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Children Law Seminar

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Who gets PR?

Automatically:

- Birth mothers
- Married fathers/civil partners at time of birth

Acquiring PR:

- Unmarried father/second female parent who is registered on the birth certificate
- Those who have entered into a PR agreement with the birth mother
- Those who obtain it by court order



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- Anyone granted a lives with order
- Step-parents with the consent of the “real” parents or order of the court
- Special Guardians
- Adopters
- Local Authority in care cases

In these cases PR expires when the relevant order comes to an end.

Parental Responsibility

KL V. BA (Parental Responsibility)[2025] EWHC 102 (Fam)

- Background: Parties formed a relationship in 2019 and subsequently a child was born in May 2022. They were not married. The man, KL, believed he was the father and he and the mother, BA registered the birth together with KL being named on the birth certificate as the father.
- The relationship ended in December 2022. KL sought contact and BA agreed, but this broke down and KL then applied for a CA order in June 2023. BA then said KL was not the father and so DNA tests were obtained which confirmed that to be the case.



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- KL then made a pre-emptive application for PR in the expectation that BA would seek to have it removed.
- At a hearing before magistrates in Feb 2024 they were told that the PR existed and would continue to exist until it was removed.
- The hearing to determine the issue was listed before Theis J in December 2024

Parental Responsibility

- The issue was whether a man who was not married to child's mother yet was named as father on the birth certificate and later shown not to be the biological father, rendered his acquisition of PR under s 4(1)(a) of CA1989 void *ab initio*, or
- whether he had and retained PR that could only be removed by court order.
- If the latter were correct, the question arose as to whether the judge could make such an order automatically or whether a welfare analysis was required.

Parental Responsibility

- HELD: KL did not acquire PR under s.4(1)(a) of CA 1989 when he was mistakenly registered as the child's father on her birth certificate and so he had never held PR. The natural and ordinary meaning of the words used in the statute meant that he was not eligible to register the child's birth with the mother and thus acquire PR.
- The clear intention of Parliament was to convey PR only to biological fathers pursuant to that provision.
- There was no legal presumption that a man named on a birth certificate was the biological father. Rather, the registration of the birth was simply evidence of parentage and, if an issue arose as to that parentage, that must be resolved by the court: See **P v. Q and F (Child: Legal Parentage)[2024] EWCA Civ 878.**

Parental Responsibility

- The use of the word ‘person’ rather than ‘father’ in s.4(2A) of CA 1989 was entirely consistent with the ordinary meaning of the words used in s.4(1)(a) and did not require that s.4(1)(a) be interpreted as granting a man in KL’s position PR.
- As no legal difficulties resulting from a man’s putative PR being void *ab initio* were identified in the course of submissions or previously decided cases, the court was not persuaded that there was any public policy justifying a departure from the natural and ordinary words of s.4(1)(a). No order was required to remove PR.
- Consequently, KL’s application for PR would be considered in the usual way as a welfare decision. The child’s biological father had confirmed he did not wish to acquire PR.

- PR is automatically lost on the child's 18th birthday
- PR can only be lost by birth mothers or married fathers/civil partners is by an adoption order, or a parental order following surrogacy.
- PR of unmarried fathers / second female parents / step-parents may be terminated by the court

Losing PR

- In all other cases PR cannot be removed, so if the welfare of a child requires a parent with PR to be prevented from exercising it, an application will need to be made for specific issue orders to allow the other parent to exercise unilateral decision making power in relation to specific welfare issues (schooling/medical treatment/housing/travel etc)

- T-D [2024] EWCA Civ 793 is the latest case exploring the circumstances where the court will make to limit the exercise of a parent's PR where a welfare analysis justifies it.
- In that case an exceptionally acrimonious period of separation had led to the children being subject to care proceedings. The LA sought to place the children with the father under a supervision order. The Guardian recommended shared care.
- The court made a shared lives with order and an equal split of time, but it also made this order:



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- 7. Specific Issue Order.
- The court directs that the following questions insofar as they may in future arise in connection with parental responsibility for either or both children are to be determined by the father in the event of disagreement with the mother.
- a. All questions relating to schooling, this is to include which schools the children are to attend; who shall attend parents' evenings, sports events etc;
- b. All questions relating to future therapy including whether and if so on what basis therapy is to be provided; by whom, etc.;
- c. All questions relating to interactions with social workers and medical professionals, including what is to be said to them concerning the children and the extent to which they may be involved in the children's lives.
- 8. For the avoidance of doubt the father must still consult the mother in relation to decision making for all significant events in which he exercises overriding parental responsibility."



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- The mother appealed that part of the order. She succeeded on the basis that restricting the PR of a parent that the children were going to be living with for half of the time was unworkable, likely to lead to greater conflict, and unprincipled.



- This is the more usual type of case where PR is lost.
- After lengthy proceedings and a fully contested fact-finding hearing the court described the Father's conduct like this:

Following the hearing I delivered a judgment in which I made a number of findings against the father, including that he had perpetrated physical, emotional and sexual abuse against the mother. I found that the children had also been victims of domestic abuse. I did not find the allegations that the children were at risk of FGM to be made out, rather I found that the father's applications that would have resulted in restricting the mother's and girls' travel to [Country B], were a continuation of a pattern of controlling and coercive behaviour, seeking to reduce the mother's autonomy, and to isolate her from her family.

- After that fact-find, the Father had not engaged with Cafcass, the court proceedings or the Mother's solicitors. He had posted abusive messages on social media. He refused to have the supervised contact the court had ordered.
- Cafcass recommended a no contact order, and restricting PR to enable the mother to deal with the children's schooling, medical treatment, travel and keep where they lived secret



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- The court accepted all of the recommendations save for the medical autonomy. The Mother had autonomy over day to day things, but for more serious medical decisions the judge urged the clinicians to make decisions which were in the best interests of the child, and to be given a copy of the order so they could see why seeking the Father's consent would probably not be helpful.

The A v A list – what is PR?

From A v A [2004] EWHC 142 Fam / 1 FLR 1195

Wall J

(1) Decisions that could be taken independently and without any consultation or notification to the other parent:

- How the children are to spend their time during contact
- Personal care for the children
- Activities undertaken
- Religious and spiritual pursuits
- Continuance of medicine prescribed by GP.



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(2) Decisions where one parent would always need to inform the other parent of the decision, but did not need to consult or take the other parent's views into account:

- Medical treatment in an emergency
- Booking holidays or to take the children abroad in contact time
- Planned visits to the GP and the reasons for this.



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(3) Decisions that you would need to both inform and consult the other parent prior to making the decision:

- Schools the children are to attend, including admissions applications. With reference to which senior school C should attend this is to be decided taking into account
- C's own views and in consultation and with advice from her teachers
- Contact rotas in school holidays
- Planned medical and dental treatment
- Stopping medication prescribed for the children
- Attendance at school functions so they can be planned to avoid meetings wherever possible
- Age that children should be able to watch videos, ie videos recommended for children over 12 and 18.