

## How to get Parental Responsibility for your partner's children

**If your partner has a child and you play a large parental role in their life, you may feel that this should have some formal, legal status (even if you are not their parent).**

'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, apply for a passport for them, 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.

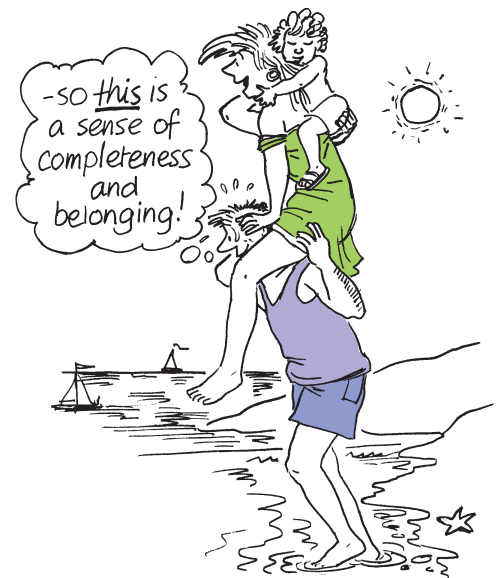
### So why should you bother with it?

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

- If the child's parent dies and it would be best for the child to 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.
- It would make it easier to be recognised as the child's parent if you were to split up with your partner.

### How does it work?

If you want to share Parental Responsibility but are not the child's biological parent you can't just fill in a form. This is because you need a 'Residence order' from the court. This says that the child or children should



**PARENTAL RESPONSIBILITY...**

make their home with you, and it gives you Parental Responsibility as well. It's like a package deal.

### If there is another parent...

Before you can ask the court for an order, you have to have the consent of everyone else who already has Parental Responsibility. So, 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 the other hand, 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.

The table overleaf will help you work out if your partner's ex has PR and needs to agree.

**Your partner is the child's mother by birth or adoption.**

The child's other parent has PR because they used to be married to the mother, are on the birth certificate, or a PR agreement or court order was made.

S/he is dead.

S/he is alive.

S/he has PR. S/he needs to be involved in the court proceedings and must be given the court papers.

The children's other parent does not have PR because they were not married to the mother, are not on the birth certificate (or are, but the birth was registered before 1/12/2003), and no PR agreement or court order was made.

S/he is dead / She does not know who he was.

S/he is alive.

S/he does not have PR. S/he does not have to be involved in the court proceedings, but you should consider whether s/he might cause trouble if s/he isn't consulted.

**Your partner is the child's father, or second female parent, and has PR because they used to be married to the mother, are on the birth certificate, or a PR agreement or court order was made.**

Their mother is dead (or your partner has adopted the children and the adoption has ended her rights as a mother).

Their mother is alive.

She has PR. She must be involved in the court proceedings and must be given the court papers.



## If you can't get agreement from the other parent...

If you can't get agreement from everyone who has PR, 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. And, as we have said, it may be more trouble than it is worth.

## What do you need to do?

**1** 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. You could think about using a family mediation service to help you work through all the issues.

(See [www.advicenow.org.uk/familymediation](http://www.advicenow.org.uk/familymediation) for more information about family mediation.)

**2** Decide whether you are going to use a solicitor to help you make the application. Bear in mind:

- If there is no-one else with PR, or the other parent 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.
- 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 Advice website ([www.communitylegaladvice.org.uk/en/legalaid](http://www.communitylegaladvice.org.uk/en/legalaid)) to see if you will be eligible.

If you use a solicitor, he or she will do all this for you. If you don't, this is how to do it yourself.

**3** 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 the right forms. You can get these from the court or you can download them from the Court Service website ([www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do](http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do)).

The forms that you need are:

- C100 – the application form
- If you would like to keep your address secret you will also need form C8.

You will also need the helpful leaflets 'Making an application – children and the Family Courts' (CB1) and 'Serving the forms' (CB3).

**4** Follow the instructions in the leaflet about how to fill in form C100.

**5** Make enough copies so that you have one for everyone who has to be served (the leaflet tells you how many), and take them to the court office. Don't forget to have a copy for yourself.

**6** You will have to pay a fee, £175. If you can't afford this, you can fill in a form EX160A (you can get it from the court or download it at the above website) and apply for the fee to be waived. If you are in receipt of benefits you will not generally have to pay the fee once you have completed the form.

**7** 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'.

**8** Make sure that you and your partner go to court for the appointment. 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.

**9** If everyone with PR agrees, the court will simply want to make sure that this is the best course of action for the child. 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.

**10** If the court is happy with what you propose, you should get an order straight away. If it isn't 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. You will be given an appointment for another hearing.

*(continued overleaf)*

11 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. They will then write the report, and you will be given a copy. 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.

12 At the next hearing, you will usually get a decision from the court. If you don't, the court will set out what steps are to happen next. 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.

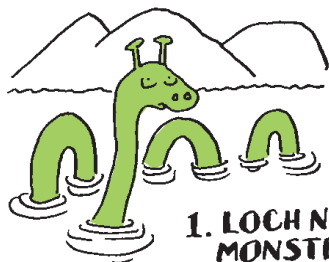
13 Once you have a Residence order, you have Parental Responsibility. This lasts as long as the order lasts, or until the children get to 18. Make sure that you keep the order in a safe place.



## 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. See our guide 'What about the Kids?' for more details.

## THREE THINGS THAT DON'T EXIST.



1. LOCH NESS  
MONSTER



2. CATS' NINE  
LIVES



3. COMMON LAW  
MARRIAGE

This leaflet is one of a series produced by Advicenow's LivingTogether campaign. Other titles in the series include:

- What about the kids?
- Living Together Agreements
- Housing & LivingTogether
- Wills & LivingTogether
- Pensions & LivingTogether
- Benefits & LivingTogether
- Inheritance Tax & LivingTogether
- Breaking up checklist

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

**The law is complicated and everyone's situation is different. Always get advice.**

The LivingTogether campaign aims to increase awareness and understanding of the legal issues around living together. We explain exactly what rights couples living together *really* have, and show you practical ways you can protect yourself and your partner.

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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 Ministry of Justice.

Advice Services Alliance (ASA) is the co-ordinating body for UK advice services. ASA members include AdviceUK, Age UK, Citizens Advice, DIAL UK, Law Centres Federation, Shelter and Youth Access. ASA works with its membership and government to develop policy on delivery of legal and advice services; champions the development of high quality information, advice and legal services; and provides supporting services to advice networks.

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