



GUIDANCE ON 'PARENTAL RESPONSIBILITY'

PLEASE NOTE:

Figure 1:

Only applies to any child born prior to the 1st December 2003.

Figure 2:

Applies ONLY to children born on or AFTER 1st December 2003

For further information please contact:

- The Head teacher
- The Child Protection Designated Teacher
- The Principal Education Welfare Officer 01202 456179

A) WHAT IS PARENTAL RESPONSIBILITY?

Parenthood is the responsibility for caring for and raising a child to be a properly developed adult both physically and morally. To reflect the everyday reality of being a parent and emphasise the responsibility of all in that position, the Children Act 1989 introduced the concept of 'Parental Responsibility' ('PR').

Definition: 'Parental Responsibility' means 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'. (Section 3(1))

With particular consideration of a child in school, this includes having the responsibility to sign enrolment, admission and any consent forms, on behalf of a child.

If a carer **does not** have 'PR' or delegated responsibility outlined in section E), they **DO NOT** have the right to sign **any** consent form on behalf of the child, and any form so signed has no **LEGAL** status.

B) WHO HAS 'PARENTAL RESPONSIBILITY'?

Not everyone who has the care 'day to day' for a child has 'Parental Responsibility' ('PR'). However recent changes in the law, which came into operation on 1st December 2003, have radically changed the law relating to children born on or after that date and those who have or can obtain parental responsibility. The child's mother always holds 'PR' for their child. If a couple is married, and/or if the father's name is on the child's birth certificate, the father will also hold 'PR'. If this is not the case the father must obtain 'PR' by means outlined in section C) below.

If your child was born BEFORE 1st December 2003, READ section F).

C) HOW CAN 'PARENTAL RESPONSIBILITY BE ACQUIRED?

Fathers: In circumstances outside those outlined in Section B, the father can also obtain 'PR' by making a legal agreement with the mother, which is filed with the court, OR by application to a court for an order to be made granting 'PR'.

Step-parents: Do not acquire 'Parental Responsibility' simply by marrying the child's parent. However, a step-parent may acquire 'PR' through the making of a formal agreement of the parent or parents, if it is both, who hold PR, OR by application of the step-parent to the court may, OR by application to a court for a Residence Order.

Other relatives: In families where the child's carer is a relative, it is important that the carer holds 'Parental Responsibility' to be able to effectively carry out their role as a parent. The main ways in which they can acquire 'Parental Responsibility' are:

- (i) Being granted a Residence Order
- (ii) Having an Adoption Order made in their favour

A Residence Order: Automatically gives the person in whose favour it is made 'Parental Responsibility' for the child.

The Local Authority (LA): Some families that undergo difficulties ask for their child to be 'Looked After' by the Local Authority, this is usually in a foster home. If the parent has made this request, in agreement with the LA, the child is 'Accommodated' under Section 20 of the Children Act 1989 and the LA does not have 'PR'. If however, the court makes an order in respect of the child, the LA acquires PR for the child, which it shares with the parents. However, it can determine the extent to which a parent or guardian meets his or her 'Parental Responsibility' for the child in order to safeguard the child's welfare.

D) SHARING 'PARENTAL RESPONSIBILITY'

More than one person may have 'Parental Responsibility' for the same child at the same time, each of them can act alone and without the other (or others) in meeting that responsibility.

E) CAN I ASK SOMEONE TO ACT ON MY BEHALF?

Anyone who holds 'PR' may not surrender or transfer any part of that responsibility to another but may arrange for one or more persons to act on his behalf. However, such an arrangement does not affect any legal liability of the person with 'PR' making the arrangement. Such an arrangement is not legally binding and can be revoked or changed at will.

Although foster carers and residential workers have the responsibility for the day to day care of a 'Looked After' child, they DO NOT hold 'PR', nor can they sign enrolment or consent forms. Any form that requires a signature should be sent to the child's social worker. Where a child is 'Accommodated', the parent can arrange for some or all of their responsibility to be met by one or more persons acting on his behalf. A letter from the

person holding 'PR', outlining the detail of such an arrangement, must have been received and be held by the school.

In families where a family or relative regularly collects a child from school, the carer holding 'PR' can delegate specific duties or responsibilities to this person, by means of a signed and dated letter sent to the school, specifying exactly what duties and responsibilities have been delegated to whom. If an unplanned situation occurs, it may be advisable for the school to have an 'agreed' password to make and confirm any such informal or 'one off' arrangement with the person who holds 'PR'.

F) 'PR' FOR CHILDREN WHO WERE BORN BEFORE 1ST DECEMBER 2003

If a couple is married, both parents still automatically gain 'Parental Responsibility'. However, if not married, even if the couple lives together, only the mother has 'Parental Responsibility'. The father has to gain 'Parental Responsibility' through the court. If he does not do this, he does not have the legal right to sign any consent form on behalf of his child. He could only do so under the conditions outlined in paragraph E. An unmarried father can acquire it through the courts by:

- (i) Obtaining a 'Parental Responsibility' order
- (ii) Means of a formal agreement with the mother and statement to the court
- (iii) Being granted a Residence Order

A residence order automatically gives the person in whose favour it is made 'Parental Responsibility' for the child.

