

Parental Responsibility

The concept of “parental responsibility” is extremely important in the Children Act 1989, the statute which governs the relationship between parents and children. It is important to remember that parents have “responsibilities” rather than “rights” and parents’ responsibilities have to be exercised in the best interests of the child.

So what is meant by “parental responsibility”?

It is a wide concept which covers all the normal incidents of bringing up a child and the decisions that have to be taken on behalf of the child as part of that process. It covers, for example, decisions relating to religion, education, medical treatment, applying for a passport, taking the child abroad for holidays or to live, and so on.

Who has parental responsibility?

- The mother.
- The married father (who was married to the mother at the time of the child’s birth or who subsequently marries the mother).
- The unmarried father of a child born after 1st December 2003 who registers the birth jointly with the mother and who is named as the father on the birth certificate.
- A person with a Residence Order in his or her favour.
- Sometimes, when a child has been taken into care, the Local Authority.

It is important to note the people who are not on this list, for example, some unmarried fathers, step-parents and grandparents. Practical difficulties can arise when a person without parental responsibility provides childcare on a regular basis. Specific legal advice is needed in this situation.

An unmarried father without parental responsibility can acquire it in one of two ways:

- By entering into a Parental Responsibility Agreement with the mother. This is a formal agreement, normally prepared by a solicitor, which has to be registered at the Principal Registry of the Family Court in London; or
- When the agreement of the mother cannot be obtained, by making an application to the Court for parental responsibility under Section 4 of the Children Act. Such applications are normally granted.

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At any one time there may be a number of people with parental responsibility for a child. Parental responsibility is retained until the child reaches the age of 18. However, as the child gets older, and particularly during the teenage years, the decision making power of the parents has to yield to the child's ability to make his or her own decisions. The extent to which this is the case depends on the nature of the issue involved and the age of the child.

When those with parental responsibility are unable to agree, there is considerable guidance in the case law as to how parental responsibility should be exercised. The test, as always in children matters, is to ascertain what is in the best interests of the child. If disagreement arises it is important to seek specific legal advice.

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