

**Q Can grandparents make any decisions about a child if they do not have parental responsibility?**

Anyone, including a grandparent, who is caring for a child may do what is reasonable to safeguard and promote the child's welfare.

**Q Who has parental responsibility for a 'looked after' child?**

**The Children Act 1989 defines children as 'looked after' if they are in the care of, or are provided with accommodation by, a local authority.**

When a child is in care, the local authority have parental responsibility for the child. Parents keep their parental responsibility too but the authority decide how far they can meet their parental responsibility. Parents may still make a parental responsibility agreement or a father can apply for a Parental Responsibility Order. A local authority that accommodate a child do not have parental responsibility.

**Q Will grandparents with parental responsibility get more support from a local authority?**

A local authority has a duty to safeguard and promote the welfare of children in their area who are 'in need'. Whether you have parental responsibility or not, if you are bringing up your grandchild you may receive help or services from your local authority if the child is 'in need', if for example he or she is disabled. The local authority has a discretion to pay a contribution towards the child's maintenance if you have a Residence Order. However, the local authority are likely to pay an allowance only if they have looked after the child, or would have to look after the child if you did not do so.

**Q Will parental responsibility give grandparents more influence over what happens to a looked after child?**

Before making any decision about a child that they look after, or intend to look after, a local authority must, so far

as is reasonably practicable, find out the wishes and feelings of the child, his or her parents, anyone with parental responsibility and any other person they consider relevant. Your wishes and feelings must be taken into account if you have parental responsibility otherwise it is up to the local authority to decide if they are relevant. If your son is the father of a looked after child your position is the same whether or not your son has parental responsibility.

**Q Will parental responsibility make a difference to grandparents seeking contact with a looked after child?**

Where a child is looked after, the local authority must try to promote contact with his or her parents, those with parental responsibility and relatives unless this is not reasonably practicable or not for the child's welfare. Grandparents can remind local authorities of this provision and the right to family life under Article 8 of the European Convention on Human Rights, and press them to comply with their duties. If the child is subject to a Care Order, the local authority must allow the child to have reasonable contact with his or her parents and anyone, including grandparents, who had parental responsibility before the child came into care unless they obtain an order allowing contact to be ended. Grandparents without parental responsibility who are refused contact must apply to the court for leave to apply for a Contact Order if they want contact with a child in care. (See fact sheet on contact with a grandchild looked after by a local authority.)

**Grandparents' Association**

Moot House, The Stow, Harlow, Essex CM20 3AG

Office Tel-Fax: 01279 428040

**Advice and Information Line: 01279 444964**

Email: [info@grandparents-association.org.uk](mailto:info@grandparents-association.org.uk)

Web: [www.grandparents-association.org.uk](http://www.grandparents-association.org.uk)

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# Fact Sheet

## Parental Responsibility



Working for children

The Grandparents' Association  
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Registered in England: 5204434  
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# What is parental responsibility?

The Children Act 1989 defines parental responsibility as, 'all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property'.

Broadly this means that a parent with parental responsibility can make decisions about the child's upbringing and is responsible for the child's welfare. Sometimes decisions are so important that the law requires both parents with parental responsibility to consent to an action, for example controversial medical decisions such as circumcision. Good practice requires consultation between parents, when possible, even if only one parent has parental responsibility. A parent may not act in a way that is inconsistent with any court order. The term 'parental responsibility' is used to show that parents have rights because they have obligations towards their children.

## Q Who has parental responsibility?

All mothers have parental responsibility for their children. Any father who is, or has been, married to his child's mother has parental responsibility and, following a change in the law, so does an unmarried father who is registered on his child's birth certificate after 1 December 2003 (Adoption and Children Act 2002 s.111). Other unmarried fathers and anyone else, including grandparents, may acquire parental responsibility.

## Q How can an unmarried father acquire parental responsibility?

An unmarried father without parental responsibility can acquire this by marrying the mother or by making a parental responsibility agreement with her. The agreement may be achieved more easily while the

parents are together but, even if they have separated, the mother may consent to making the agreement. The agreement must be made and recorded in the manner required by regulations. Further information about how to make an agreement can be obtained from any court that deals with family matters, a solicitor, or the Grandparents' Association. Making a parental responsibility agreement is a serious step.

If an unmarried father wishes to obtain parental responsibility and the mother refuses to make an agreement, or her whereabouts are unknown, he should apply to the court for a Parental Responsibility Order.

The child's welfare will be paramount and the court will consider all the circumstances, including the commitment the father has shown the child, the attachment between them and his reasons for seeking the order.

A court must make a parental responsibility order if it makes a Residence Order in favour of the father.

## Q Does a father without parental responsibility have any rights or responsibilities?

Whether or not a father has parental responsibility he has the same liability to support his child financially, the same rules of inheritance apply and he has the same right to apply to the court for a Residence or Contact Order. If his child is looked after by a local authority he has many, but not all, of the same rights as a father with parental responsibility. His agreement to an Adoption Order is not required but the local authority must consult him, even if the mother objects, unless there are exceptional circumstances for not doing so.

## Q Can a parent lose parental responsibility?

A mother or married father will only lose parental responsibility if the child is adopted or freed for adoption. An unmarried father's parental responsibility can be ended by a court on an application by anyone with parental responsibility or by the child if he or she has the court's leave (permission) to apply. The child's welfare will be the court's paramount consideration. Parental responsibility ends when a child is 18 unless it is ended earlier by a court.

## Q Can grandparents get a parental responsibility order?

Grandparents cannot get a Parental Responsibility Order but if you are bringing up your grandchildren you will have parental responsibility for a child living with you if a court makes a Residence Order in your favour or you are the child's guardians. (See fact sheets on Residence Orders and Guardians). A Residence Order says who a child is to live with and gives parental responsibility to the person with the order if he or she does not already have it. If the court does not discharge the order earlier, it will end when the child is 16, unless there are exceptional circumstances, such as the child's learning disabilities. While a residence order continues you will share parental responsibility with the child's parent(s).

## Q Are grandparents with a residence order in the same position as parents?

Grandparents with parental responsibility are not in exactly the same position as parents with parental responsibility. One difference that often troubles grandparents is their inability to appoint a guardian to take their place.