

FREQUENTLY ASKED QUESTIONS



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After separation, how much contact should I have with my ex?

This very much depends upon the reason for separation, if the safety or welfare of you or your children is at risk, then all contact with your ex-partner should stop immediately. There are safe methods of communicating and BH Support will assist with putting these in place, such as the 'My Family Wizard' App.

Where communication can continue safely, then working together to reach mutual agreement of the terms of the separation should continue either directly, or indirectly through BH Support.

How can I get best use out of my legal support?

Legal applications can be complex, BH Support are there to help but good preparation of the history of the relationship, the difficulties and the concerns can help us better understand. This preparation is crucial along with a good understanding of the outcome that you desire and the benefits this will bring to you and your children. Being open and getting access to emotional support through your GP, family support organisations and digital platforms can also help you make better decisions and this assists greatly with the legal support given.

How should I expect to feel?

You may already be going through a range of emotions, it is quite normal to feel anxious or worried about the legal definitions, appearing in the family court and to understand fully the best options available as you separate from your partner. Most families that are supported have never needed to place legal applications or attend court in their lives. BH Support help you manage all legal applications and documents and this supports your emotions on this difficult journey to resolution. BH Support have a range of resources available to support you and your family along the way including referral partnerships with local support charities, networks and digital platforms that help support positive resolution for you and those important to you while ensuring you can manage the varying emotions commonly experienced by people in similar situations.

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What is Parental Responsibility?

Parental responsibility is defined in s 3(1) Children Act 1989 as being:

“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”.

Parental responsibility means the power to make important decisions in relation to a child these include:

- Who the children live with and how much time they spend with each party
- determining the child's education and where the child goes to school;
- choosing, registering or changing the child's name;
- appointing a child's guardian in the event of the death of a parent;
- consenting to a child's operation or certain medical treatment;
- accessing a child's medical records;
- consenting to taking the child abroad for holidays or extended stays;
- representing the child in legal proceedings;
- determining the religion the child should be brought up with. Where there is a mixed cultural background, this should include exposure to the religions of all those with parental responsibility until the child reaches an age where he or she can make their own decision on this.

Where there are disagreements on any of the above, we would suggest that a child arrangements agreement/ order is necessary to settle the dispute.

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Who has Parental Responsibility?

More than one person can have parental responsibility for a child. Married parents have joint parental responsibility.

Mothers immediately gain parental responsibility once their child is born. A father will have parental responsibility if he is either married to the child's mother or listed on the birth certificate as the father, however fathers do not lose parental responsibility if they are divorced or the civil partnership is dissolved.

Second female parents who were married to or in a civil partnership with the biological mother at the time of conception (unless conception was the result of sexual intercourse, or the wife or civil partner of the biological mother did not consent to the conception) also have parental responsibility.

Stepfathers, Stepmothers and Grandparents do not automatically have parental responsibility.

How can fathers who are not married to or in a civil partnership with the mother obtain parental responsibility?

A father who is not married to or in a civil partnership with the mother can obtain parental responsibility by:

- marrying or entering into a civil partnership with the mother;
- having his name registered or re-registered on the birth certificate if his name is not already registered*;
- entering into a parental responsibility agreement with the mother;
- obtaining a parental responsibility order from the court;
- having obtained a residence order prior to 22/4/2014;
- being named as the live with parent under a child arrangements order;

* The law has changed so that unmarried fathers who registered or re-registered their name on their child's birth certificate after 1st December 2003 will have parental responsibility for their child.

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Do I have any responsibilities for my child even though I do not have parental responsibility?

The law treats parental responsibility and child maintenance as being completely separate. An unmarried father who does not have parental responsibility still has a duty towards his child to provide child support maintenance. An unmarried father without parental responsibility will also still have some rights, for example:

- he has an automatic right to apply to the court for certain court orders in respect to his child; and
- if the child is in Local Authority care, he has a right to have reasonable contact with his child.

What is a parental responsibility order?

A parental responsibility order is an order under the Children Act 1989 that fathers can apply for when they are not married or in a civil partnership with the mother and the mother refuses to allow the father to be registered or re-registered on the birth certificate or refuses to sign a parental responsibility agreement with him.

The court will consider the factors that the court considers relevant from the case of *Re H (minors) (Local Authority: Parental Rights) (No 3) [1991]* (the 'Re H factors'):

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- The father's degree of commitment to the child;
- The state of the father's current relationship with the child;
- The reason for making the application.

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Do all parental responsibility holders have to agree before a decision can be made?

In most cases, decisions can be taken by one parental responsibility holder.

For example, a school may only need consent from one person with parental responsibility to take the child on a school trip. If the other parent strongly objects, they could seek a prohibited steps order from the court to prevent this from happening.

Where there is a major decision to be made about the child's life, all those with parental responsibility will need to agree. For example, if one parent wants to change the name of the child, move abroad with the child, or have the child put up for adoption, all those with parental responsibility must agree.

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