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Separated parents: rights and responsibilities Guidance for Trust schools

Date of last review:	Sept 26	Date of next review:	Sept 27
Author:	HR & Policy Manager	Owner:	Chief Operating Officer
Type of policy:	Trust-wide	Approval:	Education Standards Committee

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1. Introduction

This guidance document sets out what parents' rights and responsibilities are with regards to accessing and participating in decisions about their child's education including:

- Who is a parent?
- How to check and confirm parent details and responsibility
- Rights of separated parents
- Getting consent
- Sharing information
- How to avoid common conflicts and disputes.

2. Who is a parent?

For the purposes of education law, parents include:

- **All biological parents**
- **Any person who has parental responsibility for a child or young person**, even if they're not biologically related (e.g. adoptive parents, step-parents or guardians)

- **Any person who has care of a child or young person but is not a biological parent** and does not have parental responsibility - usually the person with whom the child lives, even if they do not have legal responsibility (e.g. a foster carer).

This is outlined in Department for Education (DfE) guidance on parental responsibility.

It is possible to lose parental responsibility, for example, if a parent and step-parent divorce. However, it's also possible for the step-parent to keep parental responsibility in that circumstance, so always check whether the official status of the parents has changed.

Resident parents

When parents separate, the resident parent is the parent the child lives with most of the time. If a child lives with each parent for an equal amount of time, both parents count as resident parents.

3. Getting and checking parent details

In order to ensure that the school hold the most up to date parental details the intake forms should ask for this information and have in place a periodic method of securing an update. It should record all persons who have parental responsibility; this is not the same as emergency contact in the event of an absent parent. You should ensure that your intake/registration form (and periodic updates) captures for all parents:

- Contact details (including a name, address and telephone number)
- Relationship to the child
- Living arrangements – i.e. whether they live with the child full time or part time

A template form is included at Appendix 1. This could also add be added to any existing intake/registration form. Once the information is received, a copy should be stored in the pupil's file, or on SIMs.

Checking parental responsibility

Parental responsibility for a child may need to be checked in a number of circumstances, for example:

- If the child's resident parent doesn't name a non-resident parent on the registration, application or intake form
- 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

The Local Authority that coordinates your school's admissions will be able to offer advice on how to check parental responsibility. If there is **any doubt as to parental responsibility** you should contact the Trust's legal advisors, Winckworth Sherwood, via the School Support line: 0345 070 7437 or by email schoolsupport@wslaw.co.uk

If you don't know the whereabouts of the non-resident parent

Let the resident parent know that the other parent has the right to be involved in their child's education. Request their contact details, or ask them to pass on information. Conflicts over information sharing is covered further in section 6 below.

4. Rights of separated parents

Each person with parental responsibility for a child is entitled to:

- Receive information about their child
- Request to see their child's educational record
- Be informed about meetings involving their child (such as parents' evenings or an exclusion hearing)
- Be asked to give consent (for things like school trips or sharing photos of the child on your school's website)
- Collect their child from school unless this is against specifications set out in a court order (find out more in section 8 below)

This means that one parent cannot prevent others with parental responsibility from doing any of the things listed above. For example, a biological parent cannot request that the school do not share information about a child's education with a step-parent the child lives with. That's because they both count as 'parents' under education law.

5. Getting consent

For activities and outings, consent should be sought from the resident parent unless:

- The activity is likely to have a long-term and significant impact on the child, or
- The non-resident parent has asked the school to seek their consent in all such cases.

What to do if parents do not agree on whether to give consent

Treat it as if consent has not been given if parents cannot agree on whether to consent to something. For example, if one parent consents to the child's picture being used on a school's website, and another doesn't, act as if consent was not given.

Appendix 2 has a model letter below to communicate this situation to them.

It is not the responsibility of the school to try to get parents to agree, and the school should not get in the middle of any disputes between parents about consent. If parents try to involve the school in this kind of dispute, advise them to seek independent legal advice, or use a mediator.

6. Sharing information

Day-to-day matters

For day to day matters, the school’s point of contact is likely to be the child's resident parent, unless it is considered necessary or where the non-resident parent has specifically requested the information. For absence matters, particularly unauthorised absence or persistent absence that may result in actions being taken against the parents, both the resident and non-resident parent should be kept informed.

What to do if one parent tries to prevent another getting information

If the school cannot contact a parent directly and the other parent refuses to provide their contact details or share information with them, there isn't anything more the school can do. If the non-resident parent then gets in touch with the school school to ask for information, the

school should provide it to that parent directly (once you've checked that the individual is the child's parent).

It is not necessary to:

- To request a solicitor's letter to prove that the non-resident parent is the child's parent
- To seek consent from the resident parent to record the non-resident parent's contact details, or to send them their child's statutory educational information
- A court order directing the school to provide statutory information to any parent who is entitled to it.

Pupils aged 13 and over

Pupils aged over 13 and over can assume control over their personal information and restrict access to it, under the GDPR and the Data Protection Act 2018. However, they cannot stop a parent from accessing their educational record. Further detail on this can be found in the DfE's guidance.

The school must provide parents of the registered pupil with an annual written report of their progress and attainment in the main subject areas taught, unless the parent has agreed otherwise.

Sharing requirements in academies are based on Part 6 of the Schedule to the Education (Independent School Standards) Regulations 2014.

Changing a surname

A change of a child's name is private law and should be resolved between parents. Schools must not change a child's surname in their records without written evidence that consent has been given by both parents and/or anyone who has parental responsibility.

Requests for information

Any requests for information or a report from the school for court proceedings **must** only be provided at the request of the court, not from a parent. If the school receive such a request, this must be sent to the Trust Data Protection Officer before responding – dpo@kcsp.org.uk

Any other requests for information from a parent about their child would be classed as a Data Subject Access Request and must also be sent to the dpo@kcsp.org.uk before responding.

7. How to avoid common conflicts

Parents may ask the to do things like:

- Limit the amount of information another parent gets
- Prevent another parent attending school events

In these circumstances, explain that the school 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)

Parents' evenings and other events

This may become an issue when there is limited time or space. For example:

- If capacity restrictions mean the school can only provide 2 tickets per child to a school play or
- Parents who are not on speaking terms both want to attend parents' evening.

Where possible, avoid imposing decisions or restrictions on separated parents. Try to be accommodating where possible (e.g. provide 2 parents' evening slots to avoid conflict). However, it is important to place the responsibility on parents to try to come to an arrangement themselves.

Set clear boundaries

Separation can cause real upheaval in pupils' lives, so make sure the school are providing the pastoral support the child needs to continue to feel safe and supported at school. However, that does not mean that the school need to act as a mediator between parents.

Be clear with parents about the role of the school, and that they should seek independent advice or support if they can't resolve conflicts themselves. It may be useful to have a meeting with all of the parents or important adults in a child's life so that:

- Everyone can focus on the child's needs, and agree clear expectations about supporting them through school
- the important relationships in the child's life are fully understood by the school in order to provide the best possible support
- The school can get mutual clarity on which parents want to be contacted about which things (for example, the parents may have already agreed that any consent forms are directed to 1 person).

8. Pupil collection arrangements

If there are any court orders in place that set out specific arrangements or restrictions for who can collect the child and when, ask parents/carers to include these in writing.

At collection time:

- If a parent/carer who has parental responsibility seeks to collect a child, you should release the child to them, even if it's against the wishes of their other parent/carer, **unless**:
    - It's against the specifications set out in a court order. If this is the case **do not** release the child
    - You have concerns for the safety or wellbeing of the child. If you do have concerns, **do not** release the child, and contact the Police or your LA's children's services
- If you have allowed a parent/carer with parental responsibility who doesn't normally collect a child to do so, the Headteacher or another member of the SLT, should inform the parent/carer who usually collects the child that they have been released to the other parent.

In order to protect the pupil’s wellbeing, it might be best to have them looked after by a member of staff in another room if you need to check any arrangements, especially if parents are becoming aggravated or are arguing.

Appendix 1 - Parent information form

PUPIL INFORMATION	
SURNAME	
FIRST NAME	
DATE OF BIRTH	

Parent details

We need to collect details of every parent. For the purposes of the school, you're a child's parent if you:

- Are the child's biological parent
- Aren't the child's biological parent, but have parental responsibility for them (e.g., adoptive parents, step-parents or guardians)
- Have the child in your care (e.g., foster carers)

We need these details so we can meet our statutory responsibilities towards all parents.

- If there's a court order that affects who has parental responsibility for the child, please contact the school office

PARENT 1	
SURNAME	
FIRST NAME	
HOME ADDRESS	
HOME PHONE NUMBER	
MOBILE PHONE NUMBER	
WORK ADDRESS	
WORK PHONE NUMBER	
EMAIL ADDRESS	
RELATIONSHIP TO CHILD	
DO YOU LIVE WITH THE CHILD? (circle the most appropriate response)	Yes, full-time / Yes, part-time / No
IF YOU ANSWERED 'YES, PART-TIME', PLEASE SPECIFY (For example, 'every other week', 'weekends only', or 'every week Monday-Thursday')	

PARENT 1 PARENT 2	
SURNAME	
FIRST NAME	
HOME ADDRESS	
HOME PHONE NUMBER	
MOBILE PHONE NUMBER	
WORK PHONE NUMBER	
WORK ADDRESS	
EMAIL ADDRESS	
RELATIONSHIP TO CHILD	
DO YOU LIVE WITH THE CHILD? (circle the most appropriate response)	Yes, full-time / Yes, part-time / No
IF YOU ANSWERED 'YES, PART-TIME', PLEASE SPECIFY (For example, 'every other week', 'weekends only', or 'every week Monday-Thursday')	

PARENT 3	
SURNAME	
FIRST NAME	
HOME ADDRESS	
HOME PHONE NUMBER	
MOBILE PHONE NUMBER	
WORK PHONE NUMBER	
WORK ADDRESS	
EMAIL ADDRESS	
RELATIONSHIP TO CHILD	
DO YOU LIVE WITH THE CHILD? (circle the most appropriate response)	Yes, full-time / Yes, part-time / No
IF YOU ANSWERED 'YES, PART-TIME', PLEASE SPECIFY (For example, 'every other week', 'weekends only', or 'every week Monday-Thursday')	

PARENT 4	
SURNAME	
FIRST NAME	
HOME ADDRESS	
HOME PHONE NUMBER	
MOBILE PHONE NUMBER	
WORK PHONE NUMBER	
WORK ADDRESS	
EMAIL ADDRESS	
RELATIONSHIP TO CHILD	
DO YOU LIVE WITH THE CHILD? (circle the most appropriate response)	Yes, full-time / Yes, part-time / No
IF YOU ANSWERED ‘YES, PART-TIME’, PLEASE SPECIFY (For example, ‘every other week’, ‘weekends only’, or ‘every week Monday-Thursday’)	

Appendix 2 - Separated parents: model letter about consent

Parent name

Parent address

Dear [name],

The school recently asked you to sign and return a consent form for [insert details].

On this occasion, you [granted/didn't grant] consent, but [name of other parent] [granted/didn't grant] consent.

In situations like this, it's our school's policy to act as though consent **hasn't been given** if both parents don't agree.

This means that, at present, [pupil name] won't [include details, e.g 'be attending the school trip to the Globe Theatre'].

If you and [name of other parent] wish to change your response to the consent request, you both need to inform the school in writing. Please email [insert email address] by [insert date].

Sincerely,

SIGN OFF