

Beck Fitzgerald

lawyers & consultants

What is

Parental Responsibility?



*working for
accessible justice*

Beck Fitzgerald is a specialist family practice based in central London and committed to accessible justice.

Our aim is to enable more families to get the expert help they need when they need it, at a price they can afford.

Alongside our casework with clients we strive to challenge the family justice system to improve outcomes for the children and families we serve

We work tirelessly to improve the laws and protection for victims and their children so that they can feel safe.

We do not judge, and all our team are trained in trauma informed ways of working. We will help you find the best legal solution for you and your children.

What is Parental Responsibility?

Parental responsibility (PR) is defined as 'all the rights, duties, powers, responsibilities and authority which, by law as a parent of a child has in relation to the child and his property'.

Who has Parental Responsibility?

The biological mother of a child has automatic PR. The biological father will also have PR if one of the following applies:

- If he is married to the mother of the child.
- If he is registered on the child's birth certificate with the mother's consent (but this only applies if the child was born after 1/12/2003).

- If he enters into a parental responsibility agreement with the mother
- If the court grants a parental responsibility order in his favour.
- If the court has previously granted a residence order in his favour, or a child arrangement order with parental responsibility.
- If he is appointed as guardian by the mother of the court (although he will only obtain PR on death of the mother or any other person with PR in this case).

Parental Responsibility agreements

A PR agreement puts the father with the benefit of the agreement in the same position as if a PR order has been made. The agreement must be in a prescribed form, signed by the parents and witnessed by a magistrate or designated court official, and two copies must be sent to the main family court in London; the Central Family Court.

If people other than just the mother have PR (for example, a step parent, or someone with a residence order or a child arrangement order with PR also granted) the agreement will have to be made with these people also.

A PR agreement will end when the child reaches 18 or it can be ended by court order, but not by agreement.

Parental responsibility orders

If the father is seeking PR and the mother does not agree, he can apply to court for a parental responsibility order which will give him PR. In deciding whether or not to make a PR order, the court will consider:

- The father's degree of commitment to the child.
- The father's current relationship with the child.
- The father's reasons for making the application.

A parental responsibility order will end when the child reaches 18 or the father marries the mother (and the child is under 18) or it can be entered by court order, but not by agreement.

How can other people get Parental Responsibility?

There are a number of situations where a person other than a parent may obtain PR. These are as follows:

- When a mother with sole PR appoints a person as guardian in her Will (if anyone else alive has PR this will not give the guardian PR), the PR will only start after the mother has died.
- When a step parent obtains PR by agreement (with the consent of all those with PR).
- When a step parent obtains a PR order.

- When a local authority obtains a care order (their PR will override that of all others with PR).
- When a person obtains a child arrangement order with PR attached (for those other than biological fathers) or a special guardianship order. PR in this case will end at the end of the child arrangement or special guardianship order.
- When a child is made a ward of court the court obtains PR.
- Under the Human Fertilisation and Embryology Act 2008, when the natural mother nominates her same sex partner as the 'parent' of the child, the nominee will then have the same rights to be on the birth certificate, apply for a PR order to enter into a PR agreement as an unmarried natural father.
- When obtaining a Parental Order giving effect to a surrogacy agreement.
- When a person adopts a child (which ends everyone else's PR).

Delegating Parental Responsibility

Someone with PR for a child can delegate responsibility for them on a temporary basis for example, to a childminder.

How can you lose Parental Responsibility?

There are some situations when a parent can lose PR including when they die, or when a child is adopted. An unmarried father who has obtained his PR by birth certificate registration, order or agreement can also lose his PR if the court makes an order ending it. In certain circumstances a parent who is convicted of murder / voluntary manslaughter may have parental responsibility restricted upon conviction

What can I do with my parental responsibility?

In theory, people with PR can use their PR to make decisions for the child without consulting anyone else. However, in certain circumstances it is necessary to obtain permission from all others with PR, including:

- Changing the child's surname.
- If there are any issues regarding sterilisation and/or circumcision.

- Taking the child out of England and Wales for a holiday of any length or to live.
- If you do this without the consent of all others with PR this is a criminal offence under the Child Abduction Act 1984.
- You should also consult everyone with PR on important decisions such as where the child goes to school, or for serious medical treatment, even though specific consent is not required. The court would say that it is good parenting to involve other important people in the child's life who have PR with such decisions.

If you cannot agree about such matters, you could make an application to the court under the Children's Act 1989 for a specific issue order.

Please see our guide relating to children matters at court for further information about this.

For more information please contact us on:

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