



## Parental Responsibility and Separated Parents Policy

At Coppetts Wood Primary School, we aim to treat all parents equally and to promote the best interests of the child, working in partnership with all parents where possible. This policy is an attempt to clarify to all parties what is expected from separated parents and what can be expected from the school and its staff.

At Coppetts Wood School we treat all parents equally, unless there is a Court order limiting an individual's exercise of parental responsibility. Everyone who is a parent, as defined under education law (whether they are the resident parent or not, with or without parental responsibility - see, Defining Who is a Parent) has a right to participate in decisions about a child's education and receive information about the child (even though, for day-to-day purposes, the school's main contact is likely to be a parent with whom the child lives on school days).

### **1 Parental Responsibility**

In order to help us to look after children whilst they are in our care, our staff are required to ask parents to provide certain information when their child is admitted to the school. This includes the name of both parents, address, contact details and who has Parental Responsibility for the child. This is important because it allows the school to be sure who has the right to make decisions about a child's education and medical treatment. However, this is a very specific legal term and many parents may be unaware of how it is applied.

#### **1.1 Defining 'Who is a parent?'**

For the purposes of education law, section 576 of the Education Act 1996 defines a 'parent' as:

- all natural (biological) parents, whether they are married or not;
- any person who, although not a natural parent, has parental responsibility for a child or young person (this could be a step-parent, guardian or other relative);
- any person who, although not a natural parent, has care of a child or young person.

A person has care of a child or young person if they are the person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child.

In this policy, the terms 'resident' and 'non-resident' parent are used to distinguish between parents who do and do not live with a child.

#### **1.2 What is Parental Responsibility?**

In family law<sup>1</sup>, parental responsibility means all the rights, duties, powers, responsibilities and authority that a parent has in relation to the child. People other than a child's natural parents can acquire parental responsibility through:

- being granted a child arrangements order determining that the child should live with him or her, or if the court determines that a parent should only spend time with the child, the court may also decide to grant parental responsibility;
- being appointed a 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);
- adopting a child;
- (in the case of step-parents) in agreement with the child's mother (and other parent if that person also has parental responsibility for the child) or as the result of a court order.
- Civil partners have parallel (as far as possible, identical) rights to married people. The same provisions for married people apply to them in terms of acquiring (i.e. in the case of adoption, agreement with their civil partner or by an order from the court) or holding parental responsibility

Where a child's father and mother were married to each other at the time of the child's birth they each have parental responsibility for the child. Where the parents are not married to each other, 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; or
- through a 'parental responsibility agreement' between him and the child's mother which is registered with the court; or
- by obtaining a court order for parental responsibility.

In addition, a local authority can acquire parental responsibility if it is named in the care order for a child.

More than one person can hold and exercise parental responsibility for a child. The parental responsibility of one party does not stop simply because another person is also given it. So, in some cases several people may be regarded as being the 'parent' of a child.

### **1.3 Key effects of a father acquiring parental responsibility:**

- he becomes a 'parent' for the purposes of adoption legislation and can therefore withhold consent to an adoption;
- he can object to the child being accommodated in local authority accommodation and remove the child from local authority adoption;
- he will automatically be a party to care proceedings;
- he can appoint a guardian;
- he can give valid consent for his child's medical treatment;
- he has a right of access to his child's health records;
- he can withdraw a child from sex education and religious education classes and make representations to schools concerning the child's education;
- his consent is required if the child's mother seeks to remove the child from the jurisdiction;
- he can sign a child's passport application and object to the granting of a passport;
- he has sufficient rights in relation to a child to invoke the international child abduction rules;
- he can consent to the marriage of a child aged 16 or 17

### **1.4 Court Orders and Parental Responsibility**

Court orders under section 8 of the Children Act 1989 (often called section 8 orders) 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 two types of section 8 orders which can be made to address particular issues:

- A **prohibited steps order** imposes a specific restriction on the exercise of responsibility. This means that no step specified by the Court, which a parent could take in meeting his/her parental responsibility, can be taken without the consent of the Court. *For 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.*
- A **specific issue order** is an order giving directions for the purpose of determining a specific question which has arisen, or may arise, in connection with any aspect of parental responsibility. *For example: an order allowing one parent to agree to a pupil changing school against the wishes of the other parent.*

A **child arrangements order** is also a section 8 order and sets out the arrangements relating to who a child is to live with and when, and arrangements relating to who a child is to spend time with or otherwise have contact with. It replaces the former residence and contact orders.

Parents should therefore ensure that we are provided with a copy of the most recent Court order in place, so that our duties in respect of child safeguarding are supported.

We are however mindful that a Court order limiting a parent's exercise of their parental responsibility does not necessarily prevent or restrict any school from continuing to carry out their duties under education law.

## 2 General principles

- We treat all parents equally, unless there is a Court order limiting an individual's exercise of parental responsibility.
- Everyone who is a parent, as defined under education law (whether they are the resident parent or not, with or without parental responsibility - see, Defining Who is a Parent) has a right to participate in decisions about a child's education and receive information about the child (even though, for day-to-day purposes, the school's main contact is likely to be a parent with whom the child lives on school days).
- Individuals who have parental responsibility for, or care of, a child have the same rights as natural parents; for example:
  - To receive information, e.g. pupil reports;
  - To participate in statutory activities; e.g. vote in elections for parent governors;
  - To be asked to give consent; e.g. to the child taking part in school trips;
  - To be informed about meetings involving the child; e.g. a governors' meeting on the child's exclusion, Ofsted & school based questionnaires

This entitlement cannot be restricted without a specific court order. The school does not have the power to act simply on the request of one parent to restrict another. The school will not seek to make judgements about individual circumstances but will treat both parents equally unless there is a specific ruling in existence.

However, we expect that parents, whatever the nature of their separation, will do all they can to communicate with each other and share information from and for the school, for the benefit of their child. It is assumed that the parent with whom the child principally resides will keep the other parent informed.

- We would not expect to send text messages to both parents, which give information on cancelled activities and reminders - they would be sent to the resident parent.
- All diary dates, Newsletters etc. are available on our website
- Occasionally paper letters are sent home with pupils and we expect parents to communicate these messages to each other as and when appropriate
- Any log ins for apps will be sent to the resident parent - we expect parents to communicate this code to each other.
- At parent's evening both parents are welcome and we expect parents to communicate with each other regarding these arrangements and making the appointment which are booked online. Unfortunately the school is not always able to offer individual appointments.
- We expect parents to liaise and communicate directly with each other in matters such as the ordering of school photographs; tickets for performances and other instances.
- Both parents are entitled to receive progress reports and review their child's pupil records. Progress reports will be sent to the parent with whom the child resides with the expectation that he/she will share the report with the other parent.

We do, however, recognise that communication between parents is not always possible. If an estranged parent wishes to receive information from the school such as progress reports or attending parent/ teacher meetings they should contact the school in writing with a specific request for separate communication. The school will then email copies of reports etc to the noncustodial parent.

Should an un-named parent seek information or access to his/her child, the school will always inform the main carer of this child to check Parental Responsibility and ensure no court order is in place. For the avoidance of doubt, we will seek written confirmation from the main carer. Proof of identity of the non-resident parent will always be required in these cases.

Disagreements between parents must be resolved between the parents and cannot be resolved by the school or local authority. The school is under no obligation to inform the resident parent of the absent parent contacting the school. Any such information will be given at the discretion of the Head Teacher.

All parents also have legal obligations; for example: to ensure that a child of compulsory school age receives a suitable full-time education.

Where a parent's action, or proposed action, conflicts with the school's ability to act in the child's best interests, we will try to resolve the problem with that parent but avoid becoming involved in conflict. However, there may be occasions when we need to decline requests for action from one or more parents.

In cases where we cannot resolve the conflict between separated parents, we would advise the aggrieved parent to pursue the matter through the Family Court.

## 2.1 Information Sharing

We have to balance the requests of parents with their legislative duties. Having parental responsibility does not allow a parent to obstruct a school from carrying out their duties under legislation.

*For example: a natural parent, with parental responsibility, informs their child's local authority 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 that child. The school should inform the natural parent that they cannot comply with that request.*

*Under The Education (Pupil Information) (England) Regulations 2005, schools are required to provide access to, or copies of a child's educational record to parents upon request. Therefore, if the school were to abide by the request of the natural parent they would be in breach of their obligations under education law.*

## 2.2 Obtaining consent

Where we need parental consent to outings and activities, we will seek the consent from the resident parent unless 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 such cases.

In cases where we consider it necessary or have been asked to seek consent from both parents, we will assume that parental consent has not been given unless both parents have given consent.

Where parents cannot agree we will advise them to seek independent legal advice about obtaining a Court order setting out exactly what decisions each parent can make in respect of the child (a Specific-Issue or Prohibited Steps Order as appropriate).

## 2.3 Medical Treatment - Seeking Consent following Accident or Injury

The Children Act 1989 (Section 3 Children Act 1989) provides that people who do not have parental responsibility but nonetheless have 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 would allow schools to act '*in loco parentis*', i.e. in place of a parent, or allow them to seek consent from a parent who may not hold parental responsibility.

It would clearly be reasonable for the school to take a child who needs to have a wound stitched up 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.

## 2.4 Changing a Surname

If parents have divorced, we will ask for written evidence (independent of the parent seeking to make the change) that consent has been given by the 'other parent' or by anyone else who has parental responsibility for the child before changing the name the child is known by.

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 is generally interpreted to be the child's full legal name and not any other name that the child is known by. However, there may be circumstances where a name change has already been effected by the school and it would not be in the best interests of the child, who might be known by a new name, to refer back to a different name. Ultimately the school will decide but the best interests of the child must be the paramount consideration when making a decision.

Where a child is subject to a special guardianship order there are particular considerations in cases where a school receives a request to use a different surname for a pupil.

Section 14C(3) of the Children Act 1989 (CA 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.'*

We will therefore decline requests from special guardians for a child to be known by a different surname unless the above criteria are met.

## **2.5 Parent Governors**

Under the School Governance (Constitution) (England) Regulations 2012, 'parent' includes not just those with parental responsibility but natural parents and anyone who cares (or has cared for) a child and so all who meet these criteria will be able to nominate, vote or otherwise participate in parent governor elections .

## **2.6 Collecting a child from school**

We will release children to parents in accordance with arrangements notified to the school. If one parent seeks to remove the child from school in contravention of the usual arrangements and the parent to whom the child would normally be released has not notified the school of any change, the following steps will be followed:

- Where a separated parent, who has parental responsibility and no court order in place, wishes to take the child during or at the end of the school day, the resident parent will be contacted in order to ensure that they are in agreement with the arrangement. If the parent to whom the child would normally be released agrees, the child may be released and the records will reflect that the permission was granted orally. If the parent opposes the other parent wanting to take the child then the school will advise that without a court order we cannot prevent them from doing so.

In the event that the parent to whom the child would normally be released to cannot be reached, the Head Teacher or staff member dealing with the issue will make a decision based upon all relevant information available to him/her.

- During any discussion or communication with parents, the child will be supervised by an appropriate member of school staff in a separate room.
- In extreme circumstances if there is a belief that a possible abduction of the child may occur or if the parent is disruptive, the police would be notified immediately.

## **2.7 Administration**

When children are admitted to the school, parents are asked to complete an admissions form which asks parents or guardians for contact details, including names and addresses, of all parents when they register a pupil.

We will:

- ensure that names and addresses of all parents, where known, are included in the admission register and also in pupil records and are available to the pupil's teachers;
- ensure that the school has details of who to contact in the case of an accident or medical emergency;
- ensure that contact details, including names and addresses, of all parents are forwarded to any school to which the pupil moves;
- ensure that details of Court orders are noted in a pupil's record;
- be mindful to protect the private data of each parent from any other and avoid inadvertent disclosure. This is particularly important given that some parents will have been, or may be at risk of being, a victim of domestic violence.

### **Conclusion**

In all decisions the welfare of the child must be the paramount consideration. In the event of a concern being raised where the school is unclear how to act, independent legal advice will be sought to ensure that a parent's rights and responsibilities are not infringed and the actions of the school are compliant with education law.

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