

The Stepfamily Scotland Helpline receives many calls from parents and stepparents who are unsure or worried about legal issues in their stepfamily. This leaflet gives a short explanation of the law relating to Parental Responsibilities and Rights (PRR's). 'Parental Responsibilities and Rights' is the term used by the law to describe who has the right to make important decisions about a child's life and what responsibilities they have towards their child. Other leaflets that you may also find useful are "Stepparent Adoption" and "Changing a Family Name".

The information in this leaflet refers to Scots Law. If you live elsewhere in the UK the law may be significantly different.

The law states that the parental responsibilities and rights that a parent has towards their child are:

- *To safeguard and promote the child's health, welfare and encourage their growth;*
- *To make decisions on the child's upbringing and provide direction appropriate for the child's age and personal development;*
- *To have regular personal contact with their child, even if their child is not living with them;*
- *To decide where the child lives;*
- *To act as their child's legal representative until they are 16 years old;*
- *To provide guidance and control in the child's upbringing until they are 18 years old.*

Who has Parental Responsibilities and Rights?

Mother

By giving birth to a child, a mother automatically has parental responsibilities and rights, unless they have been removed by a court order.

Father

Child registered before 4th May 2006: The father will only have these rights automatically if he was married to the mother at pregnancy, on the birth of the child, or after the birth. If he does not meet any of these conditions, then he will have to apply to a court to be granted parental responsibilities and rights.

Father

Child registered on or after 4th May 2006: If the father is named on the birth certificate, then he will automatically have parental responsibilities and rights, regardless of the marital status of the parents.



Stepparents

A stepparent does not automatically gain parental responsibilities and rights towards a child when they marry or enter into a civil partnership with the child's parent. To gain PRR's they have to make an application to a court. However, if the stepparent looks after the child, even on a temporary basis, they are expected by law to 'safeguard the child's health, development and welfare'.

Without parental responsibilities and rights, a stepparent cannot make important decisions about a stepchild's life, such as their education or religion. This also means that a stepparent cannot usually consent to medical or dental treatment. The stepparent can only consent if a parent is unavailable and if the child cannot give consent on their own, and if they feel that the parent would agree to the treatment.

Parental Responsibilities and Rights

Stepfamily Scotland Helpline: 0845 122 8655

www.stepfamilyscotland.org.uk

Providing Support for Stepfamilies

Although a stepparent will not be responsible for the support of their stepchild through the Child Support Agency, they may be responsible to pay a financial contribution if they are living with the stepchild as part of the family.

How to obtain Parental Responsibilities & Rights?

Stepparents

There are three ways that a stepparent can acquire parental responsibilities and rights towards their stepchild:

- ***By adopting their stepchild (please see our 'Stepparent Adoption' Leaflet);***
- ***By making an application to a Court as a person who 'claims an interest' to the child. Other applicants may include grandparents, aunts and uncles. A parent who already has responsibilities and rights will not lose them because they have been granted to someone else;***
- ***By being appointed guardian to care for the child if their natural parent dies.***

Father

If you are the child's birth father and you do not have PRR's, then you and the mother can make a 'Parental Responsibilities and Parental Rights Agreement'. There is no need to go to court, but you are recommended to take legal advice. You can get an application for a 'Parental Responsibilities and Parental Rights Agreement' from any Citizen's Advice Bureau or from a registrar of births, deaths and marriages.

If the parents cannot make an agreement by these means, then it is possible for the father to make an application to court to obtain PRR's, although the court can decide to only award some of the rights and responsibilities rather than all of them.

What is Guardianship?

A Guardian is a person who acquires PRR's on the event of a parent's death, and lasts until the child is 18 years old. A guardian is normally chosen by the parent, they can be named in a will or in another written document. The guardian will have full responsibilities and rights towards the child which can exist alongside a surviving parent's rights.



Are my child's views taken into account?

The court will only make changes to PRRs if it believes the changes would be better for the child's welfare, and the child's views will always be taken into account. The law considers a child over twelve years old to be mature enough to express an opinion; however a Sheriff or Judge may decide that a child is mature enough to express their feelings at a younger age.

What happens when parents divorce or separate?

Parents do not lose their rights when they separate or divorce, and they may exercise their responsibilities and rights independently of each other. However they must continue to take into consideration the views of the other parent before making any important decision involving parental rights and responsibilities. Parents also have a duty to take the views of their children into consideration before making a major decision involving parental responsibilities and rights.

Changing a Family Name

Stepfamily Scotland Helpline: 0845 122 8655

www.stepfamilyscotland.org.uk

Can Parental Responsibilities and Rights be removed?

A court may make an order depriving someone of all or some of their parental responsibilities and rights in relation to a child.

Residence Orders

Residence Orders state where a child lives and with who. An order can be made for a child to live with one parent during the week and with the other parent at weekends. You do not have to have parental responsibilities and rights to be granted a residence order. A person who already has responsibilities and rights will not lose them if they are not granted a Residence Order.

Contact Orders

Contact Orders make arrangements whereby the children can have contact e.g. personal visits or telephone calls, with people they are not living with, but who have a valid interest in the child. This could be grandparents and step-grandparents as well as the other parent.

Specific Issue Order

A Specific Issue Order relates to a specific aspect in the child's upbringing. This could be, for example, that a child must maintain some religious direction.

Stepfamily Scotland offers support and information to anyone in or related to a stepfamily. If you feel you need some additional support or just need to talk to someone about some of these issues, then you can call the Stepfamily Scotland Helpline and talk to one of our fully trained helpline workers. They are non-judgemental, will listen, and can help you explore your situation.

Stepfamily Scotland
113 Whitehouse Loan
Edinburgh
EH9 1BB

Useful Contacts:

Family Mediation

Family Mediation Scotland

Telephone 0845 119 2020

www.familymediationscotland.org.uk

Family mediation services enable separated parents to meet together with a trained mediator to achieve agreement on future parenting. Family mediation also provides contact centres across Scotland where non-resident parents can enjoy contact with their children where no other arrangements have succeeded.

Citizen's Advice Bureau

www.adviceguide.org.uk

The advice guide offers online independent advice and a 'find your local CAB' tool. If you do not have access to the internet you can find the number for your local office in the Yellow Pages.

Scottish Child Law Centre

Legal Adviceline for children: 0800 328 8970.

Advice for parents, professionals, or carers: 0131 667 6333.

Provides advice on legal issues relating to a young person under 18 years old.
