

## HOW TO GET PARENTAL RESPONSIBILITY

### FOR YOUR PARTNER'S CHILDREN

If your partner has a child or children and you play a large parental role in their lives, you may feel that this should have some formal, legal status (even though you are not the father).

'Parental Responsibility' is the legal term that means all the rights and duties that go with being a parent. It **doesn't** mean that you have a duty to pay maintenance for a child, or that you have a right to see a child. It **does** mean that you have a duty to care for and protect the child. It means that you can consent to medical treatment for a child, and choose a child's school and have a say in decisions about how he or she should be brought up.

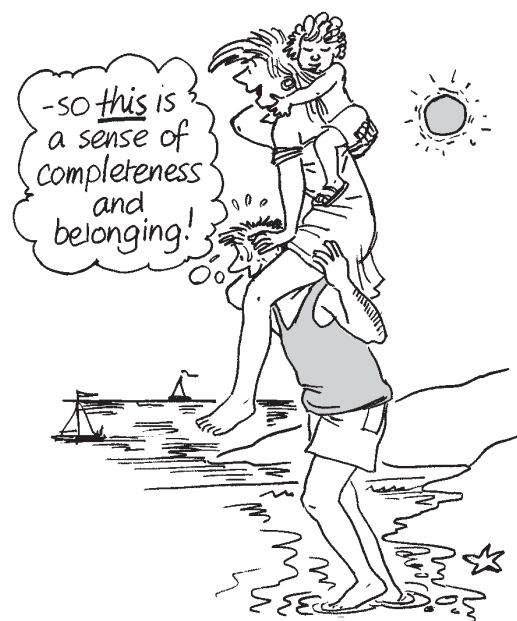
On a day-to-day basis, whether you have Parental Responsibility or not has very little impact. A parent with Parental Responsibility is entitled to delegate it to you, or any other adult, if you are looking after the children. In most situations your authority with the children is not going to be questioned.

### So why should you bother with it?

There are two reasons why it might feel right for you:

- If the children's parent dies and it seems best that the children continue to live with you, you will need to get Parental Responsibility by applying to court.
- It might give you, as a family, a sense of completeness and belonging, a feeling of security.

If there is another adult (other than your partner) who already has Parental Responsibility, you will have to handle this sensitively. You won't be taking Parental Responsibility away from him or her, because it can be shared by more than two people, but they might still feel that you are stepping on their toes. Your partner may be on good terms with his/her ex and you may all be able to have a sensible discussion about whether it feels right for the whole family. On

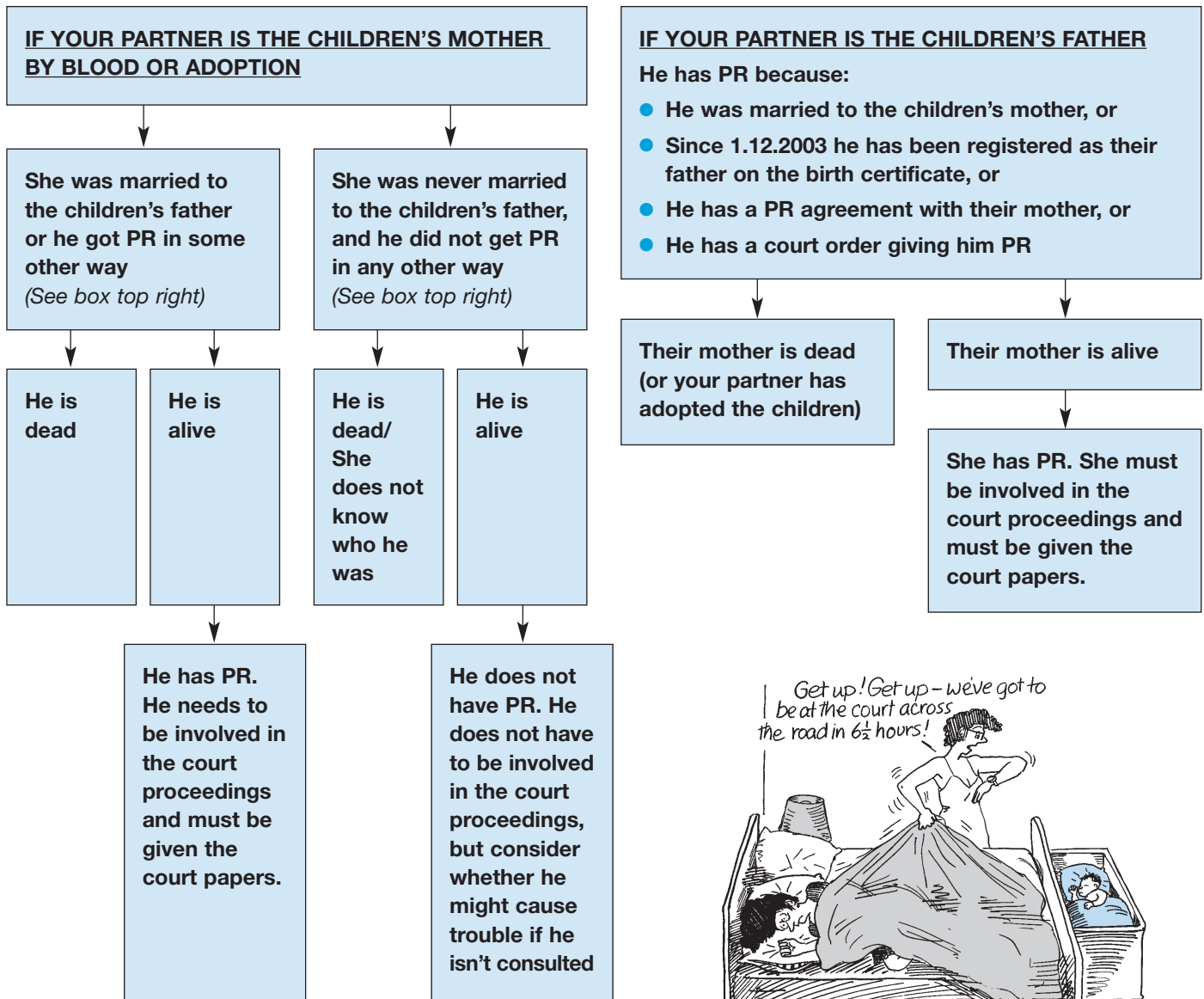


#### PARENTAL RESPONSIBILITY...

the other hand, they may be on bad terms, or completely out of touch with each other, and asking to share Parental Responsibility might provoke a hostile reaction. If this is the case, it might not be worth the costs and the hassle of going to court. You will have to weigh this up with your partner.

### Who has Parental Responsibility and who needs to be involved in the court proceedings?

In order to be able to ask the court for an order you have to have the consent of everyone else who already has Parental Responsibility. (See the chart on page 2 to see who this would be.) If you can't get this, then you can still apply if the children have lived with you for three out of the last five years and in the three-month period up



to your making the application. If neither of these conditions applies, then you can ask the court to give you permission to make the application. If this is your situation, which implies that one parent is hostile to you, you really need to take some legal advice about how to proceed. And, as we have said above, it may be more trouble than it is worth.

If you want to share Parental Responsibility but are not the child's biological parent you can't just fill in a form. You have to go about it in a rather more complicated way. This is because you need a 'residence' order from the court. This says that the child or children should make their home with you, and it gives you Parental Responsibility as well. It's like a package deal.

## This guide tells you how to do it, step by step

If there is another person with Parental Responsibility, tell him or her, if you can, what you propose to do, and if possible get their agreement to your making the application.

Decide whether you are going to use a solicitor to help you make the application. Points to bear in mind:

- You can get legal aid for this sort of application if you have a low income (your income and your partner's will both count). You can use the legal aid calculator on the Community Legal Service Direct website ([www.clsdirect.org.uk](http://www.clsdirect.org.uk)) to see if you will be eligible.

- If there is no-one else with PR, or the other parent has said that s/he will support the application, you may be able to do it yourself if you feel that you can cope with filling all the forms in.
- If you think that the application is going to be opposed by the other parent it would be sensible to get some legal advice before you start, even if you don't use a solicitor all the way through.

If you use a solicitor, he or she will take the proceedings forward for you (you can use this as an outline of what your solicitor will be doing). If you don't, this is how to do it yourself.

- You need to make an application to the court for a 'residence order'. You can apply to your local Family Proceedings Court

(which is part of the Magistrates' Court) or your local county court, if it has a divorce section. (You can ring them up to check.)

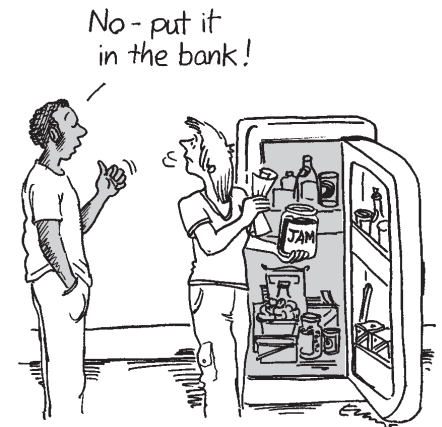
- You need to get hold of the appropriate court forms. You can ask the court to give these to you or you can download them from the Court Service website ([www.courtservice.gov.uk](http://www.courtservice.gov.uk)). Follow the links to "forms and guidance" and then Children Act 1989. You will also need the helpful leaflets on 'Children and the Family Courts', 'Filling in the forms' and 'Serving the forms.'
- The forms that you need are:
  - C1 – the application form
  - If you would like to keep your address secret you will also need form C8.
- Follow the instructions in the leaflet about how to fill in form C1
- Take it, together with enough copies so that you have one for everyone who has to be served (the leaflet tells you how many) to the court office. Don't forget to have a copy for yourself.
- You will have to pay a fee, £80. If you can't afford this, you can fill in a form that you can get from the court, or download, called EX160A and apply for the fee to be waived. If you are in receipt of benefit you will not have to pay the fee once you have completed the form.
- The court will check the papers, give your case a number and a date for a first appointment. Then they will give the papers back to you with some others for you to serve on everybody else involved in the case. Follow the instructions in the leaflet 'Serving the Forms'.
- Make sure that you and your partner get to court on the day and time that you have been given. The hearing will be in private, so the public won't be allowed in. It will be formal, but generally the magistrates (in the Family Proceedings Court) or the District Judge (in the County Court), will try to make it comfortable for you.
- If you and your partner have agreed about PR (and the children's other parent, if there is

one), the court will simply want to make sure that this is the best course of action for the children. The judge/magistrates will want to ask you some questions about the family arrangements. This can feel a bit worrying, but try not to feel too defensive.

- If the court is happy with what you propose you should get an order at this first hearing. If it isn't as clear cut and the court has concerns, they can order a Welfare Report to be prepared by a CAFCASS (Children and Family Courts Advice and Support Service) officer. The decision will then be postponed until the report is prepared. Another hearing date and time will be fixed.
- The CAFCASS officer will arrange to interview you and your partner, anyone else with PR, or who has been involved in the case, and (if they are old enough) the children themselves.
- Once it is prepared, you will get a copy of the report. It is confidential and must not be shown to anyone outside the case. If it makes a recommendation, this generally carries considerable weight with the court.
- At the next hearing, you should generally get a decision from the court. If you don't, the court will set out what steps are to happen next in the case. It would be

unusual for a case to go on after this stage. If it did, it would be because there are complicated issues, either personal or legal.

- Once you have a residence order, you have Parental Responsibility. This lasts as long as the order lasts, or until the children get to 18. Make sure that you keep the order in a safe place.



## Appointing a guardian

If you don't get Parental Responsibility, or decide not to apply for it, you may be concerned about what would happen to the children if your partner died. If your partner thinks that it would be better for the children to continue to live with you s/he needs to make this clear by appointing you as their guardian. Read our guide to appointing a guardian, which will explain what your partner needs to do.

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The LivingTogether campaign is led by Advice Services Alliance in partnership with One Plus One ([www.oneplusone.org.uk](http://www.oneplusone.org.uk)) and is funded by the Department for Constitutional Affairs.

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The LivingTogether Campaign applies to England and Wales only.  
The law in Scotland and Northern Ireland is significantly different.

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