

## Parental Responsibility

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### CHILDREN ACT 1989

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Parental Responsibility is a concept introduced by the Children Act 1989 and it emphasizes the importance of *responsibility for children rather than rights* over children.

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### What does Parental Responsibility mean?

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The Act does not give any list of what the words mean. It covers responsibility for all aspects of a child's upbringing and welfare. This will include:

- Where the child is to live
- What name he or she is to have
- Education
- Medical care
- Religion
- The day to day requirements

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### Who has Parental Responsibility?

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The mother always has automatic parental responsibility. The father only has automatic parental responsibility if married to the mother at the time of the birth of the child. An 'unmarried' father had to acquire parental responsibility either by agreement with the mother or by Court Order.

Under the Adoption and Children Act 2002, with effect from the 1 December 2003 an unmarried father of a child born after this date who is named as the father on the birth certificate automatically has parental responsibility.

The Adoption and Children Act 2002 also provides for a step-parent to acquire parental responsibility by entering into a "parental responsibility agreement" with the parents who have parental responsibility for the child; or by applying to the Court for an order.

A step-parent is defined as a person who is married to or is a civil partner of a parent of a child.

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### If Mother and Father both have Parental Responsibility must they consult about the child's upbringing?

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The Act **does not** create any rights of consultation before action is taken in respect of a child. On the contrary the Act says that each person with parental responsibility may act **independently** in meeting that responsibility (except where the Law requires consent e.g. adoption).

If you would like to discuss any issues raised in this update or any other family related matter please do not hesitate to contact our Family Team on 01279 755777 or email [family@nockolds.co.uk](mailto:family@nockolds.co.uk)

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Because of this, parental responsibility is no guarantee of co-operation. Where a child is living with the mother for example, a father with parental responsibility may find it very frustrating that he does not have to be involved in decisions regarding the child. If he disagrees very strongly with what the mother is doing, he will have to apply to the court for either a 'prohibited steps order' or a 'specific issue order'.

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### Can Parental Responsibility be lost or given away?

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Parental responsibility **cannot** be surrendered or transferred. It **can** however, be temporarily delegated.

Parental responsibility is not **lost** when another person acquires it.

Rather parental responsibility is then shared. This is so even when a local authority acquires parental responsibility under a care order.

Parental responsibility is **lost** when an adoption order is made.