

Aspire Academy Trust
Separated Parents Policy – December 2017
Review date – December 2020

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 clarifies what is expected from separated parents and carers, the school and its staff.

This policy should be read in conjunction with the Aspire Child Protection and Safeguarding Policy, and the Acceptable Use and e-Safety policy.

The Definition of a Parent

The definition of a parent for school purposes is much wider than for any other situation. The Education Act 1996 defines a parent as:

- All natural (biological) parents, including those that are not married
- Any person who has parental responsibility but is not a natural parent e.g. a legally appointed guardian or the Local Authority named in a Care Order
- Any person who has care of a child i.e. a person with whom the child resides and who looks after the child irrespective of the relationship.
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Parental Responsibility

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 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. However, this is a very specific legal term and many parents may be unaware of how it is applied:

- All mothers automatically have Parental Responsibility.
- If a child's parents were married at the time of the birth, both parents automatically have Parental Responsibility.
- For children born from the 1st December 2003 where the father's name is on the birth certificate, the father and mother will both have Parental Responsibility.
- In all other cases, fathers are required to officially obtain Parental Responsibility.
- Parental Responsibility cannot be lost, except by legal adoption, although it does not guarantee contact

Parental responsibility means all the rights, duties, powers, responsibilities and authority that a parent has in relation to the child. People other than a child's natural parents can acquire parental responsibility through:

- 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;
- 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);
- adopting a child;
- (in the case of step-parents) in 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.

Civil partners have parallel (as far as possible, identical) rights to married people. The same provisions for married people apply to them in terms of acquiring (i.e. in the case of adoption, agreement with their civil partner or by an order from the court) or holding parental responsibility.

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

Having care of a child

Having care of a child or young person means that a person who the child lives with and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law. This could be shown by interaction with the school – attending meetings, making phone calls, being on the School's record as being involved (in whatever capacity) etc., or residence with the child where, for all intents and purposes, the person is part of the family, a man or woman married to a parent of a child.

For example:

- Are they listed on school records?
- Does the school have contact details for them?
- Do they meet with teachers/attend parents' evenings?
- Have they been involved with the measures designed to improve attendance?
- Do they contact the school on behalf of the child when s/he is ill?
- Do they live with the child?
- How long has the school known of them being connected with the child?
- Does the adult bring/collect the child to/from school?
- Is the adult married to the parent of the child?

It would not be appropriate to assume that someone having a “casual” relationship with the parent of a child necessarily has ‘care of the child’ unless we have cause to believe the person has some involvement with the child’s life – living with the child could be a determining factor as could the other examples outlined above.

It is therefore those adults who are having significant input to a child’s life who can be classified as “parent”, having “parental responsibility” or who have “care of a child”. Parents as defined above are entitled to share in the decisions that are made about their child and **to be treated equally by schools**. In particular, these entitlements include:

- appealing against admission decisions
- completing Ofsted & school based questionnaires
- participating in any exclusion procedure
- attendance at parent meetings/school events
- having access to school records, receive copies of school reports, newsletters, invitations to school events, school photographs relating to their child and information about school trips.

We recognise that while the parents of some pupils may be separated they are entitled to the above and this entitlement cannot be restricted without a specific court order. In particular, the school does not have the power to act on the request of one parent to restrict another.

Court Orders

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:

- A **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.
- A **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.

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.

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.

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-custodial 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.

All diary dates, newsletters, and parents letters will be made available on school websites. Class emails/correspondence will be sent to both parents. Parents are responsible for providing a correct email address. Occasionally when paper letters are sent home with pupils and 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. We would not ordinarily expect to send day to day management text messages to absent parents, which give information on cancelled activities and day to day reminders. Parents should communicate with each other.

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.

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 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 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.