

Aspire Academy Trust



Aspire Separated Parents Policy

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Approved by: Chief Executive Team
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This policy was written alongside consulting the following roles in the Trust:

- Lead Governance Officer

Revision Log (last 5 changes)

Date	Version No	Brief detail of change
Sept 2017	1	Aspire Policy created
Nov/Dec 21	2	Review scheduled

¹ Will be reviewed Dec 2022 as per scheduled Sept 22 DfE review

The Aspire Academy Trust aims to promote the best interests of the child, working in partnership with all parents where possible. It is the case that some of our children's parents are separated. We recognise that this can be a difficult situation and our main aim is not to put any additional stress on the children concerned.

The child is our main priority and we hope parents will make every effort to recognise this and support their child and us. Our aim is to work with all parties to promote positive family involvement.

This policy summarises the legal framework and Aspire policy in respect of separated parents. This policy is an attempt to minimise any negative impact on our families, children, staff and to clarify to all parties what is expected from separated parents and school staff.

Our responsibilities

We fully recognise our responsibilities, and it is our sole wish to promote the best interests of the child, working in partnership with all parents.

Class teachers, pastoral staff and/or the Head of School will be available, by appointment, to discuss any issues or concerns with regard to separated, divorced or estranged parents, in relation to their child or children at the school. Parents are encouraged to resolve any issues around estrangement, contact and access to information without involving the school directly.

Issues of estrangement are a civil/private law matter and our schools cannot be involved in providing mediation, helping an estranged parent to communicate with their child/ren, or using the school premises for purposes of contact. Further, the school will remain neutral in respect of any issues raised by parents, and will not, under any circumstances, provide any advice in respect of any parental disputes.

In the event that the parents are unable to agree with one another on decisions regarding their child's educational programme, including but not limited to placement, participation in extracurricular activities, and consent to evaluation and services, the Head of School will take account of the views of both parents and make the decision that they believe is in the best interest of the child/ren concerned, where necessary the Head of School will seek legal advice.

In any situation where separation/divorce/breakdown in parental communication is appearing to impact upon the health, wellbeing and safety of a child the matter will be referred to the Aspire Safeguarding Director and Trustee for advice.

The Definition of a Parent²

We understand that parents may be recognised differently under education law, than under family law. Section 576 of the Education Act 1996 states that a 'parent', in relation to a child or young person, includes any person who is not a parent (from

² As per DfE guidance Sept 2018 'understanding and dealing with issues relating to parental responsibility'

which can be inferred 'biological parent') but who has parental responsibility, or who has care of the child.

For the purposes of education law, the department considers a 'parent' to include:

- all biological parents, whether they are married or not
- any person who, although not a biological parent, has parental responsibility for a child or young person - this could be an adoptive parent, a step-parent, guardian or other relative
- any person who, although not a biological parent and does not have parental responsibility, has care of a child or young person

A person typically has care of a child or young person if they are the person with whom the child lives, either full or part time and who looks after the child, irrespective of what their biological or legal relationship is with the child.

Example: This may be a foster carer or family and friends carer who does not have parental responsibility but has been delegated the responsibility for taking day-to-day decisions about the child.

In cases where a person is not the biological parent of a child, does not have 'parental responsibility' for that child and that child no longer lives with them, it's unlikely that they will be recognised as a 'parent'. Any disputes about whether a person is a child's 'parent' within the meaning of section 576 Education Act 1996, are for the courts to decide.

What is parental responsibility?

In family law, parental responsibility means all the rights, duties, powers, responsibilities and authority that a parent has in relation to the child. A person with parental responsibility can make decisions about the child's upbringing and is entitled to information about their child. For example, they can give consent to the child's medical treatment and make decisions about the child's education. They also have the right to receive information about their child's health and education.

Parental Responsibility³

In order to help us to look after children whilst they are in our care, staff are required at the admissions stage to ask parents to provide certain information, such as name of both parents, address, contact details etc. They are also required to ask for proof of who has Parental Responsibility for the child. This is important because it allows the school to be sure who has the right to make decisions about a child's education and medical treatment.

A child's birth mother (the person who carried the child) has parental responsibility unless it's removed by an adoption order or a parental order following surrogacy.

^{3 3} As per DfE guidance Sept 2018 'understanding and dealing with issues relating to parental responsibility'

Where a child's father and mother were married to each other at the time of the child's birth, they each have parental responsibility for the child. Where the parents were not married to each other at that time, the child's father can gain parental responsibility:

- by registering the child's birth jointly with the mother
- by subsequently marrying the child's mother
- through a 'parental responsibility agreement' between him and the child's mother which is registered with the court
- by obtaining a court order for parental responsibility

Where two female parents have a child through fertility treatment, the mother's female partner is treated in the same way as a father. She has parental responsibility if she is married to or in a civil partnership with the mother at the time of the treatment (or if the two women agree in writing that she will be the child's second parent). She can also acquire parental responsibility in the same way that a child's father can.

People who are not the child's biological mother, father or second female parent can also acquire parental responsibility.

Civil partners have parallel rights to married people in terms of parental responsibility. The same provisions for married people apply to them in terms of:

- acquiring parental responsibility - adoption, agreement with their civil partner or by an order from the court
- holding parental responsibility

Key effects of a father or second female parent acquiring parental responsibility

When a father or second female parent acquires parental responsibility they:

- become a 'parent' for the purposes of adoption legislation and can therefore withhold consent to an adoption
- can object to the child being accommodated in local authority accommodation under section 20 of the Children Act 1989 and remove the child from local authority accommodation (unless the child is over 16 and agrees to be provided with accommodation)
- will automatically be a party to care proceedings
- can appoint a guardian
- can give valid consent for his child's medical treatment (subject to the competency of the child to give their own consent or object to the treatment being proposed)
- has a right of access to his child's health records
- can withdraw a child from sex education and religious education classes and make representations to schools concerning the child's education
- must give consent if child's other parent seeks to remove the child from the jurisdiction
- can sign a child's passport application and object to the granting of a passport
- has sufficient rights in relation to a child to invoke the international child abduction rules
- can consent to the marriage of a child aged 16 or 17

Parental responsibility can be acquired in other ways:

- adoption - only the adoptive parents will hold parental responsibility

- when a child is placed with prospective adopters they get parental responsibility for the child along with others holding parental responsibility, such as the local authority
- obtaining a parental order following surrogacy
- in the case of step-parents, through agreement with the child's mother - and other parent if that person also has parental responsibility for the child - or as the result of a court order
- being granted a child arrangements order determining that the child should live with him or her, or if the court determines that a parent should only spend time with the child, the court may also decide to grant parental responsibility
- being appointed a guardian or special guardian
- being named in an emergency protection order - although parental responsibility in such a case is limited to taking reasonable steps to safeguard or promote the child's welfare

A local authority can also acquire parental responsibility, if it's named in the care order for a child.

More than one person, and even several people, can hold and exercise parental responsibility for a child. The parental responsibility of one party does not necessarily stop simply because another person is also given it, although this can happen. Therefore, in some cases, several people may exercise parental responsibility on behalf of a child.

Parental responsibility is not given to a foster parent or key worker in residential care but it's essential that schools engage and work with these individuals, who are often the most influential and important people in the child's life. How a school engages with social workers and the birth parents of the child in each case needs to be defined locally, but it's an essential part of supporting the child's school and care environment.

The terms 'resident' and 'non-resident' parent are used to distinguish between parents who do and do not live with a child.

Court Orders and parental responsibility

Court orders under section 8 of the Children Act 1989 (often called section 8 orders) settle areas of dispute in relation to the exercise of parental responsibility or a child's care or upbringing, and can limit how an individual exercises their parental responsibility.

There are two types of section 8 orders which can be made to address particular issues:

- **prohibited steps order** - imposes a specific restriction on the exercise of responsibility. This means that no step specified by the Court, which a parent could take in meeting his/her parental responsibility, can be taken without the consent of the Court.

***For example:** one parent wants to take the child abroad for an extended period or prevent the child from attending a form of religious worship, against the wishes of the other parent.*

- **specific issue order** - is an order giving directions for the purpose of determining a specific question which has arisen, or may arise, in connection with any aspect of parental responsibility.
For example: an order allowing one parent to agree to a pupil changing school against the wishes of the other parent.
- **Child arrangements order** - A child arrangements order sets out the arrangements relating to whom a child is to live with and when, and arrangements relating to whom a child spends time with or otherwise has contact with. It replaces the former residence and contact orders.
- **Care Order** – If a care order is in place, the role that parents can play in their child's life and schooling may be limited by the local authority

Parents should ensure that schools are provided with a copy of the most recent Court order in place, so that the school's duties in respect of child safeguarding are supported.

In the event that the school is not informed of the existence of such an order, neither parent will have rights superior to the other. Only a Court Order stating the arrangements is deemed to be valid; a letter from a solicitor is not sufficient.

Information Sharing

It is important that Aspire schools balance the requests of parents with their legislative duties. Having parental responsibility does not allow a parent to obstruct a school from carrying out their duties under legislation.

For example: a natural parent, with parental responsibility, informs their child's school that they do not wish their child's step-parent, who does not have parental responsibility but does have care of the child, to receive educational information about that child. The school should inform the natural parent that they cannot comply with that request. This is because under The Education (Pupil Information) (England) Regulations 2005, schools are required to provide access to, or copies of a child's educational record to parents upon request. Therefore, if the school were to abide by the request of the natural parent they would be in breach of their obligations under education law.

In cases where the school does not know the whereabouts of a non-resident parent, it should make the resident parent aware that the other parent is entitled to be involved in their child's education and request that information is passed on.

If the resident parent refuses to share information with the other parent and also refuses to provide contact details so that the school can deal direct with the non-resident parent, the school can do nothing more. It should be noted, however, that the resident parent may be genuinely unaware of the non-resident parent's whereabouts.

If the non-resident parent subsequently contacts the school and requests access to information, the school should provide it to that parent direct, after taking reasonable steps to satisfy itself that the individual is, in fact, the child's parent.

Communication between the school and parents

The Trust recognises that, while the parents of some pupils may be divorced or separated, both have a right to be informed of, and involved in, their child's education.

However, we expect that parents, whatever the nature of their separation, will do all they can to communicate with each other and share information from and for the school, for the benefit of their child. It is assumed that the parent with whom the child principally resides will keep the other parent informed, this includes collection arrangements.

It is the responsibility of the parent to inform the schools when there is a change in the family's circumstances.

We need to be kept up to date with contact details, arrangements for collecting children and emergencies. Please provide the school with a copy of a collection timetable if this is in place to support a court order and/or parent agreement.

The information provided to a school when the pupil was enrolled, detailing whether both parents have parental responsibility, will be presumed to be correct unless a court order or original birth certificate proving otherwise is provided to the school.

Individuals who have parental responsibility for, or care of, a child have the same rights as natural parents; for example:

- to receive information, e.g. pupil reports;
- to participate in statutory activities; e.g. vote in elections for parent associations ;
- to be asked to give consent; e.g. to the child taking part in school trips;
- to be informed about meetings involving the child; e.g. a SEND meeting

Both parents are entitled to receive progress reports and review their child's pupil records. Progress reports will be sent to the parent with whom the child resides with the expectation that he/she will share the report with the other parent. We do, however, recognise that communication between parents is not always possible. If a non-resident parent wishes to receive information from the school such as progress reports they should contact the school in writing with a specific request for separate communication.

General Communication

All diary dates, newsletters, and parents letters will be made available on school websites, school social media accounts and notifications sent via Arbor and text from the school. This includes class emails/correspondence which will be sent to both parents and parents are responsible for providing a correct contact details. Occasionally when paper letters are sent home with pupils, we expect parents to communicate these messages to each other as and when appropriate.

We will hold one parent's evening appointment per child where both parents are welcome and we expect parents to communicate with each other regarding these arrangements. The school will ensure it offers individual appointments where this is the preferred option of the parents.

We expect parents to liaise and communicate directly with each other in matters such as the ordering of school photographs, tickets for performances and other instances. Parents should communicate with each other.

Obtaining Consent

Where schools need parental consent for outings and activities, the school should ordinarily seek the consent from the resident parent unless the decision is likely to have a long-term and significant impact on the child or the non-resident parent has requested to be asked for consent in all such cases.

Consent forms will go to both parents on request. However - in cases where the school considers it necessary or *has been asked* to seek consent from both parents, it is best for the school to assume that parental consent has **not** been given unless both parents have given consent. Such an approach ensures that the school has treated the views of each parent equally and will also help to safeguard the position of the school in terms of exposure to any potential civil liability where, for example, the child is injured while on a school trip.

Should an un-named parent seek information or access to his/her child, the school will always inform the main carer of this to check Parental Responsibility and ensure no court order is in place. For the avoidance of doubt, we will seek written confirmation from the main carer. Proof of identity of the non-resident parent will always be required in these cases.

Where a parent's action, or proposed action, conflicts with the school's ability to act in the child's best interests, the school should try to resolve the problem with that parent but avoid becoming involved in conflict. However, there may be occasions when a school needs to decline requests for action from one or more parents.

In cases where schools cannot resolve the conflict between separated parents, they should advise the aggrieved parent to pursue the matter through the Family Court.

Medical Treatment – Seeking Consent following Accident or Injury

Schools may experience problems when a child has had an accident and consent may be needed for emergency medical treatment. The Children Act provides that people who do not have parental responsibility but nonetheless have care of a child may:

'...do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare'.

This would allow schools to act *'in loco parentis'*, i.e. in place of a parent, or allow them to seek consent from a parent who may not hold parental responsibility.

It would clearly be reasonable for a school to take a child who needs to have a wound stitched up to hospital, but the parents, including the non-resident parent who has asked to be kept informed of events involving the child, should be informed as soon as possible.

Changing a Surname

A change of surname is a private law matter and should be resolved between parents. Where the parents have divorced, schools should ensure that the surname by which a child is known should not be changed without written evidence (independent of the parent seeking to make the change), that consent has been given by the 'other parent' or by anyone else who has parental responsibility for the child. Regulation 5(1)(a) of the Education (Pupil Registration) Regulations 2006 requires a school to record the full name of every pupil in alphabetical order in the admissions register. This is generally interpreted to be the child's full legal name and not any other name that the child is known by.

However, there may be circumstances where a name change has already been affected by the school and it would not be in the best interests of the child, who might be known by a new name, to refer back to a different name. Ultimately it is a matter of policy for the school to decide but the best interests of the child must be the paramount consideration when making a decision.

Where a child is subject to a special guardianship order there are particular considerations in cases where a school receives a request to use a different surname for a pupil. Section 14C(3) of the Children Act 1989 (CA 1989) states that:

'While a special guardianship order is in force with respect to a child, no person may cause the child to be known by a new surname.....without either the written consent of every person who has parental responsibility for the child or the leave of the court.' Schools must therefore decline requests from special guardians for a child to be known by a different surname unless the above criteria are met.

Collecting a child from school

Both parents (or those with parental responsibility) are legally entitled to collect their child from school unless a court order is provided that states otherwise.

In all cases, the school will be mindful of its safeguarding responsibilities in line Keeping Children Safe in Education (KSCIE) and will release children to parents in accordance with arrangements notified to the school. If one parent seeks to remove the child from school in contravention of the usual arrangements and the parent to whom the child would normally be released has not notified the school of any change the following steps will be followed:

- Where a separated parent, who has parental responsibility and no court order in place, wishes to take the child during or at the end of the school day, the resident parent will be contacted in order to ensure that they are in agreement with the arrangement. If the parent to whom the child would normally be released agrees, the child may be

released and the records will reflect that the permission was granted orally. If the parent opposes the other parent wanting to take the child then the school will advise that without a court order we cannot prevent them from doing so.

Conclusion

The welfare of the child must be the paramount consideration for all Aspire schools. In the event of a concern being raised where the school is unclear how to act, we will seek independent legal advice to ensure that a parent's rights and responsibilities are not infringed and the actions of the school are compliant with education law.