

## What are the rights for men who father children but are not on the birth certificate?

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Being a parent can be an equally challenging and rewarding experience. Although some focus is on the rights that parenthood confers upon them with respect to a child, the law instead focuses on responsibilities which legal parents must uphold, a concept known as 'parental responsibility'. The focus is on the benefit to the child, not to the parent.

Not all parents have these responsibilities however. If the parents are married, or the father is named on the child's birth certificate, they are recognised as the child's legal father. However, when children are born out of wedlock, the biological father is not always listed on the birth certificate and being recognised as the legal parent of a child can be a legal and emotional challenge.

If you believe you are the biological father of a child but the mother has not recognised you as such on the certificate, what legal rights and responsibilities do you have? How can you go about legally proving this to a court?

Parental responsibility alone does not enable a parent to interfere in day-to-day decisions involved in a child's care. It is instead focussed on important occurrences in a child's life. This includes the need to be consulted on and consent to decisions relating to schooling, medical treatment, religion, change of surname and removal from the jurisdiction.

However if an unmarried father is not listed on the birth certificate, the mother can take the child abroad, even permanently, without notice to the father and has no duty to consult the father on the identity of the child's school, the religion they follow or whether or not the child should undergo medical treatment. The mother effectively controls his involvement in the child's life.

Parental responsibility does not affect a parent's duty to make financial provision for their child. All parents have a legal duty to pay towards their child, regardless of whether or not they hold parental responsibility.

An unmarried father not named on the birth certificate can obtain parental responsibility via two primary routes:

- He and the child's mother can make a parental responsibility agreement; or
- Order of the court.

By far the simpler route is to obtain the mother's agreement. However, this is not possible in all cases. Then, the father could make an application for a Parental Responsibility Order. This can be a standalone application to the court. The first issue will be paternity; if this is disputed, the court can order DNA testing.

Assuming this is positive, the court will then consider whether it is in a child's best interests to make the order for parental responsibility. Relevant factors include the degree of commitment the father has shown towards the child (often the making of the application itself is sufficient), the degree of attachment between a father and child and the motivation behind the application. Applications for parental responsibility are almost invariably granted, as high as 98 percent.

The acquisition of parental responsibility does not affect a parent's right to see their child. Applications for parental responsibility often accompany an application to regulate the child arrangements. Parental responsibility is a by-product of a 'live with' order, but such responsibility only lasts as long as the order is in force.

Therefore, it is usually better to make a stand-alone application for parental responsibility. These applications are more straightforward and may be granted more quickly than in protracted proceedings concerning child arrangements.

If an order for parental responsibility is made, the father has the right to be consulted and consent to decisions on the important decisions set out above. For example, the General Medical Council definition of 'parent' for the purpose of releasing medical information on a child, specifically refers to parental responsibility, not biology. The father would have greater rights in international law if the mother abducts the child to another jurisdiction.

It may also be relevant if a mother predeceases a minor child and has appointed a third party to act as a guardian. A father with parental responsibility can also apply without the mother's consent for the child's birth to be re-registered to include his name. There is also the incalculable benefit to the child of knowing that both of their parents have responsibility for him and have demonstrated commitment to him. It is also likely to bring significant benefit to the father in terms of emotional fulfilment and a closer emotional connection to his child.

The concept is known as 'responsibility' rather than 'right', as the emphasis is on the child, not the adult. It is always important to seek legal advice and to follow the correct steps to reach the outcome sought. Even though it can present legal and emotional challenges, obtaining parental responsibility can provide real benefit to the child. However, it is important to remember that this is just the start of raising a child, which will involve not just 18 years, but in many cases a lifetime of responsibility.