

PARENTAL RESPONSIBILITY

Definition of parental responsibility

Whitin the Children Act the definition of parental responsibility is; 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.

What does this mean?

This generally means that a person with parental responsibility has the right to decide on the child's education. The right to determine the child's religious education, medical treatment although it is generally the case that a 16 your old child can attend themselves to various forms of medical treatments and in some case where a child is below the age of 16 providing that they can show they have the necessary level of intelligence and maturity. The right to determine a child's name. The right to consent to a child being adopted.

Who has parental responsibility?

The mother of the child always has parental responsibility. However, please note the position where a child is conceived as a result of artificial insemination in a UK licenced clinic under a surrogacy arrangement. Different rules apply here as the women carrying the child is regarded as the legal parent as well until the making of a parental order under the Human Fertilisation and Embryology Act 2008. There are specific criteria for parental orders under the Act.

If the parents of a child are married, the father will also have parental responsibility. The parents will continue to share such parental responsibility even after they divorce. If the parents are not married at the time of a child's birth, then the father will not have parental responsibility unless he has entered into a parental responsibility agreement with the child's mother. Alternatively, the court has granted such an order under the Children Act 1989. If an order is made that the child should live with his/her father, then the father requires parental responsibility. For any child born after 1st December

2003, a father of a child where the parents are not married, will automatically acquire parental responsibility if the child's birth certificate records the father. The law also permits a father to acquire parental responsibility if he enters into a civil partnership with the child's mother.

Once parental responsibility is established, it is very difficult to remove but not impossible in appropriate cases. It is possible also to obtain a declaration as to parentage which a father without parental responsibility can obtain through the courts which will enable him to register his status as the child's parent in the child's birth certificate. This does not in itself grant parental responsibility to him.

Non parents can also be granted parental responsibility under the Children Act 1989 and under this category the parental responsibility can be granted to a stepfather for example or other relative.

The court will have to determine whether parental responsibility can be restricted or curtailed when it hears an application made by one parent. The courts starting position is that it presumes that the involvement of the absent parent in the life of a child concerned will further the child's welfare but only if in so doing does not put the child at risk of suffering harm which may occur as a result of direct or indirect contact.