

An Ultimate Guide To Parental Responsibility

As a parent, you have wide-ranging powers over your child as well as a responsibility to use them in his or her best interests. In law, this is called “parental responsibility” and while most of us take it for granted in everyday life, it can be deeply disturbing to have it challenged.

Whether you are looking to obtain parental responsibility for yourself or a new partner, have someone else’s parental responsibility terminated, or simply understand the scope of your parental responsibility in greater depth, this ultimate guide will tell you everything you need to know. We’ll cover:

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What Is Parental Responsibility?

Parental responsibility is a fundamental legal concept in England and Wales, defined under Section 3(1) of the Children Act 1989 as "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."

It is clear from this wording that parental responsibility provides a parent with comprehensive authority over their child, as well as a number of specific obligations regarding their welfare and upbringing. The key aspects of parental responsibility include:

1. Education: Deciding on the child's schooling and educational pursuits.
2. Medical Treatment: Consenting to medical procedures and treatments on behalf of the child.
3. Naming: Choosing the child's name and agreeing to any subsequent changes.
4. Religion: Determining the religious upbringing of the child.

It's important to note that while these responsibilities are comprehensive, they are not absolute. In situations where parents cannot agree on significant decisions, such as the child's education or medical treatment, the court can intervene to determine what is in the child's best interests. For instance, if parents disagree on whether their child should receive a particular vaccination, the matter may be brought before the court, which will consider medical advice and the child's welfare in its decision.

It's crucial for those with parental responsibility to collaborate effectively, especially when making major decisions affecting the child's life. Disagreements can lead to legal disputes, and the court's primary consideration will always be the child's welfare. Therefore, understanding the scope and limitations of parental responsibility is essential for ensuring the child's best interests are consistently upheld. Parental responsibility persists until the child is no longer considered a child (usually when they reach 18 years of age), or, in exceptional circumstances, until it is terminated by the courts.

Who Has Parental Responsibility, And Who Can Request It?

In England and Wales, parental responsibility primarily belongs to a child's mother and, in many cases, the father. However, others can request it under certain conditions. Here's a breakdown of who has automatic parental responsibility, who can acquire it, and how it can be shared or expanded among other individuals.

1. Automatic Holders of Parental Responsibility

- **Mothers:** A mother gains parental responsibility automatically from the moment of a child's birth, regardless of her marital or partnership status with the father. This right persists until the child turns 18, marries (if below 18) or is legally adopted.
- **Fathers:** A father also receives automatic parental responsibility if he is married to the mother at the time of the child's birth. For unmarried fathers, the law grants automatic parental responsibility only if they are named on the child's birth certificate (for births registered after 1 December 2003). Unmarried fathers not listed on the birth certificate must apply or make an agreement to gain parental responsibility.

2. Individuals Who Can Request Parental Responsibility

Certain individuals may be interested in pursuing parental responsibility, usually by establishing a formal agreement or obtaining a court order.

- **Unmarried Fathers Not on the Birth Certificate:** These fathers can apply for parental responsibility by reaching a formal parental responsibility agreement with the child's mother or seeking a parental responsibility order from the court. This step is crucial for unmarried fathers who wish to take an active role in major decisions about the child's life, including education, healthcare, and religious upbringing.

- **Step-parents:** A step-parent can obtain parental responsibility if they are married to or in a civil partnership with one of the child's biological parents. This can be done through a parental responsibility agreement signed by all parties with existing parental responsibility, or they can apply to the court for an order. It is important to note that courts typically assess such requests carefully, particularly when both biological parents are actively involved and may need to consent if disagreements arise.
- **Civil Partners and Second Female Parents:** In same-sex relationships, a second female parent who is not the birth mother will have parental responsibility if she is in a civil partnership with, or married to, the birth mother at the time of the child's birth. In cases where the second female parent is not married or in a civil partnership with the mother, they can establish parental responsibility through a formal agreement with the birth mother or via a court application.
- **Guardians:** If both parents of a child pass away, a legal guardian can be appointed to assume parental responsibility. Guardianship arrangements are often formalised in the parents' wills, guardians can seek court approval to take on parental responsibility.
- **Adoptive Parents:** Upon completion of an adoption process, adoptive parents acquire full parental responsibility. This responsibility supersedes any previously held by the child's birth parents, and the adoptive parents become the sole legal guardians.

3. Other Individuals with Special Circumstances

- **Foster Parents:** Generally, foster parents do not hold parental responsibility. Instead, the local authority overseeing the fostering arrangement retains it. However, in cases where long-term fostering is involved, some foster carers may seek a Special Guardianship Order, granting them certain parental rights while the biological parents retain residual rights.
- **Grandparents and Other Relatives:** In unique cases, grandparents or other relatives can apply for parental responsibility, often in situations where both parents are unavailable, such as in cases of incarceration or severe incapacity. However, in most cases, these individuals would instead seek a child arrangements order or a Special Guardianship Order, which confers limited but practical authority over the child's welfare.

As a general rule, parental responsibility laws in England and Wales aim to balance the rights of biological parents with the best interests of the child, making it accessible to those who play a significant role in a child's life under the proper legal frameworks. In other words, if you are active in a child's life as a parental figure, you have a strong case for the establishment of parental responsibility.

How to Apply for a Parental Responsibility Order

Applying for a Parental Responsibility Order (PRO) in England and Wales is a structured legal process requiring attention to detail and, often, the assistance of a legal professional. Here are the main steps involved:

1. **Seek Legal Advice**

It's generally advisable to consult with a family law solicitor before applying for a PRO. Legal advice can help clarify the requirements, assess the likelihood of success, and determine whether the court process is necessary in your case. A solicitor can also guide you through the paperwork and court procedures involved.

2. **Complete and Submit Form C1**

To start an application for a PRO, you need to complete Form C1, also known as the "Application for an order." This form is available from the HM Courts & Tribunals Service website. It requires information about your relationship with the child, your reasons for requesting parental responsibility, and details about the child and other individuals involved in their care.

3. **Prepare Supporting Documents**

Alongside Form C1, prepare relevant supporting documents to strengthen your application. These might include the child's birth certificate, any existing agreements or orders concerning the child's upbringing, and any other documents illustrating your commitment to their welfare. Be as thorough as possible, as comprehensive documentation can make a positive impact on the court's decision.

4. **Pay the Application Fee**

There is usually a fee for submitting a PRO application to the court, though the amount may vary. Fee waivers or reductions are available for applicants with financial constraints. It's advisable to check current fee rates on the HMCourts & Tribunals Service website and seek guidance on fee exemptions if applicable.

5. **File Your Application**

Once you have completed the application form and prepared all supporting documents, submit them to your local family court. Upon receiving your application, the court will notify all individuals with existing parental responsibility for the child, as they may wish to attend the hearing and voice their views.

6. **Attend the Court Hearing**

The court will schedule a hearing to assess your application. During the hearing, you may need to explain your reasons for requesting parental responsibility and demonstrate how this aligns with the child's best interests. All parties with parental responsibility have the right to present their perspectives, and the court will evaluate the overall family dynamics before making a decision.

7. **Receive the Court's Decision**

After reviewing all evidence and considering the views of involved parties, the court will make a decision. If the PRO is granted, you will gain parental responsibility and thus be entitled to participate in making significant decisions concerning the child's welfare.

What Alternatives to a Parental Responsibility Order Exist?

While a PRO is a straightforward route for obtaining parental responsibility, some individuals may find alternative arrangements suit their family better, and are less contentious. Here are the main alternatives and their respective processes:

- **Parental Responsibility Agreement**

A Parental Responsibility Agreement is a voluntary arrangement made between the child's mother (or existing holder of parental responsibility) and the applicant. To establish this agreement, both parties must complete Form C(PRA1), which is available from the HM Courts & Tribunals Service website. Both signatures must be witnessed by an authorised officer at the family court, where the completed form is then registered. This option is often more cooperative and may help avoid the need for court intervention.

- **Child Arrangements Order**

A Child Arrangements Order (CAO) defines the arrangements for where a child will live or with whom they will spend time. A CAO can also grant parental responsibility to the applicant, though this responsibility may be limited to certain aspects of the child's care. To apply, you'll need Form C100, which is also available online. After filing the form and attending any necessary mediation sessions, the court will schedule a hearing. This option can be especially beneficial if you're seeking both contact rights and a degree of parental responsibility.

- **Adoption**

Adoption confers full parental responsibility and severs the legal ties with the child's birth parents. This process is considerably more complex and is generally pursued in cases where a long-term, permanent relationship is sought, and other parental figures may not be present in the child's life. Adoption requires a thorough assessment by the local authority or a licensed adoption agency, which considers the suitability and commitment of the prospective adoptive parent(s) before making recommendations to the court.

You Ask, Blanchards Answers

Q: Can I lose my parental responsibility?

A: Yes, in certain situations, a parent may lose their parental responsibility. For fathers, this can occur if the court deems it in the child's best interests. For example, if a father presents a risk to the child's welfare, the mother or social services may apply to the court to terminate his parental responsibility. Mothers generally retain parental responsibility unless the child is adopted by another party, although in very extreme circumstances, the court may rule to remove her parental responsibility too.

Q: Can I have my former spouse's parental responsibility terminated?

A: In specific cases, it is possible to apply to the court to terminate the other parent's parental responsibility if it would protect the child's welfare. However, this is only granted in exceptional cases, such as evidence of abuse, neglect, or abandonment. The court's primary consideration is always the child's best interests.

Q: How does parental responsibility end?

A: Parental responsibility typically ends when a child turns 18. However, if a child marries at 16 or 17, parental responsibility automatically ends at that point. Additionally, if a child is adopted, the biological parents lose their parental responsibility as it transfers to the adoptive parents.

Q: Can I change my child's surname without the other parent's consent?

A: No, changing a child's surname generally requires the consent of all individuals with parental responsibility. If the other parent does not agree, you would need to apply to the court for a Specific Issue Order to make this change. Courts typically prefer to maintain the status quo unless there's a compelling reason.

Q: Is there a limit to how many people can have parental responsibility for a child?

A: Technically, there is no set limit to how many individuals can hold parental responsibility, although it is uncommon to have more than a few. This situation may occur when step-parents or guardians gain parental responsibility in addition to the biological parents.

Q: Can local authorities obtain parental responsibility?

A: Local authorities do not typically hold parental responsibility in the same way parents do. However, they can assume certain responsibilities for a child's welfare if a child is taken into care under a court order. This does not terminate the parents' parental responsibility, but it limits their ability to exercise it while the child is in the care of the local authority.

Q: If I am paying child maintenance, am I entitled to parental responsibility?

A: Paying child maintenance does not automatically grant parental responsibility. However, fathers paying maintenance but lacking parental responsibility may apply to the court, and their financial support could strengthen their application. Courts tend to consider such contributions positively, although this is not guaranteed.

Q: Does parental responsibility allow me to make all decisions about my child?

A: Parental responsibility allows parents to make significant decisions about a child's upbringing, including their education, healthcare, and religious practices. However, if both parents share parental responsibility and disagree on major issues, they may need to seek court intervention. In such cases, the court will prioritise the child's welfare when making decisions.

Q: How do surrogate or adoptive arrangements affect parental responsibility?

A: In surrogate situations, the intended parents must apply for a Parental Order after the child's birth to gain parental responsibility, legally transferring it from the surrogate. In adoptions, the adoptive parents receive full parental responsibility, and the biological parents' rights are terminated once the adoption is complete.

Q: Can parental responsibility be temporarily restricted?

A: Yes, in cases of severe disagreements or welfare concerns, the court may impose restrictions through a Prohibited Steps Order (PSO) or a Specific Issue Order. These orders do not remove parental responsibility but can prevent a parent from taking certain actions, such as relocating a child or making specific healthcare decisions, if it is deemed to be in the child's best interests.

Final Thoughts

If you are seeking parental responsibility, trying to compromise with another parent who shares responsibility with you, or are trying to restrict someone else's parental responsibility, then we recommend you take professional legal advice.

Many of the issues former couples face when sharing parental responsibility (often with the addition of other adults who also come to hold parental responsibility) can be dealt with efficiently and cordially through mediation, or other specialist services. However, should you need to go to court, it is vital that you're properly represented.

Blanchards Law is a highly experienced family law firm, and we also offer a nationally leading mediation service. If you would like to discuss your situation, please contact us via the details on our [contact page](#).