



Separated Parents Policy

Governing Body Sub-committee

Name: Student Matters, Equality and Community

Date approved: 10 October 2019

Full Governing Body (if applicable)

Date approved:

This policy takes into account the following legislation and Derbyshire County Council's requirements for schools:

- Children and Families Act 2014;
- Child Arrangement Order (Sc8 Children Act 1989);
- Human Fertilisation and Embryology Act 2008;
- Private Fostering Arrangements (Children Act 1989, Private Fostering Regulations 2011);
- Special Guardianship Order (Regulations 2005 & 2016);
- DCC Complaints Procedures.

We will also refer to the DfE guidance, September 2018, Understanding and dealing with issues relating to parental responsibility:

<https://www.gov.uk/government/publications/dealing-with-issues-relating-to-parental-responsibility/understanding-and-dealing-with-issues-relating-to-parental-responsibility>

1. Introduction and Context

Research and experience have shown that separated parents can work well together in the best interests of their children and can together play a role in their children's education. However, some parents become estranged, and do not work together or in the best interests of their children, especially during the initial stages of their separation. This is very often traumatic for any children concerned where personal family problems can have an impact on the child and on the schools the children attend.

This policy summarises the legal framework and recommended guidance in respect of separated parents. This policy is an attempt to minimise any impact, clarify to all parties what is expected from separated parents and what can be expected from the school / staff.

The definition of a parent for school purposes is much wider than for any other situation. The Education Act 1996 defines a parent as:

- *All natural parents, including those that are not married;*
- *Any person who has parental responsibility but is not a natural parent e.g. a legally appointed guardian or the Local Authority named in a Care Order;*
- *Any person who has care of a child or young person i.e. a person with whom the child resides and who looks after the child irrespective of the relationship*

Who has "Parental Responsibility"? (The Children Act 1989, amended by the Children and Families Act 2014)

Having parental responsibility means assuming all the rights, duties, powers, responsibilities and authority that a parent of a child has by law. Parental responsibility can be removed in some circumstances.

People other than a child's natural parents can acquire parental responsibility through:

- *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 a result of a court order*
- *Being granted a Child Arrangements Order;*
- *Being appointed a Guardian;*
- *Being granted a Residence Order;*
- *Being named in an Emergency Protection Order (although parental responsibility in a such a case is limited to taking reasonable steps to safeguard or promote the child's welfare);*
- *Being granted a Special Guardianship Order;*
- *Adopting a child.*
- *A parent by virtue of the Human Fertilisation and Embryology Act 2008*

If the parents of a child were not married to each other when the child was born, the mother automatically has parental responsibility; however, the father only has parental responsibility from 1st December 2003 and by jointly registering the birth of the child with the mother. He can, however, subsequently acquire parental responsibility by various legal means.

What does having “care” of a child mean”?

Having care of a child or young person means that a person who the child lives with and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law. This could be shown by: Interaction with the school – attending meetings, making phone calls, being on the School's record as being involved (in whatever capacity) etc. Residence with the child where, for all intents and purposes, the person is part of the family, a man or woman married to a parent of a child.

For example:

- Are they listed on school records?
- Does the school have contact details for them?
- Do they meet with teachers/attend parents' evenings?
- Have they been involved with the measures designed to improve attendance?
- Do they contact the school on behalf of the child when s/he is ill?
- Do they live with the child?
- How long has the school known of them being connected with the child?
- Does the adult bring/collect the child to/from school?
- Is the adult married to the parent of the child?

It would not be appropriate to assume that someone having a “casual” relationship with the parent of a child necessarily has ‘care of the child’ unless we have cause to believe the person has some involvement with the child’s life – living with the child could be a determining factor as could the other examples outlined above.

It is therefore those adults who are having significant input to a child’s life who can be classified as “parent”, having “parental responsibility” or who have “care of a child”. As a school we will use this guideline when separated parents make contact.

Parents as defined above are entitled to share in the decisions that are made about their child and to be treated equally by schools. We aim to collaborate with parents in the best interests, and listen to all parties.

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. There may be occasions when this school needs to decline requests for action from one or more parents.

Individuals who have parental responsibility for, or care of, a child have the same rights as biological parents. For example to:

- receive information – such as pupil reports
- participate in statutory activities – such as voting in elections for parent governors
- be asked to give consent - such as to the child taking part in school trips
- be informed about meetings involving the child - such as a governors’ meeting on the child’s exclusion

Entitlements also include:

- Appeal against admission decisions
- Ofsted & school based questionnaires
- Attend parent meetings/school events
- Have access to school records, receive copies of school reports, newsletters, invitations to school events, school photographs relating to their child and information about school trips.

The Governing Body recognise that while the parents of some pupils may be separated they are entitled to the above and this entitlement cannot be restricted without a specific court order. In particular, the school does not have the power to act on the request of one parent to restrict another.

The information provided to the school when the child was enrolled detailing whether parents have parental responsibility for the child will be presumed to be correct unless a court order or original birth certificate proving otherwise is provided to the school.

Similarly, the information provided on the address(es) where the child resides will be presumed to be correct unless a court order proving otherwise is provided to the school.

If parental responsibility, addresses and contacts are unclear, then we will make reasonable enquiries to ascertain the information.

If a child or young person and is under 16 and is living with someone other than a close family relative eg- grandparent then this may be a private fostering arrangement and the local authority will need to be notified. We will notify the local authority if this is found to be the case and we have a separate policy on private fostering which we will also refer to in this situation.

In any event and if at any time it appears that there is not anyone with parental responsibility who is caring for a child or if it is unclear, and we have taken reasonable steps to find out, we will involve the Local Authority to help clarify and resolve.

2. Our responsibilities

Belper School fully recognises its responsibilities, and it is our sole wish to promote the best interests of the child, working in partnership with all parents.

We will maintain our open door policy with all parents, and the relevant teacher will be available by appointment to discuss any issues or concerns with regard to separated/divorce estranged parents may have in relation to their child or children at the school.

Parents will be encouraged to resolve any issues around estrangement, contact and access to information without involving Belper School directly.

Issues of estrangement are a civil/private law matter and Belper School cannot be involved in providing mediation, helping an estranged parent to communicate with their child or children, or using the school premises for purposes of contact.

In the event that the parents are unable to agree with one another on decisions regarding their child's educational programme, including but not limited to placement, participation in extracurricular activities, and consent to evaluation and services, Belper School will not arbitrate and will ask parents to resolve the issues between themselves and to revert to the school with the solution.

In cases where there is continued conflict and this cannot be resolved, we will advise the aggrieved parent to pursue the matter through the Family Court.

The interests of the child will always be paramount when deciding whether to accommodate a request from an estranged parent. We recognise that a Court Order can restrict a parent in having contact/access to information and we may be bound by this. In this situation we will consult with the Local Authority to obtain advice as this may constitute a safeguarding concern.

In any event whereby the parents' estrangement appears to impact upon the health, wellbeing and safety of a child the matter will be referred to the Local Authority for advice.

Should there be any disagreement between this school and the parent Belper School may advise the parent to use the Complaints process.

3. Our Policy

It is the responsibility of the parents to inform the school when there is a change in family circumstances. Our School needs to be kept up to date with contact details, arrangements for collecting children and emergencies.

We encourage parents to tell us at an early stage if there is a change in family circumstances. Whenever possible, staff will be informed of such changes so that suitable support can be offered. We will, however, recognise the sensitivity of some situations and maintain the level of confidentiality requested by parents as far as possible

Newsletters and general school updates are available to all parents via the school website and are also usually distributed via the child. These updates will contain all the main events within school, including; productions, sports days, parents' evenings, etc. Occasionally letters are sent to individual classes/students regarding subject specific trips/events. We would expect parents to communicate these messages to each other as and when appropriate.

We will hold a yearly subject parent/carer evening for each year group. There is also an opportunity each spring at Mid-Year Tutor Review for parents/carers to speak with the tutor about their child's progress. We would expect parents to communicate with each other regarding these arrangements.

Whilst Belper School will consider separate appointments at these events by prior agreements only, or when a court order is in place restricting contacts between both parents, the school has no obligation to do so.

We expect that parents should liaise and communicate directly with each other in matters such as the ordering of school photographs; tickets for performances, enrichment activities and other instances.

A parent as defined in education law has the right to receive progress reports and review pupil records of their children. Parents also may apply to access their child's school information via the Parental Portal.

If the parents are separated or divorced, progress reports will be sent to the parent at the address in the school's records specifying where the child resides with the expectation that he/she will share the report with the other parent.

If the child is subject to a joint Child Arrangements Order and the school's records formally capture that the child resides at two addresses, then progress reports will be sent to both addresses. Separated parents can continue to access the Parental Portal information. This includes information relating to attendance and exclusions, unless outside agency advice has been sought and it is felt it would be detrimental to the child to communicate this information to the parent the child no longer resides with.

The school will send copies of the progress reports to a parent with whom the child does not reside only if that parent submits a written request.

In the matter of the release of a child or children during the school day:

Belper School will follow the standard agreed procedure in the release of a child or children.

In the case of separated parents our School will release a child or children to a parent or named contact, in accordance with any specific arrangements or a Court Order notified to the school.

If one parent seeks to remove the child from school in contravention of the notified arrangements, and the parent to whom the child would normally be released has not consented these steps will be followed:-

- The Head Teacher, designated Deputy Head or Senior Designated Safeguarding Lead or a member of the Safeguarding Team will meet with the parent seeking to remove/collect the child and, in his/her presence, telephone the parent to whom the child would normally be released and explain the request.
- 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 in this instance.
- 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 may make a decision based upon all relevant information available to him/her.
- The Head Teacher or staff member may have to refuse permission if agreement/consent cannot be obtained and may need to take advice before a child or children are collected / released.
 - Belper School cannot **prevent** the other parent collecting the child or children but we will endeavour to reach an agreement and this may mean keeping the child or children safe whilst Belper School staff try and reach such an agreement.

- If there is a Court Order restricting contact or it is in contravention of any access agreement, the child or children will not be released into their care and the other parent advised to take the necessary action which does not involve the school. If it is deemed necessary by the school to protect the child or children's health and welfare, the school shall immediately contact the police and the Local Authority where relevant.
- During any discussion or communication with parents, the child or children may be supervised by an appropriate member of school staff in a separate room to avoid causing any upset to the child or children.
- In circumstances if there is a belief that a possible abduction of the child may occur or if the parent is disruptive, the police should be notified immediately and the Local Authority notified.

4. Management of the Policy

The Head Teacher/Safeguarding Designated Lead(s)/ Safeguarding Team will familiarise themselves with this policy and ensure all Staff, Governors and Volunteers are aware of the procedures to follow should the need occur.

The policy will be made available to parents and published on our school website.

Signed by:

Signed by:

Head Teacher

Chair of Governors

Date:

Date:

Appendix A

Child Arrangements Orders

Applications for child arrangements orders are usually between private individuals, under s8 Children Act 1989. Where someone seeks an order in respect of a child who is in the care of the local authority it will be considered a public law matter.

In private law cases the child is not a party to the proceedings unless there are particular circumstances that make the case complex. The court can request a welfare report under s7 Children Act 1989, either from the local authority or from a Children and Family Reporter who is an officer appointed by Cafcass. The report will usually inform the court of the child's wishes and feelings, but the officer will make a recommendation based on what they think is in the child's best interests rather than just report on the child's wishes.

In some circumstances the court may order that the child is made a party to the proceedings. A Children's Guardian (who again is an officer of Cafcass) is appointed to represent the child in the proceedings and the Guardian will appoint a solicitor. If the child and Guardian do not agree on what recommendations to make to the court and the child is of sufficient age and understanding, they will be able to instruct a solicitor directly to represent their views and the Guardian will present their own views to the court.

Certain categories of people are entitled to make an application for a child arrangements order under s8 without having to seek permission from the court first, and they are:

1. The parent, guardian or special guardian of a child;
2. Any person who has parental responsibility;
3. Anyone who holds a residence order in respect of the child;
4. Any party to a marriage or civil partnership where the child is a child of the family;
5. Anyone with whom the child has lived for at least three years;
6. Anyone who has obtained the consent of:
 - a) a residence order;
 - b) the local authority if the child is in their care; or
 - c) everyone who has parental responsibility for the child.

Other people can make an application to the court for permission to issue an application for a child arrangements order. In deciding whether to give permission the court will take into account, amongst other things:

1. The nature of the application;
2. The applicant's connection with the child;
3. The risk there might be of the proposed application disrupting the child's life to such an extent that they should be harmed by it.

It is via this route that wider family members such as grandparents are able to apply for orders in respect of their grandchildren.

The Welfare Checklist - Section 1 Children Act 1989

When a court considers any question relating to the upbringing of a child under the Children Act 1989 it must have regard to the welfare checklist set out in s1 of that Act. Among the things the court must consider are:

1. The ascertainable wishes and feelings of the child concerned (considered in light of his age and understanding);
2. His physical, emotional and/or educational needs;
3. The likely effect on him of any change in his circumstances;
4. His age, sex, background and any characteristics of his, which the court considers relevant;
5. Any harm which he has suffered or is at risk of suffering;
6. How capable each of his parents and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
7. The range of powers available to the court under the Children Act 1989 in the proceedings in question.

For all proceedings under the Children Act 1989 when the court considers a question of the child's upbringing the child's welfare is the court's paramount consideration.

Child Arrangements Orders - Section 8 Children Act 1989

These orders decide who the child is to live with and/or who the child will spend time with, and can be granted to more than one person whether they live together or not. If a child arrangements order states that the child will live with a person, that person will have parental responsibility for that child until the order ceases. Contact with a child can either be direct e.g. face to face meetings, or indirect e.g. by letter or exchange of cards.

Some orders will make very specific arrangements for the child, other orders will be more open with detailed arrangements to be made between the parties by agreement. Child arrangements orders are not only made in respect of parents; there can also be orders for arrangements between siblings, and wider family members. Sometimes the order will give directions that contact is to be supervised by a third person, or that contact is to take place in a specific location. Failure to comply with an order may result in the court making further orders specifying activities for a party to undertake or the court making other enforcement orders which can include an order for unpaid work.

Parental Responsibility - Sections 3 and 4 Children Act 1989

Parental responsibility means 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.

The birth mother of a child will always have parental responsibility unless it is extinguished by the making of an adoption order to another person.

Where the child's father and mother are married to each other at the time of the birth, they both have parental responsibility for the child.

Where the child's mother and father are not married to each other at the time of the birth the general rule is that the mother has sole parental responsibility for the child. However, an unmarried father will have parental responsibility for a child born after 1st December 2003 if he is named on the Register.

Other ways in which a father can obtain parental responsibility are by:

1. drawing up an agreement with the mother (a parental responsibility agreement), which is a specific form that has to be signed by both parents;
2. marrying the mother;
3. the court making a child arrangements order for parental responsibility if the parents cannot agree on the father having parental responsibility.

Other people may acquire parental responsibility by entering into an agreement if they are the husband or civil partner of the mother, or if they obtain a child arrangements order for residence. More than one person can have parental responsibility for the same child at the same time. Parental responsibility is shared between everyone, but where more than one person has parental responsibility for a child each of them may act alone in meeting that responsibility except in circumstances where the consent of everyone with parental responsibility is required.

Appendix B

Information Chart

Type of Relationship	Who has this relationship	Further information
Parent	<p>All natural parents, including those not married</p> <p>Anyone who has parental responsibility (see below)</p> <p>Any person who has care of a child (see below)</p> <p>Parents may be separated, but they are still a parent unless this is restricted by a court order. The school does not have the power to act on request of one parent to restrict another</p>	<p>All parents are entitled to a share in the educational decisions made around the child and the school must treat them equally</p> <p>Parents have equal rights to receive information from the school around the educational life of the child. However, there is an expectation that certain information will be communicated between the parents without involving the school (see policy for more details)</p>
Parental Responsibility	<p>Child's natural mother under all circumstances.</p> <p>Child's natural father, if;</p> <ul style="list-style-type: none"> • he is married to the mother at the child's birth or, if not married, being on the child's birth certificate (from 01-02-2003 onwards) • he has drawn up an agreement with the mother (a parental responsibility agreement), which is a specific form that has to be signed by both parents • he has married the mother • the court has made a child arrangements order for parental responsibility if the parents cannot agree on the father having parental responsibility. 	<p>The information received by the school on admission detailing whether parents have parental responsibility for the child will be presumed to be correct unless an original birth certificate or court order is produced to the school proving otherwise</p> <p>Similarly information provided on the address(es) where the child resides will be presumed to be correct, unless a court order proving otherwise is provided to the school</p> <p>For more information on this subject go to https://www.gov.uk/parental-rightsresponsibilities</p>

Type of Relationship	Who has this relationship	Further information
	<p>Other people may acquire parental responsibility by entering into an agreement if they are the husband or civil partner of the mother, or if they obtain a child arrangements order for residence.</p> <p>More than one person can have parental responsibility for the same child at the same time. Parental responsibility is shared between everyone, but where more than one person has parental responsibility for a child each of them may act alone in meeting that responsibility except in circumstances where the consent of everyone with parental responsibility is required.</p> <p>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 a result of a court order</p> <p>A legally appointed guardian e.g. Local Authority named on a care order</p> <p>Being named on an Emergency Protection Order, although this usually limits the parental responsibility to taking reasonable steps to safeguard or promote the child's welfare</p>	

Type of Relationship	Who has this relationship	Further information
Care of a Child	<p>Any adult with whom the child resides and who looks after the child, irrespective of the blood or legal relationship. This can be shown by interaction with the school e.g. attending meetings, phone calls, being on the school record as involved with the child (in whatever capacity)</p> <p>Residence with the child where to all intents and purposes the person is part of the family</p> <p>Being married to the other parent</p> <p>Examples below will help establish this relationship</p> <ul style="list-style-type: none"> • Are they listed on school records? • Does the school have contact details for them? • Do they meet with teachers/attend parents" evenings? • Have they been involved with the measures designed to improve attendance? • Do they contact the school on behalf of the child when s/he is ill? • Do they live with the child? • How long has the school known of them being connected with the child? • Does the adult bring/collect the child to/from school? • Is the adult married to the parent of the child? 	Having care of a child confers similar rights to those of a parent

Type of Relationship	Who has this relationship	Further information
<p>Child Arrangement Order</p>	<p>Applications for child arrangements orders are usually between private individuals, under s8 Children Act 1989. Where someone seeks an order in respect of a child who is in the care of the local authority it will be considered a public law matter.</p> <p>Certain categories of people are entitled to make an application for a child arrangements order under s8 without having to seek permission from the court first, and they are:</p> <ol style="list-style-type: none"> 1. The parent, guardian or special guardian of a child; 2. Any person who has parental responsibility; 3. Anyone who holds a residence order in respect of the child; 4. Any party to a marriage or civil partnership where the child is a child of the family; 5. Anyone with whom the child has lived for at least three years; 6. Anyone who has obtained the consent of: <ol style="list-style-type: none"> a) A residence order; b) the local authority if the child is in their care; or c) everyone who has parental responsibility for the child. <p>Other people can make an application to the court for permission to issue an application for a child arrangements order. In deciding whether to give permission the court will take into account, amongst other things:</p> <ol style="list-style-type: none"> 1. The nature of the application; 2. The applicant's connection with the child 3. The risk there might be of the proposed application disrupting the child's life to such an extent that they should be harmed by it. <p>It is via this route that wider family members such as grandparents are able to apply for orders in respect of their grandchildren.</p>	<p>These orders decide who the child is to live with and/or who the child will spend time with, and can be granted to more than one person whether they live together or not. If a child arrangements order states that the child will live with a person, that person will have parental responsibility for that child until the order ceases. Contact with a child can either be direct e.g. face to face meetings, or indirect e.g. by letter or exchange of cards.</p> <p>Some orders will make very specific arrangements for the child, other orders will be more open with detailed arrangements to be made between the parties by agreement. Child arrangements orders are not only made in respect of parents; there can also be orders for arrangements between siblings, and wider family members. Sometimes the order will give directions that contact is to be supervised by a third person, or that contact is to take place in a specific location.</p>