

Contact With Your Children

April 2018



Research into separation and divorce shows that children do better when parents communicate well with each other and work together for the welfare of their children. This factsheet looks at common problems and issues that can arise for separating and divorcing parents.

Parental responsibilities and rights

There are certain things that parents are expected to do for their children while they are growing up. These are called parental responsibilities. Alongside these, parents are entitled to do certain things to help them bring up their children and these are known as parental rights.

Parental responsibilities

Parental responsibilities are:

- To care for your child
- To direct and guide your child
- To maintain personal relations and have direct contact with your child on a regular basis if you are not living with your child
- To be your child's legal representative.

You have these responsibilities until your child turns 16 years of age, except for the responsibility to provide guidance which remains until the age of 18.

Parental rights

Parental rights go hand in hand with parental responsibilities. You are given these rights to help you carry out your responsibilities.

Parental rights are:

- To have your child living with you or to regulate where your child lives
- To direct and guide your child
- To maintain personal relations and have direct contact with your child on a regular basis if you are not living with your child
- To be your child's legal representative.

Who has parental responsibilities and rights

The following people have parental responsibilities and rights (PRRs):

- All mothers
- All fathers who are, or have been married to the mother of their child
- All fathers who have signed the birth certificate and registered the birth of their child on or after 04 May 2006
- All fathers who have signed and registered a parental responsibilities and rights agreement
- All guardians
- Anyone who has been given them by a court.

If two or more people have parental responsibilities and rights for a child, each of them may exercise them independently of the other, unless a legal document (court order) specifically provides otherwise. However, the law makes it clear that parental responsibilities and rights exist for the benefit of the child, so if a parent's actions are detrimental to the child's welfare, a court can be asked to prevent such actions through a court order.

How to get parental responsibilities and rights if you don't have them

You can sign a parental responsibilities and rights agreement. Both parents must sign the document and it must be sent to the Keeper of the Registers of Scotland. If either parent refuses to agree to sign the document, you can go to court and ask for an order giving you parental responsibilities and rights. You can do this even if your child doesn't live with you.

What to do if the other parent is making it difficult for you to see your child/ren

It is always worth trying to negotiate with the other parent about contact arrangements. Sometimes parents find it hard to communicate with each other; here are some things to consider when you are talking with your partner:

- If at all possible, try to communicate directly with your partner, rather than through intermediaries and never through your children
- Try to be polite and respectful at all times
- If you know you are going to have a difficult conversation, do it somewhere where your child can't hear you
- Some parents use a shared notebook where they write down important information for the other parent about the children – the notebook passes to the other parent at handover times and is a good way of sharing information about school, medical appointments, holidays or general issues/concerns about the children. The notebook is then passed back again when the children are returned
- If face-to-face communication is difficult, texting or emailing can be useful but both can be open to misinterpretation. Face-to-face communication and using the telephone do not usually carry the same risk
- Try to focus on child-related issues, keeping your own relationship issues out of the conversation.

If you are unable to make arrangements that are mutually suitable, you might want to think about the following agencies that can help you:

Family mediation

Family mediation helps parents to communicate with each other, to reduce conflict and reach practical and workable arrangements for their children. The child's needs are put first. Trained mediators work with parents to consider the options that will help them work through their differences. Mediators do not take sides, make judgements or give guidance. To begin with, each parent is offered an individual, confidential meeting. If after those initial meetings it is agreed that mediation is appropriate, a joint meeting is arranged with the mediator. Meetings last up to one and a half hours for three to five meetings.

Some family mediation centres offer other support services such as Parenting Apart Groups, counselling for children and young people, young people and families mediation.

To find your nearest mediation service, contact Relationships Scotland (a charge may be made or a donation requested):

- ▶ **0345 119 2020**
- ▶ www.relationships-scotland.org.uk

Contact centres

Contact centres provide a neutral place for parents to either drop off children for contact outside the centre (a supported handover) or to remain at the centre itself (supported or supervised contact) without having to meet the other parent. Centre staff meet the children on arrival and bring them to meet you in an environment that is family friendly and well resourced. Your child can bring along their own toys and games. At the end of your contact, your child will again be taken by staff and safely handed over to the other parent or adult carer. This means that the child is not privy to any adult issues that may exist between the two parents and ensures that the time you have with your child is as enjoyable and carefree as possible. Contact centres are designed to be a stepping stone to a more permanent arrangement for future contact. There are 44 contact centres in Scotland. There may be a charge for this service.

To find the contact centre nearest to you, contact Relationships Scotland:

- ▶ 0345 119 2020
- ▶ www.relationships-scotland.org.uk

Parenting agreements

Scottish Government has produced a Parenting Agreement for Scotland. It contains a guide to help you think through the issues that are important for your family, two copies of the Agreement so that you can both keep a copy of what you have agreed and a Charter for Grandchildren – a reminder of the important role grandparents and the wider family can play in a child's life. These documents will help both parents to discuss and agree on the future arrangements for your children. The Agreement is not legally binding but can go a long way in helping you and your ex-partner to agree on a plan that is best for your children.

The Parenting Agreement is currently being reviewed by Scottish Government and a new version will be available later in the year.

Copies of the documents are available from:

- ▶ Lone Parent Helpline: 0808 801 0323
- ▶ Scottish Government Publications Line: 0131 244 3581
- ▶ www.gov.scot/Publications/Recent

What happens if you are the non-resident parent but become the parent with care

Children may go to live with the other parent, for all sorts of reasons. If you become the primary carer, your entitlement to benefits will change. It's important to understand that the current benefit system doesn't acknowledge shared care of children so individual benefits cannot be split between two parents, unless the parents do this as a private arrangement between themselves.

The information given here on the benefits below is very general. Please see the Benefits for Single Parents factsheet for more details.

Child benefit

You become entitled to child benefit for a child if you care for your child/ren the majority of the time. If there are competing claims for child benefit, HM Revenue & Customs will use its discretion to decide which parent has the greater care. It will take the following factors into account:

- the number of hours that the child is cared for each week
- the terms of a court order
- which home the child's clothes and toys are kept in
- the address where the child is registered with the school, doctor or dentist.

If a parent makes a claim for child benefit that is already being paid to the other parent, it will continue to be paid for a further three weeks after the other parent agrees to withdraw the claim. If the other parent refuses to relinquish the child benefit, then HM Revenue & Customs will investigate and you may have to wait up to 56 days or longer.

To make a claim for child benefit, contact:

- ▶ Child Benefit Office: 0300 200 3100 or visit www.gov.uk

Child tax credits

To be entitled to child tax credit you must be responsible for your child/ren. This means that your child normally lives with you or you have the main responsibility for your child. The main responsibility test applies where there is a dispute between parents.

As with child benefit, there is no provision to split the tax credits, for one child, between parents. If you cannot agree with your ex-partner who should count as having the main responsibility for your child/ren then a decision maker from HM Revenue & Customs will decide.

The following factors will be used to make that decision:

- Is there a court order specifying where your child should live?
- Where are your child's clothes and personal belongings kept?
- Which parent is the contact for school, college or nursery?
- Who purchases the child's clothes?
- Who takes the child to the doctor and the dentist?

You do not have to be in receipt of child benefit in order to make a claim for child tax credit.

If you have more than one child, you could claim child tax credit for one child and your ex-partner could claim child tax credit for the other child.

If your child goes to live with your ex-partner and therefore s/he satisfies the main responsibility test, then you cease to have an entitlement to child tax credit. This should be reported to HM Revenue & Customs within one month to avoid an overpayment and a penalty.

To apply for child tax credit, contact:

- ▶ Tax Credit Helpline: 0345 300 3900

Income support

If you are the main carer of a child under the age of five years you may be entitled to income support if you are not working. There's no requirement to be actively seeking employment at this stage but there are varying levels of conditionality – things you'll be expected to do in order to continue receiving income support. These include attending work-focused interviews and participating in work preparation.

To make a claim for income support, contact:

- ▶ Jobcentre Plus: 0800 055 6688

Jobseeker's allowance

Once your youngest child reaches the age of five years, you are no longer entitled to income support as a single parent but can claim jobseeker's allowance if you are not working. This means you must be actively looking for work and attend work-search reviews at the jobcentre. While the Department for Work and Pensions does not allow much flexibility around these rules, it is important to discuss your specific needs and obligations as a parent when drawing up your Claimant Commitment.

To make a claim for jobseeker's allowance, contact:

- ▶ Jobcentre Plus: 0800 055 6688

Housing benefit

Housing benefit is paid to people with a low income who pay rent for a private, council or housing association property. If you are receiving income support, income-based jobseeker's allowance or income-related employment and support allowance you will qualify for full housing benefit if you live in a council or housing association property. You may not get full rent if you live in a private let. When you become the primary carer for your child/ren you also become entitled to larger accommodation. How many bedrooms you can get will depend on the number and ages of your children. Unfortunately, non-resident parents are not entitled to housing benefit for an extra bedroom when their children come to visit.

- ▶ To make a claim for housing benefit, contact your local authority Revenues and Benefits department.

Universal Credit

Universal credit is a means tested benefit that has gradually been introduced across the UK. It provides financial support, for living expenses and housing, to working age people both in and out of work. Universal credit was created to simplify the benefits system, by replacing 6 other benefits, and it is expected that by 2022 the majority of people, entitled to benefit, will be getting it.

For more information:

- ▶ Lone Parent Helpline: 0808 801 0323
- ▶ www.opfs.org.uk

Entitlement to child maintenance

Both parents are financially liable for their children. If you become the parent with care, the other parent usually becomes liable for child maintenance payments to you. You can arrange this between yourselves without involving an outside agency. This is called a family-based arrangement. The government's CM Options website has an online calculator that will provide you with an estimate of the maintenance that should be paid.

CM Options online calculator:

▶ www.cmoptions.org/en/calculator/

If you cannot come to an agreement with the other parent about child maintenance payments, then you can use the statutory Child Maintenance Service. An up-front application fee of £20 will give you a child maintenance assessment. If you choose to use the collection service, you will be liable to pay a four percent fee which will be deducted from the maintenance paid to you. The other parent will be liable for an additional 20% fee on top of the regular maintenance being paid.

To gain access to the CMS, call Child Maintenance Options:

▶ 0800 988 0988

If you have a problem getting information about your child from their school

Sometimes it can be difficult to get information from a school if you are not the primary carer. Under the Education (Scotland) Act 1980, a parent is defined as someone with parental responsibilities and rights, care and control OR a financial liability to the child. Under education law in Scotland, all parents have a right to information regarding their child. Therefore non-resident parents can make a request for educational information relating to their child and should receive separate notification of parent's nights, attendance record, exclusion from school, sports days and school events. Schools should promote parental involvement. In general, parents should be treated equally and have the same access to information about their child/ren.

When making initial contact with your child's school, make your request in writing, either by letter or email. Schools have targets to reply to correspondence and it also provides evidence of your request.

There are some very useful templates provided in 'Equal Parents: Clearing the obstacles to involvement of the non-resident parents in the children's education' by Families Need Fathers Scotland:

▶ <http://goo.gl/uqfrqw>

If you have a problem getting medical information about your child from the doctor

If you have parental responsibilities and rights you have a right to access your child's medical records. A GP may consider that it would be in the child's best interest to allow a non-resident parent access to children's medical records even if they don't have parental responsibilities and rights. GPs should act fairly and objectively.

Useful contacts

Relationships Scotland:

0345 119 2020

www.relationships-scotland.org.uk**Lone Parent Helpline:**

0808 801 0323

www.opfs.org.uk**Parentline Scotland:**

0800 028 2233

www.children1st.org.uk**Scottish Child Law Centre:**

0131 667 6333

www.sclc.org.uk**Families Need Fathers:**

0300 030 0363

www.fnfscotland.org.uk**Child Benefit Helpline:**

0300 200 3100

Jobcentre Plus New Claims:

0800 055 6688

Child Maintenance Options:

0800 988 0988

Tax Credit Helpline:

0345 300 3900

Supporting and inspiring single parent families across Scotland

For further information about OPFS or our services, please contact:

One Parent Families Scotland,
13 Gayfield Square, Edinburgh EH1 3NX

Tel: 0131 556 3899

Email: info@opfs.org.uk

Helpline: 0808 801 0323

Helpline email: helpline@opfs.org.ukVisit our website at www.opfs.org.uk

More help from OPFS

You may also be interested in these related information packs available from OPFS:

- [Separation and Divorce](#)
- [Money for Single Parents](#)
- [Money If You Are Working](#)

Call the helpline on 0808 801 0323, or download them from www.opfs.org.uk.

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