

Parent Governor Elections

Introduction and Eligibility

Regulation 4 of the School Governance (Constitution) Regulations 2012 defines a parent governor as "a person who is elected as a governor by parents of registered pupils at the school and is such a parent at the time of election". Schools must not restrict eligibility to nominate, vote or otherwise participate in parent governor elections, to parents holding parental responsibility. Under the School Governance (Constitution) (England) Regulations 2012, 'parent' includes not just those with parental responsibility but biological parents and anyone who cares for a child.

In **maintained nursery schools** "parents of registered pupils at the school, or parents of children for whom educational *or other provision* is made on the premises of the school (including any such provision made by the Governing Board under section 27 of the Education Act 2002) and is such a parent at the time of election" are eligible to stand for election as a parent governor. This includes provision of community facilities or services (e.g. health services, childcare, adult education) which will benefit pupils, their families or people working or living in the locality of the school. Elected members of the Local Authority are not eligible to be elected or appointed as a parent governor.

Staff who are paid to work at the school for more than 500 hours in any 12 month period starting on 1st August and finishing on 31st July are not eligible to be parent governors, either through election or by appointment by the Governing Board. They can however vote in parent elections.

2.2 Definition of 'Parent' and parental responsibly.

The guidance below has been extracted from the DfE guidance "Understanding and dealing with issues relating to parental responsibility" published on 3 September 2018.

It's important that schools and local authorities are aware 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 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.

What is parental responsibility?

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. 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. There are specific examples within the guidance

Who has parental responsibility?

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.

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

Other ways to acquire parental responsibility

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.

Although parental responsibility is not given to a foster parent or key worker in residential care, 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. Under the School Governance (Constitution) (England) Regulations 2012, 'parent' includes not just those with parental responsibility but biological parents and anyone who cares for a child.

Definition of Registered Pupil

The term "registered pupils" includes all children on the school register, so that, for example, the parents of pupils attending nursery units or special units attached to primary schools are eligible to participate in the election of parent governors.