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[Department
for Education](#)

Guidance

Understanding and dealing with issues relating to parental responsibility

Updated 24 August 2023

Applies to England

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Overview

Schools are required by law to engage with pupils' parents in a number of different ways. They can find themselves caught up in disputes between a number of adults, each claiming to have parental responsibility for a particular child. They are also expected to navigate complex living arrangements, particularly for children who are living in social care, where parental responsibility can be confusing or unclear.

We've produced this guidance to help schools understand their obligations and duties in relation to the rights and responsibilities of parents, as recognised by education law. We use the terms:

- **must** – where a school has a duty
- **can** – where a school has a power (not a duty) under statutory or common law
- **should** – for guidance on good practice

We use the terms 'resident' and 'non-resident' parent to distinguish between parents who do and do not live with a child.

This guidance should not be treated as a complete and authoritative statement of the law. We refer throughout to legislation that sets out schools' legal duties. Some

primary legislation may have been amended since its publication. If you have any queries about the legislation referred to, you should contact your legal advisers in the first instance.

The welfare of the child must be a school's paramount consideration. If a parent raises a concern and you are unsure how to act, you should seek legal advice to ensure that the parent's rights and responsibilities are not infringed and the school's actions are compliant with education law.

Review date

We will review this guidance before September 2026, subject to any legislative changes.

Defining who is a parent

It is important that schools and local authorities are aware that parents may be recognised differently under education law and under family law. [Section 576 of the Education Act 1996](#) states that, in relation to a child or young person, a 'parent' includes any person who is not a parent (from which can be inferred 'biological parent') but who has parental responsibility for or care of the child.

For the purposes of education law, the Department for Education (DfE) considers a 'parent' to include:

- all biological parents, whether they are married or not
- any person who, although not a biological parent, has parental responsibility for a child or young person – this could be an adoptive parent, a step-parent, a guardian or other relative
- any person who, although they are not a biological parent and do not have parental responsibility, has care of a child or young person

A person typically has care of a child or young person if the child lives with them either full or part time and they look after them, irrespective of what their biological or legal relationship is with the child.



Example

A foster carer or a family-and-friends carer who does not have parental responsibility but has been delegated the responsibility for taking day-to-day decisions about the child.

If a person is not the biological parent of a child, does not have parental responsibility for the child, and the child no longer lives with them, it is unlikely they will be recognised as a parent. Any disputes about whether a person is a child's 'parent' within the meaning of [section 576 of the Education Act 1996](#) are for the courts to decide.

DfE may also refer to a 'corporate parent' within statutory and non-statutory guidance. This term is used to describe local authorities and partner organisations that contribute to services provided to looked-after children, namely children who are the subject of a care order. A care order gives the local authority (the 'corporate parent') parental responsibility under [section 33\(3\) of the Children Act 1989](#).

Understanding parental responsibility

In family law, under [section 3 of the Children Act 1989](#), parental responsibility means all the rights, duties, powers, responsibilities and authority that a parent has in relation to the child.

A person with parental responsibility can make decisions about the child's upbringing and is entitled to information about the child. For example, they can give consent to their medical treatment and make decisions about their education. They also have the right to receive information about their health and education.

There are specific examples in general principles for schools and local authorities.

Who has parental responsibility

A child's birth mother (the person who carried the child) has parental responsibility unless it has been removed by an adoption order or a parental order following surrogacy.

If a child's father and mother were married to each other at the time of the child's birth, they each have parental responsibility. If the parents were not married to each other at that time, the child's father can gain parental responsibility:

- by registering the child's birth jointly with the mother
- by subsequently marrying the child's mother
- through a 'parental responsibility agreement' between him and the child's mother that is registered with the court
- by obtaining a [court order](#) for parental responsibility

If two female parents have a child through fertility treatment, the mother's female partner is treated in the same way as a father. She has parental responsibility if she is married to or in a civil partnership with the mother at the time of the treatment (or if the two women agree in writing that she will be the child's second parent). She can also acquire parental responsibility in the same way that a child's father can.

People who are not the child's biological mother, father or second female parent can also acquire parental responsibility.

Civil partners have parallel rights to married people in terms of parental responsibility. The same provisions for married people apply to them in terms of:

- acquiring parental responsibility: adoption, agreement with their civil partner or by an order from the court
- holding parental responsibility

A local authority (the 'corporate parent') acquires parental responsibility under [section 33\(3\) of the Children Act 1989](#) if it is named when a care order is made in respect of a child.

Key effects of a father or second female parent acquiring parental responsibility

When a father or second female parent acquires parental responsibility, they:

- become a 'parent' for the purposes of adoption legislation and can therefore withhold consent to an adoption
- can object to the child being accommodated in local authority accommodation under [section 20 of the Children Act 1989](#) and remove them from such

accommodation (unless the child is over 16 and agrees to be provided with accommodation)

- will automatically be a party to care proceedings
- can appoint a guardian
- can give valid consent for the child's medical treatment (subject to the competency of the child to give their own consent or object to the treatment being proposed)
- have the right of access to the child's health records
- can withdraw the child from sex education and religious education classes and make representations to their school concerning their education
- must give their consent if the child's other parent seeks to remove the child from the jurisdiction
- can sign the child's passport application and object to the granting of a passport
- has sufficient rights in relation to the child to invoke the international child abduction rules
- can consent to the marriage of the child, if the child is aged 16 or 17

Other ways to acquire parental responsibility

Parental responsibility can be acquired in other ways, including by:

- adoption, after which only the adoptive parents will hold parental responsibility
- prospective adoption, when parental responsibility is shared with other parties such as the local authority while the child is placed with the prospective adopter
- obtaining a parental order following surrogacy
- being a step-parent, through agreement with the child's mother and their other parent, if that person also has parental responsibility for the child, or as the result of a court order
- being granted a child arrangements order determining who the child should live with or that a parent should spend time with the child but the child should not live with them
- being appointed as a guardian or special guardian
- being named in an emergency protection order – although parental responsibility in such a case is limited to taking reasonable steps to safeguard or promote the child's welfare
- being the local authority named in the care order for a child

More than one person, and even several people, can hold and exercise parental responsibility for a child. The parental responsibility of one party does not necessarily stop simply because another person is also given it, although this can happen. Therefore, in some cases, several people may exercise parental responsibility on behalf of a child.

Parental responsibility is not given to a foster parent or a key worker in residential care, but it is essential that schools engage and work with these individuals, who are often the most influential and important people in the child's life. How a school engages with social workers and the birth parents of the child in each case needs to be defined locally, but it is an essential part of supporting the child's school and care environment.

Court orders and parental responsibility

Court orders under [section 8 of the Children Act 1989](#), often called section 8 orders (as amended by [section 12 of the Children and Families Act 2014](#)) settle areas of dispute in relation to the exercise of parental responsibility or a child's care or upbringing, and can limit how an individual exercises their parental responsibility.

There are different types of section 8 orders, which can be made to address particular issues.

Prohibited steps order

A prohibited steps order imposes a specific restriction on the exercise of responsibility. This means that no step specified by the court that a parent could take in meeting their parental responsibility can be taken without the consent of the court.

Example

One parent wants to take the child abroad for an extended period or prevent the child from attending a form of religious worship against the wishes of the other parent.

Specific issue order

A specific issue order gives directions for the purpose of determining a specific question that has arisen or may arise in connection with any aspect of parental responsibility.

Example

An order allowing one parent to agree to a pupil moving school against the wishes of the other parent.

Child arrangements order

A child arrangements order sets out the arrangements for whom the child is to live with and when, and the arrangements for which parent they are to spend time or have contact with. It replaces the former residence and contact orders.

In line with their safeguarding duties, schools should ask parents to provide them with a copy of the most recent court order in place. However, a parent may first need to seek the permission of the court to share orders with a third party, including the school.

Care order

If a care order is in place, the role parents can play in their child's life and schooling may be limited by the local authority.

Schools should note that a court order limiting a parent's exercise of their parental responsibility does not necessarily prevent or restrict a school from carrying out its duties under education law.

Terminating parental responsibility

While such cases are rare, in very limited circumstances, the court can also make an

order under [section 4\(3\) of the Children Act 1989](#) to terminate parental responsibility that has been acquired. The exception to this is where parental responsibility was acquired through the marriage of the father or second female parent to the child's mother.

More information about [court orders and pre-proceedings](#) is available.

General principles for schools and local authorities

Anyone who is a parent, as recognised under education law, can participate in their child's education.

This is supported by the duty on the Secretary of State for Education, when exercising or performing all of their respective powers and duties under the Education Acts, to have regard to the general principle that [pupils are to be educated in accordance with the wishes of their parents](#).

Under the [Education and Inspections Act 2006](#), governing bodies of maintained schools must also have regard to any views expressed by parents of registered pupils.

Under the [Education \(Pupil Information\) \(England\) Regulations 2005](#), all parents can also receive information about the child, even though the school's main contact is likely to be the parent with whom the child lives on school days.

Those who have parental responsibility for or care of a child have the same rights as biological parents to:

- receive information, such as school reports
- participate in statutory activities, such as voting in an election for parent governors
- be asked to give consent, such as to the child taking part in a school trip
- be informed about meetings involving the child, such as a governors' meeting on the child's exclusion from school

School and local authority staff must treat all parents equally, unless a court order limits a parent's ability to make educational decisions, participate in school life or receive information about their child. In most circumstances, the question a school must ask itself when making decisions is not just whether a parent holds parental

responsibility but whether they are a parent under education law.

All parents also have legal obligations under [section 7 of the Education Act 1996](#) – for example, to ensure that a child of compulsory school age receives a suitable full-time education.

If a parent's action or proposed action contravenes the school's ability to act in the child's best interests, the school should try to resolve the problem with the parent but avoid becoming involved in any conflict. However, there may be occasions when a school needs to decline requests for action from one or more parents.

In cases where schools cannot resolve the conflict between separated parents, they should advise the aggrieved parent to pursue the matter through the family court.

Information sharing

It is important that schools balance the requests of parents with their statutory duties. Having parental responsibility does not allow a parent to obstruct a school from carrying out its duties under the legislation.

Example

A biological parent with parental responsibility informs their child's maintained school that they do not wish their child's step-parent, who does not have parental responsibility but does have care of the child, to receive educational information about the child. The school must inform the biological parent that they cannot comply with that request.

Under the [Education \(Pupil Information\) \(England\) Regulations 2005](#), maintained schools are required to provide access to or copies of a child's educational record to parents on request. Therefore, if the school were to abide by the request of the biological parent, it would be in breach of its obligations under education law.

Information sharing legislation

Under the principles of the [UK General Data Protection Regulations 2018 \(UK GDPR\)](#) and the [Data Protection Act 2018](#), a child or young adult can assume control of their personal information and restrict access to it from the age of 13.

However, until they reach the age of 18, their parent is entitled to request access to or a copy of their educational record even if they do not wish them to access it. Nonetheless, a parent is not entitled to information the school could not lawfully disclose to the child under the UK GDPR or to which the child would have no right of access under the [Education \(Pupil Information\) \(England\) Regulations 2005](#).

A local authority with parental responsibility for a child is also entitled to inspect or receive a copy of the educational record of a child who is the subject of a care order.

Example

A non-resident parent who has limited contact with their child contacts their school to find out how well they did in their exams. The child and the resident parent do not wish to share that information, and notify the school of this. The school refuses to release the information on the basis that the child is old enough to control access. It has therefore breached education law by failing to provide information to which the non-resident parent is entitled.

Note: GCSE results form part of the pupil's educational record and are therefore disclosable to a parent on request. The pupil's consent is not required. However, if a school considers that sharing this information could result in serious physical or mental harm to the pupil or another individual, it may decide not to release the results to the parent. In such a situation, the school and the affected parent may wish to seek independent legal advice.

For more information about UK GDPR, you can contact the [Information Commissioner's Office](#).

Information sharing and academies

Requirements of academies differ slightly and are derived from [part 6 of the schedule to the Education \(Independent School Standards\) Regulations 2014](#).

Academies must provide a parent with an annual written report of a registered pupil's progress and attainment in the main subject areas unless the parent has agreed

otherwise.

Informing non-resident parents

If a school does not know the whereabouts of a non-resident parent, it should make the resident parent aware that the other parent is entitled to be involved in their child's education and request that information is passed on.

If the resident parent refuses either to share information with the non-resident parent or to provide their contact details, if they have them, so the school can deal with them direct, the school can do nothing more. If the non-resident parent subsequently contacts the school and requests access to information, the school should provide it to that parent direct, after taking reasonable steps to satisfy itself that the individual is, in fact, the child's parent.

A school does not need to seek the consent of a resident parent before recording the contact details of the non-resident parent or sending them their child's educational information. It does not need to ask for a solicitor's letter from a non-resident parent as evidence that they are entitled to access this information. No court order is required before providing statutory information to any parent entitled to receive it.

Obtaining consent

If a school needs parental consent for extra-curricular visits and activities, a headteacher should seek the consent of the resident parent. Exceptions to this are when the decision is likely to have a long-term and significant impact on the child, or the non-resident parent has requested to be asked for consent in all cases.

If a school considers it necessary or has been asked to seek consent from both parents, it may wish to assume parental consent has not been given unless both agree. Such an approach ensures that the school has treated the views of each parent equally and will help safeguard its position in terms of exposure to any civil liability if, for example, the child is injured while on a school trip.

The school should avoid becoming involved in any disagreement between parents, but might want to suggest that, if they cannot agree, they seek independent legal

advice about obtaining a prohibited steps order or specific issue order setting out exactly which decisions each parent can make in respect of their child.

Medical treatment: seeking consent following an accident or injury

A school may experience an issue when a child has had an accident and consent is needed for emergency medical treatment. [Section 3 of the Children Act 1989](#) states that a person who does not have parental responsibility but nonetheless has care of a child may:

“ ...do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child’s welfare.”

This allows a school to act ‘in loco parentis’ – that is, in place of a parent – or to seek consent from a parent who may not hold parental responsibility.

It would clearly be reasonable for a school to take a child who needs to have a wound stitched to hospital, but the parents – including the non-resident parent who has asked to be kept informed of events involving the child – should be informed as soon as possible.

Guidance on [health and safety responsibilities](#) is available.

Safeguarding

All schools must have regard to the statutory guidance on [keeping children safe in education](#) (KCSIE), which explains what schools and their staff must and should do to safeguard pupils.

Safeguarding is defined in KCSIE as:

- protecting children from maltreatment
- preventing the impairment of children’s mental and physical health or development
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care

- taking action to enable all children to have the best outcomes

KCSIE emphasises that everyone who comes into contact with children and their families has a role to play in safeguarding. School and college staff are particularly important, as they are in a position to identify concerns early and provide help for children so as to prevent concerns from escalating. They should consider at all times what is in the best interests of a child.

If a child is in immediate danger or at risk of harm, a referral should be made immediately to children's social care or the police, as appropriate. It will be for a school, on a case-by-case basis, to consider the level of information, if any, that is provided to parents when a referral has been made to children's social care.

All schools should have a designated safeguarding lead – a full job description for the role is provided in Annex C of KCSIE. Working with children's social care, that member of staff should generally lead on decisions about sharing information related to safeguarding concerns with a child's parent.

Information sharing should always be in the best interests of the child. It will be especially important that a school works closely with children's social care to consider next steps if it has reason to believe sharing information with a parent will potentially put a child at greater risk of harm.

Guidance about safeguarding and information sharing can be found in:

- [Working together to safeguard children](#)
- [Information sharing advice for practitioners](#)

Pupils moving schools

In the case of separated parents, case law states that all those with parental responsibility must be consulted before important decisions are made, such as removing a child from their school, when they should leave the school or which new school they should attend.

Schools must still comply with the [Education \(Pupil Registration\) \(England\) Regulations 2006](#) when they receive a request to remove a child from the school register. However, there is no statutory obligation on a school to notify one parent if the other decides to remove their child – that responsibility rests solely with the separated parents.

Nonetheless, the child's welfare is paramount, so, if a school is aware that parents are separated and one parent decides to remove their child, staff may wish to ask that parent if the other has been informed and has agreed to this.

A school should avoid becoming involved in parental conflicts. If parents are unable to agree lines of communication between themselves on issues involving their child, they may wish to seek independent legal advice and explore other options. These might include referring the matter to non-court dispute resolution, such as mediation, or to the family court for adjudication.

Schools may consider it appropriate to make an early help referral. Early help means providing support as soon as a problem emerges at any point in a child's life. Where a child would benefit from co-ordinated early help, an early help inter-agency assessment should be arranged. [Working together to safeguard children](#) provides detailed guidance on the early help process.

Schools can also signpost parents to this guidance and other sources of support, such as [Citizens Advice](#) and [Coram Children's Legal Centre](#).

Changing a surname

A change of surname is a private family law matter and should be resolved between parents. The [Ministry of Justice](#) is responsible for government policies relating to private family law. DfE retains policy responsibility for public family law.

If one parent seeks to change the surname by which their child is known, a school should ensure it does not do so without written evidence that the other parent, or anyone else who has parental responsibility for the child, has given their consent. It should source this evidence independently of the parent seeking to make the change.

[Regulation 5\(1\)\(a\) of the Education \(Pupil Registration\) Regulations 2006](#) requires a school to record the full name of every pupil in alphabetical order in the admissions register. This means the child's full legal name and not any other name that the child is known by.

However, there may be circumstances where an informal name change has already been adopted in school and it would not be in the child's best interests to revert to a different name. In such circumstances, a school should decide what action to take, but the best interests of the child must be paramount.

Where a child is subject to a special guardianship order, there are particular considerations if a school receives a request to use a different surname. [Section 14C\(3\) of the Children Act 1989](#) states that:

“ While a special guardianship order is in force with respect to a child, no person may cause the child to be known by a new surname... without either the written consent of every person who has parental responsibility for the child or the leave of the court. Schools must therefore decline requests from special guardians for a child to be known by a different surname unless the above criteria are met.”

Parent governors

Schools must not restrict eligibility to nominate, vote or otherwise participate in parent governor elections to parents holding parental responsibility. Under the [School Governance \(Constitution\) \(England\) Regulations 2012](#), a ‘parent’ includes not just those with parental responsibility but also biological parents and anyone who cares for a child.

Guidance on the [roles and duties of governing boards](#) is available.

Administration

In accordance with [Regulation 5\(1\)\(c\) of the Education \(Pupil Registration\) \(England\) Regulations 2013](#), a headteacher must ensure the:

- names and addresses of all parents are included in the admission register
- school register contains at least one telephone number by which to contact each resident parent in case of an emergency

Headteachers should therefore:

- ask parents or guardians for the contact details – including names, addresses, telephone numbers and email addresses – of all parents when they register a pupil
- ensure they note the details of any court order in a pupil’s educational record

Such information will be necessary when decisions need to be made about who can give parental consent for an extra-curricular visit or should be contacted if the child is ill, as well as what to do in more difficult situations.

Example

If a biological parent, rather than a foster parent, comes to collect a child in local authority care from school.

Schools should be mindful to protect parents' private data from any other party and to avoid accidental disclosure. This is particularly important, given that a parent may have been, or be at risk of being, a victim of domestic violence.

Example

Annual attendance registers, commonly issued together with end-of-year reports, generally include a pupil's current address, so a school should be careful who it sends them to. Similarly, if the school copies one parent into what it has sent the other, it may disclose their private email address and correspondence.

A school needs to take the same care when providing information to foster parents and biological parents if a child is in care. There may be circumstances in which the foster parents' details must not be disclosed to the biological family as part of safeguarding the child.

Liaising with social workers

There may be occasions when a child's social worker will collect them from school. This needs to be by prior agreement with either their birth parent or foster carer, depending on the circumstances. A social worker should not enter school premises to collect a child to attend a care review or contact meeting without the prior agreement of a teacher, the birth parent or foster carer, and the child themselves.

A school may on occasion need to contact a social worker – for example, in regard to a child's health or absence from school. However, in most circumstances, the primary carer is best placed to have that conversation with the school and to report on the outcome to their social worker.

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