

Appendix 3: Frequently Asked (Legal) Questions about delegated authority

1. What is parental responsibility?

Parental responsibility (PR) is defined in law as: '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'.

This means that a person with parental responsibility is responsible for the care and wellbeing of the child and, unless a court order says something different, that person, and anyone else that also has parental responsibility, can make important decisions about the child's life (subject to important exceptions set out in the *Delegated Authority Handbook for Social Workers and Foster Carers**).

2. Who has Parental Responsibility?

A child's foster carer never has PR.

- The child's mother has PR from birth.
- The child's father, if married to the mother at the time of the child's birth, has PR.
 - Where a child's father was not married to the mother at birth he can acquire PR if he subsequently marries the mother or:
 - *he becomes registered on the birth certificate as the child's father (for a child born after December 2003)*
 - *he and the child's mother make a parental responsibility agreement providing for him to have PR for the child*
 - *the court makes a parental responsibility order in favour of the father.*
- The local authority also has PR if the child is subject to a Care Order, Interim Care Order or Emergency Protection Order. Note that when a child is accommodated by agreement (s20 CA1989), the parents (and others with PR) retain their PR and the local authority does not have PR.
- A person with a residence or Special Guardianship Order from the court has PR.
- Prospective adopters who have a child formally placed with them for adoption by the court have PR, although the adoption agency may restrict their exercise of PR.
- An adoption agency has PR throughout the time that a child is authorised to be placed for adoption.
- Adoptive parents have PR and the birth parents cease to have PR from the moment the adoption order is made.
- A step-parent or civil partner may obtain PR by agreement with all the people who have PR, or via a Court Order.
- A guardian who is appointed after the death of a parent or other person with PR has PR, provided the proper legal formalities have been followed.
- A second female parent can acquire PR in a similar way to an unmarried father.

* published by the Fostering Network 2011 (see www.fostering.net)