

# 10 things to know for non-biological parents

## 1. You do not automatically have parental responsibility for your child

Parental Responsibility is commonly defined as all the rights and responsibilities that in law a parent has for a child. It enables a parent to share in the big decisions concerning the upbringing of a child such as their medical treatment, how they are educated and what name they are known by.

The birth mother automatically obtains Parental Responsibility at birth. A birth father commonly attains Parental Responsibility through marriage to the mother and/or being named as the father on the child's birth certificate.

It is common for non-biological parents to want to have this responsibility so that they can make decisions when, and if, the need arises for a child who is in their care.

However, a non-biological parent will not automatically have Parental Responsibility and will have to take steps to acquire it.

## 2. There may be important implications if you do not have Parental Responsibility

Whilst a parent with Parental Responsibility can delegate their Parental Responsibility to another person for the purposes of the 'day to day' care involved in meeting the child's basic needs, a parent who does not have Parental Responsibility does not have the authority to make significant decisions, for example they will not be able to sign any legal forms, give medical consent, or deal with the child's school or doctor.

## 3. You can acquire parental responsibility by entering into a formal agreement

A step-parent or civil partner (but not a cohabitant or grandparent) can be granted Parental Responsibility by entering into a formal agreement that is lodged with the Court, with all other persons with Parental Responsibility. This is a relatively straightforward and inexpensive process.

The Courts regularly grant step-parents Parental Responsibility as they recognise the important role that step-parents play in children's lives and understand how important it is for such a party to have responsibility when the children are in their care on a regular basis.

## 4. You can acquire Parental Responsibility by making an application to the Court

A step-parent or civil partner (but again, not a cohabitant or a grandparent) can be granted Parental Responsibility by making a separate application to the Court for a Parental Responsibility Order.

When considering whether to grant the application the Court will have regard to what is in the best interests of the child and will consider:

- the step-parent's connection with the child;
- the risk of disruption; and
- the consent or position of any other person who has parental responsibility.

## 5. The position is different after relationship breakdown

If the application for Parental Responsibility is made after the step-parent and natural parent's relationship has broken down, a Parental Responsibility Order can only be made if the applicant is still married to the child's natural parent.

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The step-parent will need to show a level of commitment and attachment to the child, most likely as a result of their having lived together or having spent significant time together so that they have become part of the child's life.

**6. It is trickier to obtain Parental Responsibility if you are not married or in a civil partnership**

If you and the child's biological parent are not married or in a civil partnership then the only way to obtain Parental Responsibility is if the Court makes a Child Arrangements Order providing that the child shall live with both of you (this used to be known as a joint residence order) or through adoption.

**7. You can apply to adopt your child**

A step-parent who is the partner of the natural parent of a child can apply to adopt their partner's child or children. They then become the legal parent of the child and have Parental Responsibility. Adoption requires a Court application and the involvement of the Local Authority.

**8. The Child Maintenance Service cannot make an assessment against a non-biological parent**

Under the Child Support Act 1991, the Child Maintenance Service cannot make an order against a non-biological parent. However, in terms of financial arrangements on divorce, a step-parent may be required to provide financial provision for a child where the child has been treated as a 'child of the family'.

**9. Inheritance and the rules of intestacy**

The intestacy rules do not cover step-families unless the parent who died had formally adopted the stepchild. If you and your partner are married that means that you can each inherit a certain amount from each other under the intestacy rules, but that does not include your stepchildren.

**10. Inheritance Act claims**

If a step-child was treated as a child of the family by their step-parent, or was financially dependent on a step-parent who has died, and there is no or inadequate provision, the child can potentially make a claim under the Inheritance (Provision for Family and Dependents) Act 1975 for financial provision out of the estate.

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