, your solicitor should be able to provide you with the form. A separate form must be filled in for each child. The form must be witnessed formally by an officer of the court or a Justice of the Peace.

Making decisions when you have PR

When certain big decisions need to be made, all those with PR have a right to be involved in deciding what they feel is best for the child. No one person has more right than another person with PR but day-to-day decisions concerning the child should be left to the person having day-to-day care.

If you cannot reach an agreement

If you cannot reach an agreement over a certain issue with another person who has PR (for example, changing a child's name or deciding about a child's education or medical treatment), any person with PR can make an application for a Specific Issue Order for the court to make a decision.

You can also apply to the court for a Prohibited Steps Order preventing a person with PR from taking action in relation to the child (for example, taking the child abroad or changing the child's schooling) without permission of the court.

When a court makes a decision they must consider the welfare of the child above any other considerations. However, the court normally prioritises the choices made by the parent with care, that is, the person who has the day-to-day responsibility for the child. For example, the court has held that the right of the parent with whom the child resides to move with the child to another home in England or Wales should not be overruled save in exceptional circumstances.

Appointing a Guardian to care for your child if you die

If you have PR, you may appoint a Guardian for your child, so that after your death the Guardian will acquire PR and is likely to provide for the care of the child. You can do this by putting your wishes in writing and then signing and dating it or by including it in your Will.

It is important to establish that your proposed Guardian would be willing to take on responsibility for the child and that they know and understand what may be required of them.

The appointment of a Guardian can only take effect on the death of the last person with PR. It will not operate if there is another person with PR who is still living. If one parent of the child dies and the other has PR for the child, whether they are separated or divorced, the surviving parent, other than in exceptional circumstances, will then have sole PR for the child.

If there is good reason why the other parent should not look after the child, for example, they have abused them, you should consider applying for a Residence Order. Call the Lone Parent Helpline on 0800 018 5026 for more information about this.

In the event that two people with PR appoint different Guardians, then an application to the court may be necessary to decide the matter.

Parents with PR and paying child maintenance

All parents have a responsibility to maintain their child financially. A parent who does not have PR still has this duty, until the child reaches 16, or 18 or more if in full-time education or training, or is disabled (unless the child is adopted), even if they do not live with the child or have any contact with them. It is important to remember, however, that the obligation to pay maintenance for a child has nothing to do with PR as such. A parent may acquire PR even if he or she is not paying maintenance for the child.

Further help and information

One Parent Families |Gingerbread

Lone Parent Helpline: 0800 018 5026 (open Mondays to Fridays, 9.00am–5.00pm, with extended opening on Wednesdays to 8.00pm)

www.oneparentfamilies.org.uk

Free information on a range of issues including maintenance, benefits, tax credits, debt, employment, education, legal rights and holidays.

Membership: 0800 018 4318 (Mondays to Fridays, 9.00am–1.00pm)

Information about becoming a member and any One Parent Families|Gingerbread groups operating in your area.

Children's Legal Centre

Tel: 01206 873 820 (for recorded information)

Website: www.childrenslegalcentre.com

Provides information (on their website) on law relating to children, particularly contact. Also has pre-recorded telephone information on the most frequently asked questions relating to Parental Responsibility, contact and residency. Does not provide telephone advice to the public.

Citizens Advice Bureau

Check your telephone directory for your local bureau or find details on www.citizensadvice.org.uk. Their advice website – www.adviceguide.org.uk – has information on various legal issues, including divorce and the law relating to children's matters.

Community Legal Advice

Helpline: 0845 345 4345

Website: www.communitylegaladvice.org.uk

Can help you to find legal aid solicitors. Also has a 'legal aid calculator' on the website to work out if you qualify for publicly funded help with legal costs and produces information leaflets *Divorce and separation*, *Family Mediation* and *Living Together And Your Rights If You Separate*.

National Mediation Helpline

Tel: 0845 60 30 809

Website: www.nationalmediationhelpline.com

Can answer general enquiries relating to mediation and put callers in contact with accredited mediation providers.

ParentlinePlus

Parentline: 0808 800 2222 (open 24 hours):

Website: www.parentlineplus.org.uk

Advice and support for parents in bringing up their children.

Refuge

National Domestic Violence Helpline (run in conjunction with Women's Aid Federation England): 0808 2000 247 (open 24 hours)

Website: www.refuge.org.uk

Provides emergency accommodation, advice and support for women and children escaping domestic violence.

Resolution

Tel: 0845 758 5671

Website: www.resolution.org.uk

Association of solicitors specialising in family law who adopt a constructive, conciliatory approach to relationship break-ups. It can provide a list of local solicitor members who specialise in family law and also produces free factsheets on divorce which you can download from the website – if you do not have access to the internet you can telephone them and ask them to print and post them to you.

Rights of Women

Advice line: 020 7251 6577

Website: www.rightsofwomen.org.uk

Free, confidential legal advice by telephone for women on a wide variety of issues. Specialist areas include family law, lesbian parenting, divorce/relationship breakdown, children/contact issues and domestic violence. Also has information sheets on legal issues affecting women to download from the website.

LONE PARENT HELPLINE

0800 018 5026

The Lone Parent Helpline is run by One Parent Families|Gingerbread and is supported by the Royal Bank of Scotland Group.

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