

**PARENTAL RIGHTS AND RESPONSIBILITIES**

1. Article 44 of the Education and Libraries (NI) Order 1986 (the 1986 Order) sets out the general principle that, “so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents”.
2. Article 45 of the 1986 Order places a duty on the parent of a child of compulsory school age to make sure that he/she receives efficient full time education suitable to his/her age, ability and aptitude and to any special educational needs that he/she may have, either by regular attendance at school or otherwise.
3. In education legislation, ‘parent’ in relation to a child or young person includes any person who has parental responsibility for him/her or care of him/her.

**PARENTAL RIGHTS**

4. Parents have considerable rights in law in relation to their children’s education. The following are some of the rights that parents have under current education legislation:
  - Article 9 of the Education (NI) Order 1997 provides for parents to express their preferences in respect of the admission of their child to a school;
  - Article 15 of the Education (NI) Order 1997 enables parents to appeal against certain school admission decisions;
  - Article 21 of the 1986 Order enables parents to request that their child be withdrawn from religious education and collective worship;
  - Article 24 of the Education (NI) Order 2006 entitles parents to receive an annual report about their child’s progress at school;
  - Article 49 of the 1986 Order (as substituted by Article 39 of the Education and Libraries (NI) Order 1993) provides for parents to appeal against a decision by school authorities to expel their child from school (if the child is under the age of 18). Article 32 of the Education (NI) Order 2006 will replace these provisions when commenced;
  - Article 136 of the Education Reform (NI) Order 1989 provides for parents to make a written request that their child is not entered for an examination;
  - Article 125 of the Education Reform (NI) Order 1989 provides for parents to receive a copy of the Board of Governors’ Annual Report;

- Schedules 4, 5, 6 and 7 to the 1986 Order and Schedule 5 to the Education Reform (NI) Order 1989 provide for parents to stand for election and vote in the election to be a parent governor of the school;
- Article 70 of the Education Reform (NI) Order 1989 provides for parents to vote in ballots to change the school's status to grant maintained integrated or controlled integrated;
- The Education (School Information and Prospectuses) Regulations (NI) 2003 require schools to provide parents with a wide range of information relating to access to school policies, school daily start and closing times, pupil dress, school meals arrangements, school holidays, etc;
- The Freedom of Information Act 2000 (DE Circular 1999/17 refers) also provides parents with rights of access to information regarding their children.

5. Also,

- The statutory Code of Practice on the Identification and Assessment of Special Educational Needs provides for parents to be consulted during the statutory assessment and statementing process, where their child has special educational needs and to give any necessary approval;
- The scheme of management provides for parents to receive a summary or a copy of the full report on their child's school, issued by the education and training Inspectorate (ETI) following an inspection of the school by the ETI.

6. In addition, it is best practice to:

- provide parents with the opportunity to discuss their child's progress at school with the classroom teacher;
- invite parents to give permission for activities such as school trips, after school activities and medical or dental examinations;
- facilitate a School Parents' Association.

## **PARENTAL RESPONSIBILITY**

7. The Children (NI) Order 1995 introduces the concept of parental responsibility; it states who automatically has this responsibility and how it may be acquired by others. The possibility of others acquiring parental responsibility has implications for schools – those who acquire parental responsibility, generally have the same rights as parents under current education legislation and may wish to exercise them.

8. 'Parental responsibility' in the Education Orders has the same meaning as in the Children (NI) Order 1995.

9. The Children (NI) Order 1995 defines parental responsibility 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.” In the context of education, the only rights a parent has, which a person with parental responsibility does not have, under the Education Orders, are the rights in relation to parent Governors and voting to change a school’s status to integrated status.

### **Who automatically has parental responsibility?**

10. A mother always has parental responsibility. The only exception to this is when an adoption order or an order freeing a child for adoption is made.

11. Parents who were married at the time of the child’s birth or parents who were married at the time of the child’s adoption, each retain parental responsibility, regardless of separation or divorce at a later stage.

12. Where a child’s mother and father were not married to each other at the time of the child’s birth, then only the mother automatically has parental responsibility for the child. If the child’s parents subsequently marry, then the father automatically acquires parental responsibility.

### **Who can acquire parental responsibility?**

13. The person most likely to acquire parental responsibility rights, is a father who remains unmarried to the child’s mother. This may be done by:

- becoming registered as the child’s father;
- making a Parental Responsibility Agreement with the mother;
- applying to the court for a Parental Responsibility Order; or
- having a Residence Order made in his favour.

14. Anyone in whose favour a Residence Order is made will have parental responsibility, while the Order remains in force. Most Residence Orders are made in favour of a relative, such as a grandparent or step parent.

15. A Health and Social Care Trust acquires parental responsibility while an Interim or Final Care or an Emergency Protection Order is in force.

### **Can parental responsibility be shared by more than one or two parties?**

16. More than one person can have parental responsibility for the same child at the same time and neither parent will lose it solely because it is acquired by someone else through a court order.

17. When a Health and Social Care Trust becomes legally involved with a child, while parents do not lose parental responsibility, the Trust is given powers to determine, with certain restrictions, the extent to which another person with parental responsibility may act.

## **What happens if those with parental responsibility disagree?**

18. Any person who has parental responsibility may act alone. Where there is disagreement between those with parental responsibility on any course of action affecting the child, any of the parties involved may apply to the Court for a decision.

## **IMPLICATIONS FOR SCHOOLS**

### **What does this mean for schools?**

19. It means that anyone who has parental responsibility for a pupil or has care of him/her is entitled to exercise almost all of the rights given to parents in education legislation.

### **Must schools find out about all persons who have parental responsibility for a pupil?**

20. No. Schools are not required to take any special action to find out about all persons who have parental responsibility for their pupils. It is for these persons to inform the school and make appropriate arrangements.

### **What action should a school take if an approach is made about parental responsibility?**

21. Before any action can be taken to accommodate a request to exercise the rights of a person claiming to have parental responsibility, the school will need to:

- confirm that the person has parental responsibility;
- establish which rights will be exercised independently or on a shared basis; and
- make the necessary administrative arrangements.

All such requests should be handled sensitively and confidentially.

### **How can parental responsibility be verified?**

22. This may be done by:

- asking for verification from the person making the approach about parental responsibility;
- where a parental responsibility agreement has been made with the pupil's mother, asking the father to produce a copy of the agreement for inspection; or
- where a Parental Responsibility Order has been made, requesting a copy of the Order for inspection.

If the school has any concerns about the validity of the documents produced, the ELB/ESA Education Welfare Service can provide help and assistance.

### **How should the position on the exercise of rights be established?**

23. The exercise of all parental rights may not be appropriate in all cases, as for example in the case of a Health and Social Care Trust exercising parental rights.

24. It is important for the school to establish if these rights are to be exercised independently or on a shared basis.

### **What administrative action should be taken?**

25. When a school has verified where parental responsibility lies and has established the position in respect of education rights, appropriate arrangements should be made to ensure that these rights can be exercised.

## **THE LAW**

The Children (NI) Order 1995

## **GUIDANCE**

The Children (NI) Order 1995 - An introductory Guide for Schools

DE Circular 1999/17 Parental Responsibility: Guidance to Schools

<http://www.deni.gov.uk/dc1999-17circular-2.pdf>