

Signature

# Legal Advice

For parents who are separating



## What is parental responsibility?

Parental responsibility means the right to be kept informed and being able to make decisions about a child's health, education and welfare.

Having parental responsibility means that you are taking up all the rights, duties and responsibilities that a parent has for a child. Parental responsibility is still shared equally when parents separate or divorce even if one parent has a residency order.

## Do I have parental responsibility? If not, how can I obtain this?

You automatically have parental responsibility if you were married when the child was born. Where a couple is not married, only the mother has parental responsibility. Unmarried fathers can obtain parental responsibility by:

- A Parental Responsibility Agreement made with the mother.
- A Parental Responsibility order made by the court.
- A Residency order.
- Since the 1st December 2003 by being named jointly on the child's birth certificate with the mother.

## How could a solicitor help me?

A solicitor specialising in family law will help resolve any issues regarding your child.

- You will be directed through the divorce process.
- You will receive guidance on any financial assets or property you have and help you agree on how to divide them
- Please remember, if you have a will in which your spouse is named as executor, trustee or beneficiary, this will become invalid.

## What is family mediation?

Family Mediation is a way of solving disagreements after your relationship has broken down, without involving lawyers or the courts.

- Mediation can improve communication between family members and reduce conflict.
- You can explain your concerns and needs to each other in the presence of a mediator. The mediator will help you to reach an agreement without taking sides.





- There is a cost for mediation. The charges vary according to individual mediation services. You may be eligible for a reduced fee if you are in receipt of a low income.

Any agreement made through mediation is not legally binding. If you wish to make an agreement legally binding you can apply to a court through your solicitor. The court will consider whether to make a court order.

### What happens if we can't agree on issues regarding our children?

Conflict involving children can be distressing for all involved.

When the family court deals with children, they take into account:

- The wishes and feelings of the child.
- Your child's physical, emotional and educational needs.
- The likely affect of any change in circumstance.
- Your child's age, sex, background and anything the court feels relevant.
- Any mental or physical abuse your child may have suffered or be at risk of suffering.
- The capability of each parent to meet your child's needs.

If you cannot reach an agreement regarding your child's welfare, the court has powers to make orders that are in the best interest of the child.

### What orders can be made by the court?

- A Residence Order describes who the child lives with and grants parental responsibility for the person obtaining the order. In certain cases there can be a shared residency order, where the child spends roughly the same amount of time with each parent.
- A Contact Order requires the person who the child lives with to make the child available to visit, stay or have other forms of contact with the person named in the order.
- A Prohibited Steps Order is granted to prevent one parent doing something, that the other parent doesn't agree with.
- A Specific Issues Order is available when the parents of a child cannot agree on the big issues in a child's life, such as religious upbringing, education or medical treatment.

In an emergency, an interim order can be made without giving notice to the other parent. The court's primary concern is the child's welfare.



[www.separating-parents.org.uk](http://www.separating-parents.org.uk)

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