

## **Parental Responsibility**

Parental responsibility (“PR”) includes all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and their property.

A child’s biological mother or a child’s biological father who is named on the birth certificate or was married to the mother at the time of birth automatically have PR for a child. Others need to take steps to acquire PR (for example, unmarried fathers, second female parents, step-parents or those having children by way of surrogacy etc).

Whilst holders of PR (lets call them “parents”) are generally entitled to exercise PR independently, the Court expects them to exercise PR in a responsible and child-focused way and has set out guidance in this regard. Using medical treatment as an example, the Court has said that serious medical treatment requires the consent of all parents. However, other actions simply require the other parent to be consulted (e.g. planned medical treatment or ceasing to take prescribed medication) and some actions simply require that the other parent be notified (e.g. medical appointments other than routine check-ups).

In most circumstances, the guidance on the exercise of PR encourages the involvement of both parents in important decisions relating to a child and (in theory) prevents one parent from excluding the other from such decisions.

**Removal of Parental Responsibility** Problems arise where one of the parents has no involvement with the child, either because they are an absent parent or because they are not allowed to see the child for other reasons. In those circumstances, the parent with care of the child is still required to comply with the above guidance and notify, consult with and seek the consent of the other parent as appropriate.

This issue was considered in the case of **D v E (Termination of Parental Responsibility) [2021] EWFC 37**. This case involved an 8 year old child whose parents had separated when she was very young.

Following the separation, the father was said to have committed a number of criminal offences including harassment of ex-partners (including the mother), attempted GBH and child sexual offences. He was convicted of the latter and sent to prison. On his release from prison, the father re-offended on multiple occasions and has been in and out of prison ever since. He was released most recently in the summer of 2020, with Probation Services noting that those most at risk from him were children and the father’s previous partners.

The mother suspended contact between the child and the father when this behaviour first arose, when the child was 2 years old. This course of action was approved by the Court in proceedings at the time. As a result, the father had no further contact with the child. He also ceased exercising his PR in respect of the child.

It is against this backdrop that the mother brought an application to the Court for an order that the father have no contact with the child, an order that the child’s surname be changed formally from father’s surname to the mother’s surname and crucially for an order that the father’s parental responsibility be terminated.

The Court does not always have the power to terminate PR where the parent in question acquires it automatically such as in the case of a biological mother). However in this case it was an option available to the Court as the father had acquired his PR for the child by way of registration on the birth certificate.

The Court summarised the law in respect of PR and made clear that the removal of PR was a “*serious step*”. However it also reminded itself that that the fundamental question is whether it can be said to be in the child’s best interests for the parent in question to have PR and that the Court must ask itself whether an order for PR would be granted if the parent in question was applying for an order conferring PR.

The Court found that, in the circumstances, it would be appropriate to make an order removing PR for the child and that such an order was “manifestly in her best interests”. The Court also granted the other orders sought by the mother. The Court held that the father had no involvement in the life of the child and the child did not remember him. The father’s offences were inconsistent with his safe and consistent involvement in the child’s upbringing and he had shown no efforts to change his behaviour (nor had he made any efforts to apply to the Court to be involved in the child’s life). The Court was also concerned that if the father were to exercise his PR, he would likely do so in a way to harass or control the mother which would in turn have a detrimental impact on the child.

This case serves as a reminder of the purpose of PR and the **very** limited circumstances in which a Court will consider an order terminating PR.

Heather Weavill & Steven Barratt at Alison Fielden & Co have many years of experience in all aspects of Family Law. Please ring 01285 653261 for an appointment.