

PARENTAL RESPONSIBILITY

The Children Act 1989, the Human Fertilisation & Embryology Act 2008 and the Adoption in Children Act 2002 have made important changes regarding the law relating to children, parental responsibility and connections between parents and children. We hope the information in this fact sheet about parental responsibility will assist you in understanding this area of the law.

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**Parental
Responsibility
for Lesbian
Couples**



What is Parental Responsibility?

Parental responsibility is described as “all the rights, duties, powers, responsibilities and authority which, by law, a parent has in relation to a child and his property”.

In practice it can include the right to decide:

- which school the child should attend;
- the form of religious upbringing the child should have;
- medical treatment the child should receive;
- in which country the child should live;
- and by what name the child should be known.

It may mean that schools, doctors, hospitals, Social Services and other organisations will not deal directly with a parent unless they have parental responsibility.

Once a parent has parental responsibility for the children they will share it even if their relationship is dissolved. The practical significance of this is that any parent can make important decisions on behalf of the child in the absence of the other parent/s. For instance, if your child requires emergency medical treatment any parent who is present at the time can give the medical staff the appropriate authority.

Who Has, or Can Obtain, Parental Responsibility?

The birth mother of the child generally has automatic “parental responsibility” from birth.

The biological father may be a male friend who has donated sperm and intends to be involved in the children’s life or a stranger who has donated sperm through a fertility clinic.

1. Children born with the assistance of recognised sperm donation

If sperm donation has been used and Section 42 of the Human Fertilisation and Embryology Act 2008 has been complied with, the birth mother’s civil partner will be the child’s second parent and the biological father has no connection with the child. To meet the conditions:

- i. The mother must be inseminated artificially.
- ii. The insemination must have been on or after 6 April 2009 – the mother must be in a civil partnership at the time of insemination.
- iii. The mother’s civil partner must have consented to the insemination.

If these conditions are fulfilled, the birth mother’s civil partner is the other parent of the child and can be recorded on the birth certificate. The birth mother and her civil partner will have parental responsibility.

2. Children born without official sperm donation

Where the father is to remain in the child’s life, or Section 42 of the Human Fertilisation and Embryology Act 2008 has not been complied with, the situation is very different.

If the child is born after 1 December 2003 and the father is registered on the child’s birth certificate, he will automatically have parental responsibility for the child.

The sperm donor is treated as the father and the birth mother could apply for child maintenance or financial provision for the child from the birth father. The birth father could ask the court to allow him to have contact with the child even if the birth mother does not agree.

If the mother’s civil partner is to have parental responsibility, the birth mother and father (if he has parental responsibility) can sign a parental responsibility agreement. All three will then share parental responsibility. Alternatively adoption by the mothers will ensure they alone share parental responsibility.

Whether or not the mother is married to her partner, an order that the second mother has or shares residence (formally “custody”) of the child will provide the birth mother’s partner with parental responsibility.