

Parental Responsibility and Unmarried Fathers in Northern Ireland

... some of the questions you
may want the answers to



**The Men's Project
Parents Advice Centre**

[www.mensproject.org and www.parentsadvicecentre.org]

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What's the confusion?

It is often assumed that the parental rights of fathers are fairly straightforward. However, unmarried fathers may be faced with a nasty shock if they separate from their child's mother. This is because unlike mothers, fathers do not always have automatic "parental responsibility" for their children.

Parental responsibility is a legal concept. It refers to those who have rights, duties, powers, responsibilities and authority in relation to a child and the property of that child. With an increasing number of children being born outside marriage, there is, subsequently, often confusion about the rights and entitlements of unmarried fathers.

The law is complicated on this matter. Fathers in Northern Ireland with children who were born on, or after, 15th April 2002 - and whose name appears on the birth certificate - do have parental responsibility. But fathers who don't meet this criteria may not, necessarily, have this status.

What is Parental Responsibility?

The Family Law Act (NI) 2001 amends the Children (Northern Ireland) Order 1995, and makes provision for the acquisition of parental responsibility by unmarried fathers. This act also provides for certain presumptions of parentage and for tests to determine parentage.

While the law does not define in exact detail what parental responsibility is, the following are some of the key roles associated with it:

- ❑ naming your child and agreeing to any change of your child's name;
- ❑ providing a home for your child;
- ❑ protecting and maintaining your child;
- ❑ disciplining your child;
- ❑ choosing your child's school;
- ❑ determining the religion of your child;
- ❑ consenting to your child's medical treatment;
- ❑ allowing confidential information about your child to be disclosed;
- ❑ applying for a passport for your child;
- ❑ accompanying your child outside of the United Kingdom and agreeing to the child's emigration (should the issue arise);
- ❑ being responsible for your child's property;
- ❑ appointing a guardian for your child (if necessary) ...

Who has Parental Responsibility?

If the parents of a child are married to each other, or if they have jointly adopted a child, then they both have parental responsibility. This is not, however, automatically the case for unmarried parents.

Under current law, a mother always has parental responsibility for her child. A father, on the other hand, only has this responsibility if he is married to the mother or has acquired legal responsibility for his child through one of three ways ...

- ❑ by jointly registering the birth of the child with the mother (only applies to registrations made in Northern Ireland on, or after, 15th April 2002);
- ❑ by making a Parental Responsibility Agreement with the mother;
- ❑ by getting a Parental Responsibility Order through a Court.

Living with the mother, even for a long period of time, does not give a father parental responsibility. Indeed, if the parents are not married, parental responsibility does not always pass to the biological father if the mother dies.

However, all parents (including adoptive parents) have a legal duty to financially support their child - whether they have parental responsibility or not.

How do I make a Parental Responsibility Agreement?

The making of a Parental Responsibility Agreement is relatively easy, and avoids the need for a contested legal case. However, it should be noted that making such an agreement will affect the legal position of the father and the mother, and both parties should independently seek legal advice before doing so.

The stages to the process are ...

- ❑ Both the mother and the father must agree that they are happy to seek a Parental Responsibility Agreement.
- ❑ Get a copy of the form titled: "*Parental Responsibility Agreement – Article 7(1)(b) and (2) of the Children (Northern Ireland) Order 1995*". This can be accessed online at: www.courtsni.gov.uk/en-GB/AboutUs/Useful+Forms/Family+Forms/p_uf_familyformslist.htm
- ❑ Complete the form in black ink. A separate form must be used for each child concerned. **HOWEVER, DO NOT SIGN THE FORM YET!**
- ❑ Make an appointment with the local court office or the Office of Care and Protection in the Royal Courts of Justice, Chichester Street, Belfast.
- ❑ The parents need to bring along some form of photographic identification (such as a passport or Northern Ireland Driving Licence) and the child's full birth certificate (not the short version).
- ❑ Bring the form to the Court to have your signature witnessed by a Master (in the High Court), or a Lay Magistrate of the Family Proceedings Court, or the Clerk of the Petty Sessions (or the authorised Deputy of the Clerk of Petty Sessions).
- ❑ Make two copies of the Agreement Form, and send the original and the two copies to the Office of Care and Protection in the Royal Courts of Justice, Chichester Street, Belfast BT1 3JF.
- ❑ The Office of Care and Protection will record the Agreement and keep the original form. The copies will be returned to each parent at the addresses given on the Agreement. The Parental Responsibility Agreement will not take effect until it has been recorded in the Office of Care and Protection. The date of effect will appear on the copies that are sent to the parents.

PLEASE NOTE: A copy of the form titled: “*Parental Responsibility Agreement - Article 7(1)(b) and (2) of the Children (Northern Ireland) Order 1995*”, and the accompanying guidance notes for its completion, can be found at the end of this fact sheet.

How do I end a Parental Responsibility Agreement?

Once a Parental Responsibility Agreement has been made, and has taken effect, it can only end ...

- ❑ by an order of the Court made on the application of any person who has parental responsibility for the child;
- ❑ by an order of the Court made on the application of the child with the leave of the Court;
- ❑ when the child reaches the age of 18 years.

How do you apply to the Court for a Parental Responsibility Order?

A father can apply to the Court to gain parental responsibility. Being granted a Parental Responsibility Order means that you share responsibility with your partner for your child's health, education and welfare.

In considering an application from a father, the Court will take the following into account ...

- ❑ the degree of commitment shown by the father to his child;
- ❑ the degree of attachment between the father and the child;
- ❑ the father's reasons for applying for the Order.

The Court will then decide to accept or reject the application based upon what it believes is in the best interests of the child. However, there is a charge for these Orders, and there is a charge for each Order for each child. This may be expensive, so it is advisable to check if you are eligible to receive free legal advice and assistance.

Does having Parental Responsibility guarantee contact with your child?

Although the attainment of Parental Responsibility does provide some legal rights to influence certain elements of your child's life, it **DOES NOT** give you an automatic right to have contact with your child. Only a Contact Order will do this, and the decision by the Court as to whether or not to grant this Order will be based on the best interests of the child.

Useful Online Contacts ...

Parents Advice Centre: www.parentsadvicecentre.org

Family Mediation Northern Ireland: www.familymediationni.org.uk

Collaborative Family Law in Northern Ireland: www.afriendlydivorce.co.uk

Families Need Fathers: www.fnf.org.uk

Contact Centres in Northern Ireland: www.childcontactni.org