

# parental responsibility – are you sure you have it?

## what is it?

Parental Responsibility is the rights and responsibilities that an adult has in respect of a child. This is usually, but not exclusively, a parent's right and responsibilities in relation to their child. There is no definitive list as to what those rights are but it generally means that the adult has a right to be involved in decisions about the child's future and to receive information, such as details about their progress at school.

On a day to day basis it allows the adult to provide consent on the child's behalf, such as for dental treatment, consent to go on school outings and other similar matters.

## who has it?

It is often assumed that a parent automatically obtains Parental Responsibility for their child and this is true for the mother of a child. She acquires Parental Responsibility for that child as soon as it is born. This is not however the situation for fathers.

If the mother and father are married to each other at the time of the child's birth, the father also acquires Parental Responsibility immediately. If the parents are unmarried, the father will not acquire Parental Responsibility as a right.

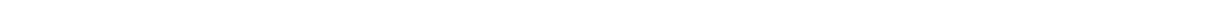
If, however he is, registered as the father of the child after 1 December 2003 he will obtain Parental Responsibility without any further action being required. For the father to be registered in the register of births, the mother has to provide her consent, usually by attending to register the birth with the father.

If an unmarried father has not acquired Parental Responsibility by registration, and the mother consents to him obtaining Parental Responsibility, he can enter into a written agreement with her. A standard form is available for this and can be obtained from a Family Proceedings Court. The document has to be signed by the parties in front of a Court Official and the agreement is then recorded by the Court at the Principal Registry in London.

If the mother refuses to enter into such an agreement the father can apply to Court for an order for Parental Responsibility for himself.

## step-parents

A step parent is someone who is married to, or in a Civil Partnership with the biological parent of a child. Parental Responsibility is not acquired by step parents following the marriage or Civil Partnership. Since the Children Act 1989 was amended in December 2005, step parents can now enter into a Parental Responsibility agreement with the parents in the same way as an unmarried father can with a mother. Both parents with





Parental Responsibility would have to consent to the agreement. If no agreement is reached an application could be made to the Court for a Parental Responsibility Order.

The recent change in the law which allows step parents to apply for Parental Responsibility is a recognition of the change in family life which can lead to adults other than a child's parents being involved with a child as part of their family. It is important to note however that the acquisition of Parental Responsibility by one adult does not remove it from another.

### **civil partners**

When the Adoption and Children Act 2002 came into force on 30 December 2005 a person became able to acquire parental responsibility for their civil partner's child. They can do this with the written agreement of their civil partner, as long as the civil partner has parental responsibility themselves (see under "who has it"). If the child's other parent also has parental responsibility, both parents must agree. Parental responsibility can also be acquired on application to the court. In addition, under the Adoption and Children Act, same-sex couples, including civil partners, will be able to apply to adopt a child jointly.

### **the new proposals: the human fertilisation and embryology bill**

The Human Fertilisation and Embryology Bill proposes new recognition of same-sex couples as legal parents of children conceived through the use of donated sperm, eggs or embryos. A woman who gives birth and her civil partner will both be recognised as the parents of a child conceived through assisted reproduction. Similarly, two men will be able to apply for a parental order to become parents of a child conceived through a surrogacy arrangement.

The bill provides for both civil partners and same sex female partners to be named as parents on the birth certificate.

There are relevant provisions which must be complied with by the parties, which include the requirement for the treatment resulting in pregnancy must be provided by a licensed practitioner, and the partner of the woman who is being treated must consent to the treatment.

If you have any queries with regard to the obtaining of Parental Responsibility please contact Cath Longshaw, Barbara White or Jim Jones in the Family Unit for further advice.

### **get in touch**

To find out more about what we can do for you contact:

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