



Parental responsibility: is there soon to be a change in the ‘force’?

For unmarried fathers in Jersey, knowing what rights and responsibilities one has for one’s children can be confusing. In the UK the situation is somewhat simpler: if you are named on the birth certificate, you are automatically endowed with Parental Responsibility (or **PR**) for the child in question. In Jersey today however, unmarried fathers can only obtain PR in one of two ways: either with the consent of the birth mother, or by way of a Court order. But change is on the horizon.

A draft law has been lodged for debate in the States on 13 September 2016, the purpose of which is to bring Jersey law regarding PR into line with the UK.

With great power comes great responsibility

The question is, what is PR? It can be difficult to define, but in short it is a legal concept which relates to a parent’s duties and responsibilities for a child. The focus is on responsibilities in relation to children, rather than ‘rights’ as such. So, for example, day to day decisions with respect to the upbringing of a child are made by the person with whom the child resides (the ‘primary carer’). However non-resident parents with PR must be consulted on major decisions, such as where the child is educated, whether the child has particular medical treatment or is brought up in a particular religion. Further (and perhaps of particular interest to those living in this small Island jurisdiction) no one can take their child out of the Island permanently without the consent of all parties who hold PR in respect of that child (or leave of the court). A parent with PR also has the right to consent or withhold consent to the child marrying or being adopted. Importantly however, regardless of whether or not a father (married or otherwise) has PR, they have an automatic duty to provide financially for their child.

“Luke, I am your [biological] father”

The draft law (Draft Children and Adoption (Amendment) (Jersey) Law 201-) aims to amend both the Children Law and the Adoption Law so that unmarried fathers in Jersey can acquire PR if they are registered as the child’s father, whether at birth or at a later date. To be clear however, this new provision only relates to unmarried fathers who are also the stated biological father of the child. The draft law does not infer any method of adoption ‘by the back door’.

A change for the better, but only for the future

Most family lawyers will see this as a welcome change to the law, as PR disputes can often cloud wider child related disputes (such as financial provision and contact matters) and build in delay. The draft law is unlikely to be brought into force until early 2017, and unfortunately for some, the changes to the law will not be retrospective. PR will only automatically be conferred on unmarried (biological) fathers who are named on birth certificates after the draft Law comes into effect.

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