

Parental Rights and Responsibilities

What is Parental Responsibility?

Parental Responsibility is defined in Section 3 (1) Children Act 1989 as being:

“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”.

The term “Parental Responsibility” attempts to focus on the parent’s duties towards their child rather than the parent’s rights over their child.

What does Parental Responsibility mean in practical terms?

In practical terms, Parental Responsibility means the power to make important decisions in relation to a child. This can include:

- Determining the child’s education and where the child goes to school.
- Choosing, registering or changing the child’s name.
- Appointing a child’s guardian in the event of a death of a parent.
- Consenting to a child’s operation or certain medical treatment.
- Accessing a child’s medical records.
- Consenting to taking a child abroad for holidays or extended stays.
- Determining the religion the child should be brought up with.

Who has Parental Responsibility?

A mother automatically has Parental Responsibility for her child from birth.

A father usually has Parental Responsibility if he is either (a) married to the child’s mother (b) listed on the birth certificate on or after 1st December 2003

In relation to unmarried parents, the main ways in which an unmarried father can acquire Parental Responsibility are:-

- Jointly registering the birth of the child with the mother (from 1st December 2003).
- Getting a parental responsibility agreement with the mother.
- Getting a parental responsibility order from a court.

There are further provisions that apply to same sex partners.

Parental Responsibility for Separated Parents

If you have PR for a child but do not live with them the other parent should include you when making important decisions about their lives.

You do not usually need to get the consent of the other parent for routine day to day decisions even if they also have parental responsibility, and those decisions would usually be made by the parent in whose care the child is at that time.

For certain major decisions, for example one of you wants to move abroad with the children, both parents with responsibility must agree in writing.

If you cannot agree, you can apply for a Specific Issue Order or a Prohibited Steps Order. A Judge will then make a decision based on looking at what is 'in the child's best interests'.

Can Parental Responsibility be removed?

Each case will always be considered on its own merits. The case law in this area shows that removal of parental responsibility is possible in extreme cases but should only be ordered when it is necessary to protect the child and family from serious emotional and physical harm, this in effect is the court ensuring that the child's welfare is paramount.

The leading case law in this area shows removal of PR has only been ordered where it has been acquired by an unmarried father. In cases where parental responsibility was acquired by virtue of the father's marriage to the birth mother before the child's birth, the courts approach seems to be that the use of PR could be limited, but not completely removed.

For advice about Family Law matters please contact Heather Weavill at Alison Fielden & Co Solicitors on 01285 653261 or by email at hweavill@alisonfielden.co.uk