



# Parental responsibility

## WHAT IS PARENTAL RESPONSIBILITY?

Parental responsibility is defined in law by the Children Act 1989 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."

People with parental responsibility are entitled to have a say in major decisions about 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 if the child is adopted or, if it was acquired as a result of a court order or a parental responsibility agreement the court may bring it to an end in certain circumstances. You might hear parental responsibility referred to as 'PR'.

## WHO HAS PARENTAL RESPONSIBILITY?

A child's mother automatically has parental responsibility and does not lose it if she and the child's father separate, whether or not they were married.

A father who is married to 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 after the child's birth. Parental responsibility is not lost on divorce.

Fathers of children born after 1 December 2003 who

are not or have not been married to the child's mother will have parental responsibility if they are named on the birth certificate of the child. Fathers of children born before 1 December 2003 who were or are not married to the child's mother may not have parental responsibility. It can be obtained by agreement with the child's mother or by court order.

Certain court orders can confer parental responsibility for a child. A person obtaining parental responsibility through a court order does not have to be a parent of the child. Their parental responsibility will generally only last while the order conferring it remains effective.

For same-sex couples, the situation is more complicated, depending on how the child was conceived and in what family circumstances.

More than one person may have parental responsibility for the same child at the same time.

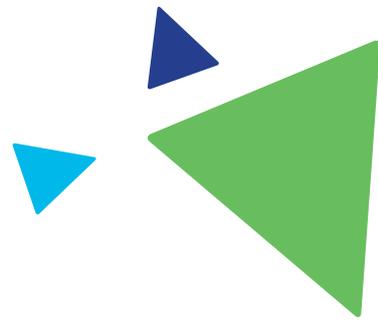
## HOW DO I GET PARENTAL RESPONSIBILITY?

For children born after 1 December 2003 where the parents were not and have not been married, it is possible to re-register the child's birth to add the father's name to the birth certificate. Provided that no father has previously been named and the re-registration is with the mother's consent, this gives the father parental responsibility.

Parental responsibility can 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. To be effective, it must also be filed at the Principal Registry of the Family Division in London. A step-parent can also acquire parental responsibility by agreement or if and order is made for the child to live with them.

If agreement is not possible, a father can apply to court for a parental responsibility order. 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 to his child or to the mother.

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

### **WHEN DOES PARENTAL RESPONSIBILITY END?**

Parental responsibility ends automatically when a child reaches 18 but in some cases it can be ended before then by court order.

It is worth noting that PR also diminishes as a child grows older, even while the child is under the age of 18. A child can make their own decisions when they have sufficient understanding and intelligence to be capable of making up their own mind on the matter requiring decision and it is lawful for a local authority and any medical facility to not send to the parents of a 16 year old any information about their day-to-day life, medical assessment and possible treatment at any medical facility.

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This factsheet provides general guidance. Your Wills and Trust lawyer will be able to provide specific advice based on your circumstances. Wolferstans has taken all reasonable care to ensure that this factsheet was accurate on the stated date of publication or last modification.

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