

# Who has Parental Responsibility (PR)?

V6 Jan 2025  
Rev. due Jan 2026

**If in doubt or parental responsibility (PR) is unclear: ask to see copies of any legal consent documents / court orders, and take advice from your legal or other advisory service**  
**This is not a comprehensive list of all forms of legal order but covers the main scenarios.**

**Foster Carers** may have *delegated authority* for routine health reviews, emergency healthcare, and to follow parental choice for *routine* immunisations but NOT give consent for Blood Borne Infection screening / genetic tests / safeguarding examination (non-accidental injury, sexual assault) / surgery / anaesthesia etc.

**Separated Migrant Children** (may include UASC/refugee/trafficked & modern slavery) usually **Child In Care Section 20**, but social care can act in best interests as 'corporate parent'. More rarely section 20 is not used so seek advice if required.

Child or Young Person (CYP) has been assessed and is NOT believed competent to give their own consent at this time (e.g. per GMC publication 0-18 years: guidance for all doctors, principles of Gillick competence; for 16 & 17 year olds follow MCA (2005))

Under 16 (<18 if relevant disability) living >28 days with non-direct relative: see [Private Fostering](#)

**No legal orders** in place irrespective of where CYP is currently / regularly residing

**Special Guardianship Order (SGO) or Child Arrangement Order** (previously called 'Residence Order')

**Child In Care / Looked After Child** (e.g. foster care, placed with relative, residential unit, detained, note: can be 'In Care' but still living with birth/usual family)

- Birth father\*
- Birth mother
- Same-sex partners

**\*Father holds PR if:** married to birth mother at time of birth, named on birth certificate, or parental responsibility agreement / order

If civil partners at time of treatment (e.g. fertility), jointly register birth, or parental responsibility agreement / order

PR shared with birth parents, but an SGO holder can override birth parents

**Section 20 (Voluntary Placement)**

PR remains fully with **birth family** (or SG if was on SGO, adoptive parents if post-adoption etc.)

- Birth mother
- Birth father\*

**Interim Care Order (ICO) or Full Care Order (FCO)**

**SHARED** between birth family\* and Social Care, but Social Care can potentially limit parental PR or override parents if in CYP's welfare  
*\*or SG if was on SGO, adoptive parents if post-adoption etc.*

Social Care, ideally Senior Manager e.g. Service Manager (not foster carer, residential home worker etc.)

Birth mother

Birth father\*

**Placement Order**

**SHARED** Birth parents, Social Care, and prospective adopters once in placement, but Social Care can limit / override if in CYP's welfare

**Post Adoption Order** (no longer looked after)

**Adoptive Parent(s) only**



**Emergency Medical Situations (including out of hours) & Deprivations of Liberty for 16- and 17-year-olds**  
Overriding duty remains to give life-saving emergency treatment in the CYP's best interests

- Police Powers of Protection:** <72hr and **no change to who holds PR**
- Emergency Protection Order:** 8d (max 15d) PR **SHARED** between birth family and Social Care but is limited to what is *directly necessary to safeguard the CYP*. Court can grant Social Care ability to limit/override parental PR for CYP's welfare.
- Emergency situations where the decision of a person with PR means the **CYP is at risk of significant harm** (e.g., refusal of essential treatment) take urgent advice from your organisation's **Legal Services / MDU / MPS** and contact **Social Care** – an emergency Court Order may be required.
- Deprivation of Liberty Safeguards for 16- and 17-year-olds who lack capacity to consent to the care arrangements** - For authorisation make an application to the Court of Protection as per Re D (A Child) ([2019] UKSC 42) except for those detained under the [MHA 1983](#). For details see [Deprivation of liberty and 16-17 year olds](#)
- If the young person has capacity to consent to the confinement and gives their consent, there will be no DoL- but if they do not consent to the confinement** the young person will be deprived of their liberty and issues/concerns can be taken to the High Court for adjudication under Inherent Jurisdiction.

Dr Nadya James ([nadya.james@nhs.net](mailto:nadya.james@nhs.net)): Cons. Community Paediatrician, Designated Doctor CiC, MA for Adoption, Nottingham Children's Hospital. If planning to adopt this for your organisation, please contact me to ensure the latest version. *Responsibility remains with the individual to ensure that they access any appropriate and up to date legal advice and take into account any relevant local legislation or details of legal orders specific to an individual case.*

## Other Situations

The main diagram cannot cover all eventualities and situations can include stepparents, same-sex male couples, and surrogacy. Details can vary in England, Wales, Scotland and Northern Ireland and if there is any doubt ask to see any relevant documentation - but in essence:

The **birth mother holds PR** irrespective of who's sperm and egg are used, including surrogacy, **unless** legal orders/agreements alter this prior to or following delivery. If the child is born overseas then the laws of the UK country (e.g. England and Wales) that the child and adult(s) come to reside in usually apply - but this is an area where seeing any legal documentation and taking expert advice is strongly recommended.

If not already holding PR by a mechanism listed in the main flow diagram, there are four main options to seek to obtain it: parental responsibility agreement (PRA), court order, parental order or adoption depending on the scenario. For Scotland and NI there are differences, and it is advised that local guidance is accessed. See [Parental Rights and Responsibilities](#) for more information.

There are different categories of [PARENTAL RESPONSIBILITY AGREEMENT \(PRA\)](#):

**PRA1** - agreement that the biological father should be granted PR (not needed if already on birth certificate or other criteria as per flowchart diagram)

**PRA2** - agreement between a child's parents and a step-parent (who is the spouse or civil partner of a parent) that the step-parent should have parental responsibility for the child.

**PRA3** - acquisition of parental responsibility by second female parent (not needed if PR already in place via civil partnership at time of treatment etc)

[COURT ORDER](#) can be applied for if no agreement can be reached for PRA.

However, if SURROGACY is used then there is a separate process and a [PARENTAL ORDER](#) is applicable and still requires the applicant or at least one of the applicants (if a joint application) to be biologically related to the child (sperm/egg donor) plus other criteria such as having the child living with you in the UK and the application to be made within 6m of birth. It is a complex area and see the hyperlink for more guidance: [surrogacy-guidance-for-intended-parents](#)

If neither the adult (nor their partner if a joint application) is related to the child, [ADOPTION](#) is the only way to become the child's legal parent.

*This is simplified guidance to summarise and please do always check any legal documentation and local legalities (esp. Scotland/NI) and take expert advice on any cases that require it. Also please remember that I am neither a lawyer, solicitor, judge or have formal legal qualifications and so cannot take responsibility for any actions/decisions of others based on my summary of currently available guidance.*

Hospital