



Freephone

0808 802 0925

Gingerbread Single Parent Helpline

Factsheet

For single parents in England and Wales December 2012

Parental responsibility

This factsheet explains the rights and responsibilities of parents who live apart. It tells you who is responsible for the care of a child and who can have a say in important decisions in a child's life, such as where they go to school, their religion and where they live.

You'll find information in this factsheet on what parental responsibility means, who automatically has it, who can apply for parental responsibility, and how to apply. There is also information on appointing a guardian in the event of your death.

Details of useful organisations are listed on page 4. For more information, or for advice tailored to your circumstances, call the Gingerbread Single Parent Helpline on 0808 802 0925. Calls are free from landlines and most mobiles.

What is parental responsibility?

Parental responsibility means the legal rights, duties, powers, responsibilities and authority a parent has for a child and their property. A person who has parental responsibility for a child has the right to make decisions about their care and upbringing. Important decisions in the child's life must be agreed with anyone else who has parental responsibility.

The following are examples of important decisions in a child's life that should have the agreement of everyone with parental responsibility:

- Where a child lives
- Whether or not a child has medical treatment
- How and where a child is educated
- Which, if any, religion a child follows
- Deciding a child's name and registering their birth
- Giving consent for a child to leave the country, whether for a holiday or permanently.

Supporting children financially

Parental responsibility does not affect the duty a parent has to maintain a child financially – all parents have a duty to pay towards their child's upbringing, whether or not they have parental responsibility.

Day-to-day parenting

Day-to-day decisions are made by the person who is looking after the child at that time, and do not have to be agreed with each person who has parental responsibility.

This doesn't mean parents shouldn't discuss what they think is appropriate on a day-to-day level. It is helpful if parents agree on how to tackle issues such as discipline, bedtimes, and homework, but if you don't agree on these things then neither parent can force the issue with the other.

A parent can decide who a child sees when they are with them. If you or your child's other parent wants to introduce a new partner to your child, then ideally both parents should discuss how it might affect your child and how they feel. You cannot prevent your child's other parent introducing a new partner to your child even if you do not agree that it should happen.

Who automatically has parental responsibility?

The following people automatically have parental responsibility:

- All birth mothers
- Fathers married to the mother at the time the child was born
- Fathers who are not married to the mother, but are registered on the child's birth certificate. The registration or re-registration must have taken place after December 2003
- Civil partners and partners of mothers registered as the child's legal parent on the birth certificate.

Who can get parental responsibility?

Biological fathers

If a father is not married to the mother, and is not registered on the child's birth certificate, he will not automatically have parental responsibility. If he is registered on the birth certificate, but it happened before December 2003, he will also not automatically have parental responsibility.

A biological father who does not already have parental responsibility can get it in the following ways:

Re-registering the birth of the child

This can only be done if the father's name is not on the original birth certificate. The mother must agree, and must either go with the father to the registry office, or complete the statutory declaration of parentage form. Applications forms are available from your local registry office or from www.gov.uk.

Making a parental responsibility agreement with the mother

This is a formal written document, not just an informal agreement between the parents. The agreement is made using form C(PRA1), which you can get from your local court, or from www.justice.gov.uk. The form needs to be signed by both parents and witnessed by a court official. See *Parental responsibility agreements* on page 3.

Applying to the court for a parental responsibility order

If a mother does not agree to the father having parental responsibility, he can apply to the court for an order. See *Parental responsibility orders* on page 3.

Being granted a residence order

If a father is granted a residence order by the courts, he will automatically get parental responsibility. The parental responsibility will only continue as long as the residence order is in place, so the father may want to apply for a parental responsibility order at the same time. See *Parental responsibility orders* on page 3.

Marrying the mother

If a father does not have parental responsibility, but later marries the child's mother, he will get parental responsibility. The child's birth will need to be re-registered using an 'Application for re-registration following parents' marriage' form.

The form is available from your local registry office or from www.gov.uk.

Married and civil partnered step-parents

A step-parent will not automatically get parental responsibility for a child if they marry or enter into a civil partnership with the child's parent. A step-parent means a person is married to or in a civil partnership with the child's parent; it does not include couples who are cohabiting.

If you were in a relationship with your civil partner when your child was born, different rules may apply. See *A guide to lesbian parenting* produced by Rights of Women or *A guide for gay dads* by Stonewall.

A step-parent can get parental responsibility in the following ways.

Making a parental responsibility agreement

The agreement must be made with both the parent that the step-parent is married to, or in a civil partnership with, and also the child's other parent if that parent has parental responsibility.

The agreement is made using form C(PRA2), which you can get from your local court or from www.justice.gov.uk. The form needs to be signed by all parents with parental responsibility and the step-parent, then witnessed by a court official. See *Parental responsibility agreements* on page 3.

Applying to the court for a parental responsibility order

If the child's other parent has parental responsibility, and will not agree that the step-parent should have parental responsibility as well, the step-parent can apply for a court order. See *Parental responsibility orders* on page 3.

Others carers who are not parents

It is possible for other people who are not the child's parent or step-parent to obtain parental responsibility in certain situations. Other people such as grandparents, family members or other carers may get parental responsibility by:

- **Having a residence order** – if a person has a residence order they will get parental responsibility for the duration of the order. If, for example, the child later does not live with that person, they will not keep their parental responsibility

- **Being appointed as a guardian** – see *Appointing a guardian* – page 3
- **Being a special guardian** – if a person is appointed as a special guardian for a child, they will get parental responsibility. The biological parent will keep their parental responsibility, but they will not have equal parental responsibility. A special guardian can override the decision of the parent if there is an issue they disagree on
- **Adoption** – if a child is adopted, their adoptive parent automatically gets parental responsibility. The biological parent will lose parental responsibility.

How do you get parental responsibility?

Parental responsibility agreements

If a parent or step-parent does not have parental responsibility, an agreement can be made with the other parent, or parents, that they will share parental responsibility. Making an agreement between the parents avoids having to go to court for an order.

A parental responsibility agreement form is available from your local court or from www.gov.uk. Both parents (and, where applicable, any step-parents) must sign the form at the court, so that it is witnessed by a court officer. You will need to fill out separate forms for each child. You will also need to take a copy of your child's birth certificate and proof of identity.

If you are having problems reaching an agreement over parental responsibility see the Gingerbread factsheet *Help when you can't agree*.

Parental responsibility orders

If parents cannot reach agreement about whether the other parent or step-parent should have parental responsibility, the parent or step-parent can apply to the court for an order.

The court will decide if it is the best interests of the child for the parent or step-parent to have parental responsibility. The welfare of the child must be the court's paramount consideration.

It is usually the case that an unmarried father will be granted parental responsibility, unless there is a very good reason for him not to have it.

When making a decision the court will consider:

- Whether the parent, by their actions during and since the application, has shown sufficient commitment to the child to justify giving them parental responsibility
- The level of attachment between the parent and the child
- The reasons for applying for parental responsibility.

Appointing a guardian

A parent with parental responsibility can appoint a person to be guardian for their child after their death. The appointment can be made in writing, as long as it is signed and dated, or in a will.

If you are the only person with parental responsibility

You can appoint a guardian for your child, who would be appointed immediately on your death. The guardian will have priority over the surviving parent, if there is one. If your child's other parent wanted the child to live with them, they could challenge your decision by applying for a residence order. This means that they would be asking a court to decide that the child should live with them instead of the guardian. The court would have to make their decision based on what would be best for the child.

If you and your child's other parent both have parental responsibility

Either parent can appoint a guardian, but the guardian will only be appointed after both parents with parental responsibility have died. If your child does not have a relationship with their other parent, or you think another person would be more suitable to look after your child, then make your wishes known in a will or other document. They will not be appointed as a guardian as your child's other parent has parental responsibility, but it may be taken into consideration if a court has to be involved.

If you have a residence order for your child (not a joint or shared residence order with your child's other parent) you can appoint a guardian who will be appointed after your death. The guardian would take priority over your child's other parent, but they would share parental responsibility. If your child's other parent wanted the child to live with them they could challenge your decision by applying for a residence order. The court would have to make a decision based on what was best for your child.

Further help and information

Gingerbread Single Parent Helpline

Freephone 0808 802 0925
www.gingerbread.org.uk

Free information on a range of issues including maintenance, benefits, tax credits, debt, employment, education, legal rights and holidays.

One Parent Families Scotland Lone Parent Helpline

Freephone 0808 801 0323
www.opfs.org.uk

Run by our partner organisation, the Lone Parent Helpline provides confidential advice and information for single parents in Scotland.

Child Maintenance Options

0800 988 0988
www.cmoptions.org

Provides information on your options for setting up child maintenance payments. Tools such as a discussion guide to help parents negotiate, private agreement form and maintenance calculator are available on the website.

Coram Children's Legal Centre

Freephone 0808 8020 008
www.childrenslegalcentre.com

The child law advice line provides legal advice and information on all aspects of law and policy affecting children. The advice line is available for those in England.

Family Mediator's Association

01355 244594
www.thefma.co.uk

Provides information on family mediation, and directs to local mediation services.

Family Mediation Helpline

www.familymediationhelpline.co.uk

Website to search for a local mediator, including whether they take legal aid cases.

HM Courts Service

www.justice.gov.uk/about/hmcts

Help to find your local court as well as information, court forms and guidance.

National Family Mediation

0300 4000 636
www.nfm.org.uk

Can answer general enquiries relating to mediation and put callers in touch with local not-for-profit mediation services.

Rights of Women

0207 251 6577
www.rightsofwomen.org.uk

Free, confidential legal advice by telephone for women. Specialist areas include family law. Lesbian parenting, divorce/relationship breakdown, children/contact issues and domestic violence.

Resolution

0845 758 5671
www.resolution.org.uk

Association of solicitors specialising in family law, who adopt a non-confrontational approach to family problems. They can provide a list of local members. The website has free information on issues such as splitting up, parenting apart and child maintenance.

Stonewall

08000 50 20 20
www.stonewall.org.uk

Free helpline for information on gay rights, including parenting, civil partnerships, discrimination and more.

More from Gingerbread

The following related Gingerbread factsheets for single parents are also available:

- > Making arrangements for your children
- > Help when you can't agree
- > Information for parents who don't live with their children

Download them from our website or call 0808 802 0925 to request them from the Helpline

Become a Gingerbread member

Membership is available to single parents in England and Wales. Join a community of thousands of single parents who benefit from the mutual support, free advice and information provided by Gingerbread. You can also meet other single parents at one of our local support groups.

Visit our website, call 0800 018 4318 or email membership@gingerbread.org.uk

Gingerbread
Single parents, equal families

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