

PARENTAL RESPONSIBILITY EXPLAINED

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What is Parental Responsibility?

Parental Responsibility ("PR") involves having the right to make, or at least have a say in, decisions about a child. It affirms that parents have duties, as well as rights, where a child is concerned which do not end come to an end when a parent stops living with the child; it ends only when a child becomes an adult.

Although PR does not entitle a parent who is not living with the child to interfere with more trivial day to day questions, parents who share PR, whether separated or not, share the obligation and the right to make decisions of significance concerning their child. The list of responsibilities includes care and control of the child, discipline, protection and maintenance, education, religious upbringing and medical treatment.

Who has PR and how do I get it?

All married parents of children (whether born before or after the marriage and including adopted children) automatically acquire PR. An unmarried mother automatically has PR but an unmarried father does not. There are several ways in which an unmarried father can acquire PR for his child.

These are as follows: -

- Signing a Parental Responsibility Agreement with the mother. Both parents must sign the agreement and their signatures must be witnessed by a Court official. Once signed and witnessed, the Agreement must be registered at the Principal Registry in London.
- Parental Responsibility Order. Approved by a Judge after an application to the Court by the father and can be made either with the consent of the mother or at the discretion of the Court, if the mother objects.

A Court is likely to grant PR to an unmarried father who can demonstrate his commitment to his relationship with the child, is genuinely attached to the child, and his application is not driven by a desire to disrupt the mother's life. The child's welfare will be the Court's paramount consideration in any decision a court makes concerning a child.

If the child was born on or after 1 December 2003

any unmarried father registered on the birth certificate as the father acquires PR, provided both the mother and father are present at the time registration takes place. If the father's name does not appear on the birth certificate he can apply to re register the birth so that his name is inserted on the certificate thus meaning he will acquire PR.

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- PR can also be granted to people who are not the natural parents. Anybody whose care of a child is with the benefit of a Residence Order automatically acquires PR. Adopters and Guardians (both approved by the Court as opposed to a voluntary arrangement with the parent(s)) are given PR. In some cases it is granted to local authorities or even the courts. If a mother marries a man who is not the biological father or enters into a civil partnership, the husband/civil partner can acquire PR by signing with the mother a Step Parent Parental Responsibility agreement. This will also require the consent of anyone else apart from the mother who has PR for the child.

For further information or to discuss your case please contact Simon Thomas, a Partner in our Family Department, on 01480 454301 or on simon.thomas@leedsday.co.uk



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