

Parental Responsibility

Parental Responsibility is described as:

“all the rights, duties, powers and responsibilities and authority which by law a parent of a child has in relation to the child and his property”

There is no exhaustive list of rights and responsibilities but the most obvious matters would include such things as;

Secular education

A person with Parental Responsibility should consult any other person with Parental Responsibility before making an important change in the child's education.

Religious upbringing

It would be unusual for the child to be required to be brought up with a different religion to that of the parent with whom he is residing. Under the Children & Families Act 2014 generally a parent or other person with Parental Responsibility may discharge that responsibility independently; an exception to this is circumcision on religious grounds where if one of the parties with Parental Responsibility objects the decision must be referred to the Court.

Medical treatment

This is a dual responsibility where the parent must obtain the necessary treatment for a child as well as having the power, because of his Parental Responsibility to give or withhold his consent to medical treatment. This would be irrelevant where the treatment was lifesaving as treatment can be rendered immediately without consent but is becoming more relevant when considering whether or not the child should have vaccinations because of the risk of harm to the child.

Child's surname

The child's surname is settled when the birth is registered. There will be occasion when one of the parents, usually the mother wishes to change the child's surname. This is a complex area of law; however the following gives the basic information which is relevant when Parental Responsibility is being considered.

After the registration of the child's surname and the grant of a Child Arrangement Order or Residence Order any person wishing to change the surname must obtain the leave of the court or the written consent of all of those who have Parental Responsibility. If there is no Residence

Order or Child Arrangement Order in force the party wishing to change the surname must have the written consent of all those with Parental Responsibility or they'll need to make an application for a specific issue order to the court. If only one person has Parental Responsibility she has the power to change the surname without any other person's consent. Albeit it is always advisable to seek fathers consent even if he does not share Parental Responsibility. Whilst generally either party with Parental Responsibility can act alone and without reference to others with Parental Responsibility changing a child's surname is too important for one of the parents to act unilaterally.

Removal out of the jurisdiction

This again is an area of law where you would need to seek specific legal advice as the circumstances of each case would have to be considered. Generally it could be said that no one may remove a child out of the United Kingdom without either the written consent of every person who has Parental Responsibility or the leave of the Court so long as a Residence Order or Child Arrangement Order is in force. However the person in whose favour the order is made (but no-one else) can remove the child for a period of less than one month. If you have concerns that the child may be removed permanently against your wishes we would suggest that you immediately seek legal advice and that you contact the passport agency who will be able to advise you further with regards to your objections.

Please note that Parental Responsibility does not give the child's father the right to interfere in matters within the day to day management of a child's life and it does not give him the power to override the decision of the mother, who already has Parental Responsibility.

Who has Parental Responsibility?

- All mothers
- Fathers who are married to the child's mother
- Fathers who are named on the child's birth certificate for any children registered after 1/12/03.
- Fathers who acquire Parental Responsibility by agreement of court order.

How to acquire Parental Responsibility

- a) The first method that should be considered is by agreement. If agreement is reached we can act on your behalf to prepare the agreement and

ensure it is properly recorded. Once the agreement has been officially recorded by the Principle Registry in London, Parental Responsibility can then only be removed by order of the Court.

- b) If agreement cannot be reached an application can be made to the Court. Parental Responsibility Orders will not be granted as of right and it will have to be shown that it is in the child's interest for such an order to be made.
- c) An unmarried father would also acquire Parental Responsibility if he subsequently married the mother.

For further information please contact:

Victoria Melling
Partner & Head of Family

vmelling@kbl.co.uk

Ceri Thomas
Associate Solicitor

cthomas@kbl.co.uk

© 012