

Parental Responsibility

This note is only intended as an outline summary. It is not a comprehensive statement of the law and court rules; for further information and guidance relevant to your own child or children, please ask for our advice.

What is Parental Responsibility and who has it?

“Parental responsibility” (referred to in this note as “PR”) for a child is described in the Children Act 1989 as "all the rights, duties, powers, responsibilities and authority which by law a parent of the child has in relation to the child and his/her property". This is perhaps not the most helpful of definitions! – but we try to illustrate what the term means in this note.

If the parents of a child are married when the child is born or marry subsequently, they will both automatically be given PR for their natural child. However, if the child’s mother is single, she will be the only person recognised as having PR as of right, unless the child was born after 1.12.03 AND the father is named on the birth certificate. This does not prevent the natural father (or, in some cases, other people) from acquiring PR as described in the next section.

How can someone who doesn't have it acquire PR?

1. The child’s father

If the child’s parents are agreed that the father shall have PR in addition to the mother, they can enter into a Parental Responsibility Agreement. This agreement, which has to be in a prescribed form, needs then to be registered at the Principal Registry of the Family Division at the High Court in London.

If, for some reason, agreement cannot be reached, the Children Act gives an unmarried father the right to apply to the court for a Parental Responsibility Order, which, if made, gives him PR from the date of the order.

2. Other people

Non-parents who obtain from the court a Residence Order confirming a child is to live with them will normally also be granted by the court at the same time PR for that child, but this will be shared with any others already having PR and will only last as long as the Residence Order is in force.

A guardian appointed either by the will of someone who has died, or under the terms of a court order, will normally acquire PR.

If a child is subject to a Care Order to the Social Services Department of the local authority, the authority will acquire PR to be shared between them and any others who already hold it,

although, in such circumstances, it is the local authority who have the primary say as to how PR shall be exercised.

A step parent can apply for PR (obviously with the consent of their spouse, who would normally have care of the child). This enables them to exercise PR in their spouse's absence. The natural parent (normally the parent without care of the child) may agree, which would avoid the need for Court proceedings or before the application can be made to court.

If a child is adopted, the adoptive parents will acquire PR for that child in place of others having PR at the time the adoption order is made. This means that the birth parents will in these circumstances lose their PR at the same time.

What is the procedure for applying for a Parental Responsibility Order?

The application is usually made to one of the local Family Courts, which in this area will be either the Oxford County Court or the Oxford Family Proceedings Court.

On an application by the child's father, the court will want to know that the father has an attachment to, and has shown a commitment to, the child. Provided he can demonstrate this, and can show that his motive for applying for PR are appropriate, the Court is likely to make the order. However, as always when dealing with a child, the Court must have as its most important concern the welfare and interests of the child. The Court also has power to bring PR to an end, whether acquired by agreement or order.

What does having Parental Responsibility mean in practice?

A person with PR has the right to make decisions about the child's upbringing and, in many cases, can do so alone if the child's welfare demands it. However, the general rule is that persons who hold PR should make *jointly and in consultation* the major decisions about a child's upbringing (although a local authority holding PR has the main responsibility for these decisions). Examples of issues where such decisions might need to be made are:

1. *Emmigration.* The consent of all persons with PR would be needed (or the approval of the court). Please note, however, that a person with PR who also has a residence order in their favour can take the child out of the country for the purpose of a holiday for up to one month without the consent of another person holding PR.
2. *Education.* Decisions concerning the manner and place of a child's education should be taken jointly. Information about the child's progress at school, the receiving school reports and proposed change of schooling arrangements should be shared by those with PR.
3. *Religious upbringing.*

4. *Medical treatment.* Save in the case of emergency, decisions concerning treatment should be taken jointly by those having PR.
5. *Change of a child's name.* This should not normally take place without either the consent of the other parent or, if this cannot be obtained, the leave of the court.
6. *Care or adoption proceedings.* A person with PR has a right to be heard and make representations to the Social Services Department at case conferences concerning a child and can also object to a child being "accommodated" (that is, being taken into voluntary care by the local authority). There is the right to refuse consent to an adoption order being made, although the court has the power to override that refusal.

If disagreements over major issues about the child's upbringing arise which cannot be resolved by agreement, please note that, as a last resort, the court can be requested to intervene to deal with those specific issues.

The purpose of Parental Responsibility

The concept of PR was introduced by the Children Act to encourage both parents, together with any others with legal responsibility for a child's care, to have a joint involvement in and responsibility for that child's welfare and upbringing. However, it should be stressed that, simply because a father is granted PR, it does not mean that he has a right to be involved in each and every decision about the routine life of a child, for example, the clothing a child should wear, nor is it a charter for the father to interfere in the mother's life.

Please do ask for further guidance about your own situation and we will be glad to assist. Remember, this note only provides a general guide.