

## Family law, children and schools

### What is parental responsibility?

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.

### What are the implications of individuals having parental responsibility?

- They are entitled to access school records;
- They should be informed of a pupil's progress;
- They could give permission for trips (NB with a trip outside of England and Wales everyone with parental responsibility must consent, unless there is a child arrangements order in place or a court order allowing just one person to consent);
- They should consent to medical treatment;
- They must give their consent to change of a child's surname (NB a child's surname should not be changed without the agreement of everyone with parental responsibility unless there is a court order).

### Who has parental responsibility?

- Mothers
- Fathers either:
  - a if they are married to the mother before or after the birth;
  - b for a child born after 1 December 2003 if named on the birth certificate (or can re-register birth);

- c If father obtains a child arrangements order that the child should live with him, or he obtained a parental responsibility order; or
- d there is a parental responsibility agreement in the father's favour

- A person who has a child arrangements order stating the child should live with them, (whether they a parent or not);
- The Local Authority where there is a care order;
- A guardian appointed under a Will by a parent with parental responsibility, on the death of both parents (if both parents had parental responsibility) or the death of the parent with a sole residence order, (or child arrangements order that the child live with them) or parent with sole parental responsibility;
- A step parent/spouse or civil partner who acquires parental responsibility by agreement with both parents, by obtaining a parental responsibility order, or obtaining a child arrangements order that the child lives with them;
- In artificial insemination cases, with women in civil partnerships, if Female 1 is inseminated by a licensed organisation, she will have parental responsibility automatically and Female 2 will do so if:
  - a on birth certificate;
  - b enters into an agreement with Female 1; or
  - c court makes an order

The above also applies to cohabiting couples provided during the insemination process both have given written notice and consent that Female 2 is to be deemed a parent.

**Head Office**  
 Heathervale House  
 2-4 Vale Avenue  
 Tunbridge Wells  
 Kent TN1 1DJ  
 T 01892 510000  
 F 01892 540170

**Thames Gateway**  
 Corinthian House  
 Galleon Boulevard  
 Crossways Business Park  
 Dartford  
 Kent DA2 6QE  
 T 01322 623700  
 F 01322 623701

## Family law, children and schools

Continued

### Getting it right

Where parents are separated you may be asked to release information about the child. Do check with the parent with whom the child lives, as to whether there are any orders in place, and it is advisable to copy both parents in on any communications.

### Alternative Dispute Resolution

It is acknowledged that long, drawn out, potentially expensive court battles between parents are not in a child's best interest.

It is now a legal requirement to consider mediation before applying to the Family Court to resolve disputes regarding children (or finances). This means there will be a Mediation Information and Assessment meeting (MIAM) to see if mediation will resolve disputes or arrangements for the future. This applies to all cases, except in special circumstances, for example where there has been an incident of domestic violence.

A mediator will not give the parents advice during the process, but rather assist them resolving the dispute without proceeding to court. A mediator will also encourage the parents to take advice from their own solicitors in between meetings (see mediation information sheet).

An alternative option to mediation is collaboration, where the parents attend a series of meetings with their solicitors who are open about the advice they are giving and encourage the parents to work together to achieve a settlement that will work for the whole family (see collaborative law information sheet).

This information sheet has been prepared to highlight some key issues relating to children and schools. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at September 2015 and may be affected by subsequent changes in the law.

If you require any further information, please contact us on 01892 510000 or by email:

Joanna Pratt  
[joanna.pratt@ts-p.co.uk](mailto:joanna.pratt@ts-p.co.uk)

Sarah Judd  
[sarah.judd@ts-p.co.uk](mailto:sarah.judd@ts-p.co.uk)

Kirstie Law  
[kirstie.law@ts-p.co.uk](mailto:kirstie.law@ts-p.co.uk)

Desmond O'Donnell  
[desmond.odonnell@ts-p.co.uk](mailto:desmond.odonnell@ts-p.co.uk)

Sarah Keily  
[sarah.keily@ts-p.co.uk](mailto:sarah.keily@ts-p.co.uk)

Helen Waite  
[helen.waite@ts-p.co.uk](mailto:helen.waite@ts-p.co.uk)