



Parenthood and the Law: The Facts

Demystifying parents rights (and responsibilities)

Parenting – it’s a big responsibility

New parents take on enormous responsibilities for their child. To love, care for and protect them from harm. In terms of the law there are some facts that are useful to know, especially for single parents and couples who separate before or after the birth of their child.

Children have rights

The law is focused on the **rights of the children**, rather than those of the parents. The law is designed to protect the best interests of children making a base assumption that every child has the right to a relationship with both parents.

Parents on the other hand have **parental responsibility** for their child – although this isn’t straight-forward.





Parents' responsibilities

MOTHERS

A biological mother automatically has parental responsibility for her child.

FATHERS

A father has parental responsibility if he is married to the child's mother when the child is born or has adopted the child.

Unmarried fathers

As from 1st December, 2003 unmarried fathers automatically obtain parental responsibility for their children if the birth was registered on or after this date and they are named on the birth certificate. A father will also have parental responsibility if he enters into a parental responsibility agreement with the mother, or has been given such responsibility by order of the court.

Living together does not give parental responsibility to the father. Unless the couple are married parental responsibility does not automatically pass to the natural father if the mother dies unless she has made a Will appointing him sole guardian of the child.

Fathers without parental responsibility are not automatically entitled to authorise medical treatment for their children (except in emergencies), see their medical or school records, manage any money they've inherited, or in some cases prevent their adoption, change of surname or removal abroad.



What is parental responsibility?

The following list sets out the key roles that someone with parental responsibility is responsible for:

- ✓ providing a home for the child
- ✓ having contact with and living with the child
- ✓ protecting and maintaining the child
- ✓ disciplining the child
- ✓ choosing and providing for the child's education
- ✓ determining the religion of the child
- ✓ agreeing to the child's medical treatment
- ✓ naming the child and agreeing to any change of the child's name
- ✓ accompanying the child outside the UK and agreeing to the child's emigration, should the issue arise
- ✓ being responsible for the child's property
- ✓ appointing a guardian for the child, if necessary
- ✓ allowing confidential information about the child to be disclosed

Applying for parental responsibility

An unmarried father can apply to the court to gain parental responsibility. In considering an application from a father, the court will take the following into account:

- the degree of commitment shown by the father to his child (this will include things like how involved the father has been with the child's upbringing so far)
- the degree of attachment between father and child (depending on the age of the child they may be asked for their opinion)
- the father's reasons for applying for the order (the court will be looking to establish that the father has the child's best interests at heart.).

The court will then decide to accept or reject the application based on what it believes is in the **child's best interest**.

Other parties, for example grandparents, can also apply for parental responsibility, in certain circumstances.



Divorce or separation

In a divorce or relationship break-up, it can be the children who suffer more than anyone.

The life they have known is changed forever, there is often upheaval at home and it can have a lasting effect on them.

Deciding how best to look after any child, therefore, should be one of the over-riding priorities for any couple going their separate ways.

This involves minimising the impact upon the child's daily life where possible, ensuring they are provided for financially and making sure they continue to benefit from having a relationship with both of their parents wherever possible.

Parents do not lose parental responsibility just because they separate or divorce.

In most instances absent parents will be allowed to regularly see their children, know where they are living and have access to certain information about their upbringing, such as how they are doing at school. It is worth remembering that the law focuses on the rights of the child, not the parent.

The best interests of the child must be taken into account.



A word about grandparents

Although grandparents often play a vital role they have no legal rights or responsibilities when it comes to their grandchildren. If a grandparent is being denied contact with their grandchild they can take legal action to obtain what is known as a contact order, from the courts.



Parental responsibility and child maintenance

There is no legal connection between parental responsibility and child maintenance as such. All parents, including adoptive parents, have a legal responsibility to financially support their child, whether they have parental responsibility or not.

Parenting agreements

When a couple separate who looks after the children and how they are brought up is often an area of disagreement and dispute. The important thing to bear in mind is what is in the **best interests of your children**.

A **parenting agreement** might be appropriate in these circumstances. This is where both parents create a written document outlining how they will jointly parent their children. It is intended that the process of creating the document will flush out any areas of disagreement to allow them to be discussed calmly.

A parenting agreement can cover anything that you think is important, from when each parent will see the children, arrangements for their education and rules around introducing the children to new partners, through to things like who will pay for certain activities and rules on acceptable baby sitters or carers. A parenting agreement is not intended to be a rigid plan but instead should be flexible to take account of changes in circumstance.

Useful information

There are lots of useful resources to help you as a parent.

Putting your children first: a guide for separating parents produced by CAFCASS (www.cafcass.gov.uk)

Model Parenting Agreement from The Centre for Separated Parents (www.separatedfamilies.info/)

Parents and step-parents: parental responsibility articles produced by Woolley & Co (www.family-lawfirm.co.uk)

Legal advice for parents

Still have questions about parental responsibility, contact or residence arrangements for your children? Take advantage of a **fixed fee** initial case assessment to discuss your concerns and establish what your legal rights are and how they can be exercised.

Call 0800 3213832
or book online at
www.family-lawfirm.co.uk

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