

## THE INTERNATIONAL FAMILY LAW GROUP

### iGuides to family law and practice

#### PARENTAL RESPONSIBILITY

##### What is Parental Responsibility?

Parental Responsibility (PR) is set out by law in the Children Act 1989 as “all 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 actually quite difficult to define precisely. In reality it is the major decisions taken by a responsible parent for the life of a child. It is not the day to day decisions. The parental responsibility decisions change and vary depending on needs, circumstances, age and maturity. A non-exhaustive list of responsibilities includes:

- education
- religious upbringing
- protection and maintenance
- surnames
- medical treatment
- taking the child abroad
- a child's legal representation
- consent to get married
- adoption
- appointing guardians
- overseeing assets and affairs

##### Who has Parental Responsibility?

If parents are married, both automatically have PR of any child born within the marriage or natural children born to them before the marriage and they subsequently marry. If the parents are not married, the mother automatically has PR but the father has to acquire it in certain ways.

##### How can an unmarried father and any other person acquire parental responsibility?

An unmarried father can enter into a parental responsibility agreement with the mother and a stepparent who has married the mother or entered into a civil partnership with her. This agreement must, by law, be set out in a specific form, C(PRA1), signed by all parties with their signatures witnessed and then sent to the court in accordance with the regulations explained on the back of the form. A separate form of agreement is required for each child. Once completed it should be taken to a local family proceedings court, County court or the Principal Registry of the Family Division where a justice of the peace, a justice's clerk or assistant or court official authorised to take oaths will witness the signatures. This cannot be done by a solicitor. When doing so, the mother will need to show the child's full birth certificate as proof of being the child's mother. Both parties will also need to show proof of their identity.

The completed and witnessed parental responsibility agreement must then be taken or sent along with two extra copies to the Principal Registry of the Family Division, First Avenue House, 41-49 High Holborn London WC1 6NP. The agreement will be recorded and kept by the court. Copies will be stamped and sent to each parent. The agreement only takes effect upon it being received and recorded by the Principal Registry of the Family Division. It is usual for a parental responsibility agreement to

come to an end on the child's eighteenth birthday.

For children born after 1st December 2003, a father can obtain PR by being registered jointly on the child's birth certificate at the time of birth. If the father is not present at the signing of the register, then he can still be included on the birth certificate by making a statute declaration that he is the father and the mother producing this to the registrar.

It is possible to apply to the court for a parental responsibility order. The court will consider whether it is in the child's best interest. Generally if the father is involved in the child's life, whether as a carer or seeing the child contact and there are no harm or similar issues, then parental responsibility is invariably granted. If the court directs that the child should live primarily with the unmarried father and a residence order is granted in his favour, parental responsibility is automatically granted

Parental responsibility occurs when the mother dies if appointed as the child's guardian by the mother. Or the court (but it will only be effective when the mother dies), getting a residence order from the court or registering his name on the child's birth certificate.

Other family members can acquire parental responsibility including by a parental responsibility agreement entered into with all others having parental responsibility, the making of a residence order and in other ways

It is important to appreciate that a parent has an obligation to maintain their child whether or not they have PR. Parental responsibility has no bearing on financial issues.

Children are keenly aware of the day-to-day decisions affecting them taken by their parents, whether the parents are living together or separated. When the child is living primarily with one parent, it is usual for her to take more of the day-to-day decisions, consulting appropriately with the other parent. Children are less aware of the major decisions in their lives, at least until after the event. Yet both parents and some other family members have a fundamental role to play in taking these important decisions and exercising appropriate parental responsibilities. Whatever differences the parents may have had in their own lives, it is crucial for the welfare and best interests of the child that the parents communicate and reach agreement on these important decisions.

Parental responsibility is no more and no less than responsible parenting. Responsible parenting entails consultation and discussion between parents, whatever their other differences.

This iGuide is for information only and a specialist legal advice should always be taken. For further details contact The International Family Law Group at 020 3178 5668 and [www.iflg.uk.com](http://www.iflg.uk.com)

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