Policy Document for: Separated parents

Due for Review: Spring 2029

Additions/amendments in this version

Bourne Alliance Trust recognises that children from families whose parents are separated, or are undergoing separation, may go through traumatic changes during their time at school. With this in mind, we will make every effort to work with parents to promote the welfare of children. This policy has been created to minimise any impact and to clarify to all parties what is expected from separated parents and what can be expected from the school and its staff.

This guidance is used Understanding and dealing with issues relating to parental responsibility - GOV.UK (www.gov.uk)

Definitions

Schools have a legal duty to work in partnership with families and to involve all those with parental responsibility in their child's education. Section 576 of the Education Act 1996 defines a 'parent' as:

- 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, step-parent or guardian
- Any person who, although not a biological parent, has care of a child or young person. A person typically has care of a child or young person if they are the person with whom the child lives, either full or part time and who looks after the child, irrespective of what their biological or legal relationship is with the child.

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

Parents as defined above must be treated equally, unless there is a court order limiting an individual's exercise of parental responsibility. In the event that the school is not informed of the existence of such an order, neither parent will have rights superior to the other.

Individuals who have parental responsibility, or care for a child, have the same rights as natural parents. This includes the right to:

- Receive information (e.g. pupil reports, school events etc.).

- Participate in activities (e.g. elections for parent governors).
- Give consent (e.g. for school trips).
- Be involved in meetings concerning the child (e.g. participate in an exclusion procedure, appeal against admission decisions).

Who has parental responsibility?

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

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 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 which is registered with the court
- by obtaining a court order for parental responsibility

Where 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

Other ways to acquire parental responsibility

Parental responsibility can be acquired in other ways:

- adoption - only the adoptive parents will hold parental responsibility
- when a child is placed with prospective adopters they get parental responsibility for the child along with others holding parental responsibility, such as the local authority
- obtaining a parental order following surrogacy
- in the case of step-parents, through 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
- 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 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

A local authority can also acquire parental responsibility, if it's 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.

Head of School/Head Teacher responsibilities

The Head in any Trust school holds responsibilities for the following, but these can be delegated to other members of staff as directed.

- Ask parents or guardians for the names and addresses of all parents when they register a pupil.
- 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 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 the pupil's record.
- Seek consent from the resident parent (which will be both parents when a child spends equal amounts of time with both) unless the decision is likely to have 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 the cases where both parents have asked to give consent, it will be assumed to not be given unless all parents agree. This ensures the school has treated the views of each parent equally
- The Head will be mindful of the private data of each parent so that it is protected from others to avoid inadvertent disclosure
- For day to day issues such as absence, behaviour concerns or lateness, the Head is likely to contact the resident parent. The non-resident parent does not need to be kept informed unless they have specifically requested this information

Parental responsibilities

Everyone 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 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. Governing bodies of maintained schools must also have regard to any views expressed by parents of registered pupils.

All parents can also 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 biological parents.

School 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 children. In most circumstances, the question our schools must ask themselves when making decisions is not just whether the parent holds parental responsibility but whether they are a parent under education law.

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, the school should try to resolve the problem with that parent but avoid becoming involved in 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.

- Parents of children joining the school are asked to bring their child's birth certificate. This ensures children are joining the correct year group and also helps the school ascertain who has parental responsibility. We follow the Kent LA guidance on checking for parental responsibility.
- Parents are responsible for informing the school when there is a change in family circumstances. We recognise the sensitivity of such situations and we will maintain confidentiality requested by parents as far as possible. The school will also not make judgements about individual circumstances, and both parents will be treated equally.
- Where there is a court mandated restraining order in place, a copy needs to be retained by the school (which is saved on CPOMS and in the pupil file), which will put measures in place to ensure the child is not released to named individuals.
- Parents who have joint custody of the child are requested to keep the school informed, in writing, of any disputes they have with each other regarding the collection of children.
- Where a Child Arrangements order is in place, the parents must supply the relevant school with a copy as soon as possible so that we are aware of the arrangements and abide by the court order. This is filed in CPOMS and in the pupil file.
- Cafcass can become involved in cases at the request of the court. We ask parents to let us know where this is the case so that we have the relevant information to support the child. More information for parents where can be found on https://www.cafcass.gov.uk/grown-ups/parents-and-carers/
- Children's welfare and safety are paramount, where there are issues over access to children, the parent with whom the child resides should contact the school immediately.
- When the school holds parent consultations, parents can attend together, or book separate appointments by arrangement.
- The Trust expects parents to communicate with each other regarding these arrangements.
- When parents separate, we ask that the school is informed so that our records can be updated accordingly for emergency contacts, collection arrangements and so on.

Progress reports and pupil records

- Any parent has the right to receive progress reports and review pupil records of their child.
- Each person with parental responsibility is entitled to participate in statutory activities (such as parent governor elections), be informed about parents evenings or exclusion hearings and be asked to give consent
- If the parents are separated or divorced, progress reports will be sent to both parents, unless we have been informed otherwise
- Disagreements between parents must be resolved between the parents and cannot be resolved by the school.
- The school will maintain an open door policy with both parents and the class teacher will be available to discuss any issues.
- 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 will be notified immediately.

Collecting a child from school

Where a separated parent has parental responsibility, and requests to take the child during or at the end of the school day, the resident parent will be contacted in order to ensure that parents are in agreement, providing a non-contact order is not in place.

Obtaining consent

If parental consent is required for outings or activities, the school will seek 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 the school considers it necessary to seek consent from both parents, it is possible that one gives consent and the other withholds it. In such cases, the school will assume that parental consent has not been given.

We are entitled to act as 'in loco parentis' when children are in our care. This will be invoked where emergency medical treatment is needed so we can act in place of a parent, or seek consent from a parent who may not hold parental responsibility. The parents, including the non-resident parents who has asked to be kept informed, will then be contacted as soon as possible (added Sept 24)

The resident parent is the parent the child lives with the majority of the time. If a child lives with each parent for an equal amount of time, both parents would count as resident parents. If parents cannot agree on consent, we will treat it as though consent has not been given. We will offer support to parents in such situations for example advising them to seek independent legal advice or to use an external mediator; we do not get involved in the dispute. (added Sept 24)

Name changes

- Parents are responsible for resolving potential conflicts about the change of a surname.
- There must be consent from both parents after divorce or separation for registering a change of name of a pupil.
- The school will ensure that the change in surname is supported by written evidence.
- A separated parent who has parental responsibility, but no longer lives with the child, may refuse to consent to changing the child's surname. In such cases, the parent wishing to change the child's name would need to apply to the courts for permission do so.
- In circumstances where a name change has already been effected by the school and it is in the interest of the child, who might be known by a new name, to refer back to a different name, the school will make a decision holding the best interests of the child under paramount consideration.

More information about parental responsibility and issues relating to it can be found at https://www.gov.uk/government/publications/dealing-with-issues-relating-to-parental-responsibility/understanding-and-dealing-with-issues-relating-to-parental-responsibility#acquireparentalresponsibility

Checking parental responsibility

(added Sept 24)

As part of our intake procedures, and for safeguarding, we get the information we need about parental responsibility on a child's application form. We may check for parental responsibility in situations such as:

- If the child's resident parent doesn't name the non-resident parent on the registration, application or intake form. We will 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
- Someone other than the people listed on the pupil's registration form is requesting information about the child
- One parent approaches the school claiming that the other parent doesn't have parental responsibility, or that parental responsibility has been taken away

We follow the Kent local authority guidance on checking parental responsibility.

We can only prevent a parent exercising their rights if:

- There's a court order relating to the child that requires this

- A change of circumstances means someone no longer has parental responsibility (for instance, if the child's mother and step-father divorce, the step-father may lose parental responsibility unless there's an agreement that says otherwise).

Court involvement and Cafcass

(added Sept 24)

If parents go to court, Cafcass can become involved at the request of the court. Cafcass have the responsibility of providing the court with the information needed for a safe decision involving the arrangements for the children. We ask parents to inform us if Cafcass are involved so we have the information to support the children. More information around the work of Cafcass is on https://www.cafcass.gov.uk/grown-ups/parents-and-carers/

Where a Child Arrangements order is issued or altered we expect parents to give us a copy as soon as possible so that we follow this to support our duties in safeguarding.