



THE ECCLESBOURNE SCHOOL

Learning Together for the Future

SEPARATED PARENTS POLICY

May 2024

This policy is ratified by the Student and Curriculum Sub-Committee.

This policy is reviewed every two years.

This is a non-statutory policy

1.Statement of Intent

The Ecclesbourne School recognises that pupils from families whose parents are separated, or are undergoing separation, may experience unique challenges during their time at school that can affect their welfare and attainment. With this in mind, we make every effort to work with separated parents to promote the welfare of their child. This policy has been created to help minimise the educational impact on an affected pupil due to a family separation. We also aim to clarify to all involved parties what is expected from them and what can be expected from the school and its staff.

This policy summarises the legal framework and recommended guidance in respect of separated parents. This policy is an attempt to minimise any impact, clarify to all parties what is expected from separated parents and what can be expected from the school / staff.

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

2.Reference to other policies and legislation

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to the following;

- Children and Families Act 2014;
- Education Act 1996
- Data Protection Act 2018
- Childrens Act 1989
- Human Fertilisation and Embryology Act 2008;
- Private Fostering Arrangements (Children Act 1989, Private Fostering Regulations 2011);
- Special Guardianship Order (Regulations 2005 & 2016);
- Dfe guidance, August 2023, Understanding and dealing with issues relating to parental responsibility:

This policy operates in conjunction with the following policies

- Child Protection and Safeguarding Policy
- Data Protection (GDPR) Policy
- Special Educational Needs and Disabilities (SEND) Policy

3.Definitions

3.1 Schools have a legal duty to work with families and to involve all those that have parental responsibility in the decision making process and the education of their child.

- 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, a guardian or other relative
- any person who, although they are not a biological parent and do not have parental responsibility, has care of a child or young person

Parents as defined above will be treated equally unless there is a court order in place prohibiting this. If the school are not made of the court order then both parents will be treated equally.

3.2 People other than a child's natural parents can acquire parental responsibility through;

- Adopting a child.
- Being appointed a guardian.
- Being named in an emergency protection order. However, this limits the parental responsibility.
- Being granted a child arrangements order stating the child should live with them.
- The agreement of a child's mother (and other parent if that person also has parental responsibility).
- A court order.

4.Roles and Responsibilities

4.1 The Headteacher is responsible for;

- Asking for the names and addresses of all parents when they register a pupil.
- Ensuring that names and addresses of all parents, where known, are included in the admission register and also in the pupil's records, and are available to the pupil's teachers.
- Ensuring that names and addresses of all parents are forwarded to any school to which the pupil moves.
- Ensuring that details of court orders are noted in the pupil's record.
- Ensuring at least one emergency contact per pupil is obtained – where possible, two or more will be obtained.
- Where the address of a non-resident parent is unknown, telling the resident parent that the non-resident parent is entitled to be involved in their child's education and request that information is passed on to them.

4.2 Parents are responsible for:

- Informing the school when there is a change in family circumstances. The school recognises the sensitivity of these situations and will maintain all confidentiality requested by parents as far as possible. The school will also not make judgements about individual circumstances, and both parents will be treated equally.
- Where there is a court-mandated restraining order in place, providing the school with a copy, which will put measures in place to ensure the pupil is not released to named individuals.
- Where parents have joint custody, informing the school of the details of any disputes they have regarding the collecting of their child from school, in writing.
- Attending parents' evening appointments for their child – the school expects parents to communicate with each other regarding this.
- Liaising and communicating directly with each other in matters such as the ordering of school photographs, tickets for performances and other instances. The school will not deal individually with these requests in view of the significantly increased workload that they represent.
- Signing leave of absence request forms and, where only one parent has signed, supplying a letter of written consent from the other parent. The parent with whom the pupil resides is responsible for:
- Contacting the school immediately where issues to the access of their child arise.

4.3 The DSL is responsible for:

- Ensuring pupils are safe and happy at school.
- Making decisions regarding sharing information with parents about safeguarding concerns.
- Referring a pupil to the relevant support services, where required.

5.What does having “care” of a child mean”?

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.

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”. As a school we will use this guideline when separated parents make contact.

Parents as defined above are entitled to share in the decisions that are made about their child and to be treated equally by schools. We aim to collaborate with parents in the best interests and listen to all parties.

All parents can also receive information about the child, even though, for day-to-day purposes, the school’s main contact is likely to be a parent with whom the child lives on school days. There may be occasions when the school needs to decline requests for action from one or more parents. For example, parents asking for two separate parents evenings appointments.

6. Individuals who have parental responsibility for, or care of, a child have the same rights as biological parents. For example to:

- receive information – such as pupil reports
- participate in statutory activities – such as voting in elections for parent governors
- be asked to give consent - such as to the child taking part in school trips
- be informed about meetings involving the child - such as a governors' meeting on the child's exclusion

Entitlements also include: -

- Appeal against admission decisions
- Ofsted & school-based questionnaires
- Attend parent meetings/school events. However, there is an expectation that both parents attend the meetings together due to time constraints unless there is a court order in place prohibiting contact between the two sets of parents.
- Have 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.

7. Collecting a child from school;

We will follow the standard agreed procedure in the release of a child or children.

In the case of separated parents we will release a child or children to a parent in accordance with any specific arrangements or a Court Order notified to the school.

If one parent seeks to remove the child from school in contravention of the notified arrangements, and the parent to whom the child would normally be released has not consented the following steps will be followed;

- The Head Teacher or Designated Safeguarding Lead will contact the parent to whom the child would normally be released and explain the request.
- 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 verbally.
- In the event that the parent to whom the child would normally be released to cannot be reached, the Head Teacher or staff member dealing with the issue may make a decision based upon all relevant information available to them.
- The Head Teacher or staff member may have to refuse permission if agreement/consent cannot be obtained and we may need to take advice before a child or children are collected / released.
- We cannot prevent the other parent collecting the child or children but we will endeavour to reach an agreement and this may mean keeping the child or children safe whilst we try and reach such an agreement.
- If there is a Court Order restricting contact or it is in contravention of any access agreement, the child or children will not be released into their care and the other parent advised to take the necessary action which does not involve the school. If it is deemed necessary by the school to protect the child or children's health and welfare, the school shall immediately contact the police and the Local Authority where relevant.

- During any discussion or communication with parents, the child or children may be supervised by an appropriate member of school staff in a separate room to avoid causing any upset to the child or children.
- In circumstances if there is a belief that a possible abduction of the child may occur or if the parent is disruptive, the police should be notified immediately and the Local Authority notified.

8. Progress Reports and Pupil Records

Parents do not have an automatic right to request progress reports and review pupil records of their child and may be subject to certain limitations; however, the school will uphold its duty to provide a parent with an annual written report of a pupil's progress and attainment in the main subject areas unless the parent has agreed otherwise. The school is responsible for the data it holds and will therefore process requests for pupil information in line with the Data Protection Act 2018 and the Freedom of Information Act 2010. Where a court order is in place that expressly states a parent is not entitled to their child's pupil information, the school will uphold the court's instruction.

If the pupil's parents are separated or divorced, progress reports will be sent to the parent and address noted in the school's records specifying where the child resides, with the expectation that the parent will share the report with the other parent.

If the child is subject to a joint residence order and the school's records formally capture that the child resides at two addresses, then progress reports will be sent to both addresses.

The school will send copies of the progress reports to a parent with whom the child does not reside only if that parent submits a written request and their identity has been verified.

9. Parent Disputes

Disagreements between parents will be resolved between the parents and will not be resolved by the school. The school will ensure that it focusses on the welfare and education of the pupil at all times.

The school will ensure all parents are treated equally unless there is a court order in place limiting a parent's ability to make educational decisions, participate in school life or receive information about their child. Where one parent makes a claim that a court order against another parent is in place, the school will ask for evidence of the court order and ensure that the order is valid.

In the event that a pupil's parents are unable to agree with one another on decisions regarding their child's educational programme, including, but not limited to placement and participation in extracurricular activities, the school will arrange a meeting with all parents to assist them in resolving the situation.

The school will maintain an open door policy with parents and the class teacher will be available to discuss any issues that are relevant to the school and/or their child's education and welfare.

The school will seek advice from the LA and/or governing board about parent disputes, where required. In extreme circumstances, if there is a belief that a possible abduction of the child may occur or if the parent is disruptive, the police will be notified immediately.

In the event that a parent's action or proposed action contravenes the school's ability to act in their child's best interests, the school will make efforts to resolve the problem with the parent but will avoid becoming involved in any conflict. The school will decide whether it is appropriate to accept or decline requests for action from one or more parents.

In cases where the school is unable to resolve the conflict between separated parents, the aggrieved parent will be advised to pursue the matter through the family court. The school may also suggest that they seek independent legal advice about obtaining a prohibited steps order or specific issue order which sets out exactly what decisions each parent can make in respect of their child.

The school will be mindful that making child arrangements via the family courts following a separation can be stressful, and entrench conflict in families which can have a negative impact on a pupil. The school will not become directly involved in such issues; however, it will approach the situation sensitively and point parents towards the government's 'Get help with child arrangements' guide.

10. Obtaining consent

10.1 School trips and activities

If parental consent is required for outings or activities, we will seek 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.

In cases where the school considers it necessary to seek consent from both parents, it is possible that one gives consent and the other withholds it. In such cases, the school will assume that parental consent has not been given.

Where the school requires urgent consent because a child needs emergency medical treatment, the Children Act 1989 allows the school to act in place of a parent (in loco parentis) or to seek consent from a parent that does not have parental responsibility.

10.2 SEND provision

The school will ensure it focusses on the best interests of the pupil. In line with the Special Educational Needs and Disabilities (SEND) Policy, the school will ensure it identifies and addresses any SEN

The school will assert that it does not need parental consent to provide SEND provision to a pupil. The school will inform the pupil's parents that such a decision has been made.

The school will seek parental consent where it feels that a pupil needs to attend an external agency or service to support their SEND. In this case, consent from the pupil's primary caregiver will be sought, unless explicitly stated otherwise.

Where there is a dispute between the pupil's parents about the provision of SEND support, the school will consider the wider implications of the dispute, the pupil's welfare, and whether there is a potential safeguarding issue present, e.g. the pupil is being used as a tool for control.

10.3 Name changes

The school will act in the best interests of the child first and foremost.

Parents are responsible for resolving potential conflicts about the change of a surname.

The school will only act to change a pupil's name on its records once consent from both parents has been received and will ensure that the change in surname is supported by written evidence.

A separated parent who has parental responsibility, but no longer lives with the child, may refuse to consent to changing the child's surname. In such cases, the parent wishing to change the child's name would need to apply to the courts for permission to do so.

In circumstances where a name change has already been affected by the school and it is in the interest of the child, who might be known by a new name, to refer back to a different name, the school will make a decision holding the best interests of the child under paramount consideration.

10.4 Informal name changes

The school will assert that it is under no legal obligation to accept informal name change requests from parents, also called 'known as' names, unless ordered to do so by a court.

Where the school accepts an informal name change without the order of a court, it will ensure the name is only used informally, e.g. by teachers, and is not amended on any school systems, official documentation or databases.

10.5 Changes to records

The school will not remove a parent's details from the school records unless a court order is in place to this effect.

Where a court order to this effect is in place, the school will ensure it seeks evidence of this. In an emergency situation, the school may accept written confirmation from a solicitor as evidence.

Details of all known parents will be retained unless a court order instructs otherwise.

11. Safeguarding

The school will always have regard to the statutory guidance 'Keeping children safe in education' and enact its safeguarding procedures in line with its Child Protection and Safeguarding Policy. The school will always put the best interests of the pupil first.

"Child abduction" is the unauthorised removal or retention of a child and can be considered as such even if the child is removed or retained by somebody with parental responsibility. The school will ensure it acts accordingly in the event that a pupil is considered to be abducted by a parent, including calling the police.

While parental responsibility is not given to a foster parent or key worker in residential care, the school will engage and work with these individuals, who are often the most influential and important people in the pupil's life.

If the school believes a pupil is in immediate danger or at risk of harm, it will immediately make a referral to children's social care or the police, as appropriate.

Where referrals have been made, the school will consider the level of information to provide to parents on a case-by-case basis.

The DSL is responsible for safeguarding, including decisions regarding sharing information with parents about safeguarding concerns. A child's social worker may collect them from school – in these instances, a prior agreement with the pupil's birth parents and/or foster carers depending on the individual circumstances will be in place.

Schools will not permit social workers to enter the school premises to collect children to attend care review meetings or go to contact meetings without the prior agreement of teachers, foster carers, parents or the children themselves.

12. Information sharing

Information sharing will always be in the best interests of a pupil. The school will work closely with children's social care to consider next steps if it has reason to believe sharing information with a parent will potentially put a child at greater risk of harm.

The school will balance the requests of parents with their statutory duties – having parental responsibility does not allow a parent to obstruct the school from carrying out its duties under legislation.

Under the principles of the UK GDPR and the Data Protection Act 2018, children and young adults can assume control over their personal information and restrict access to it from the age of 13.

Parents are, however, permitted to request access to, or a copy of their child's educational record, even if the child does not wish them to access it – this applies up until the age of 18.

A parent is not entitled to information that the school could not lawfully disclose to the child under the UK GDPR or in relation to which the child would have no right of access.

Under Part 6 of the Schedule to the Education (Independent School Standards) Regulations 2014, the school will provide parents with an annual written report of each registered pupil's progress and attainment in the main subject areas taught – no report need be provided where the parent has agreed otherwise.

If the school does not know the location of a non-resident parent, it will ensure the resident parent is aware that the other parent is entitled to be involved in their child's education. If a resident parent refuses to share information with the other parent, and also refuses to provide the non-resident parent's contact details to the school, the school can do no more.

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

The school will not seek the consent of the parent with whom the child resides before recording the contact details of the non-resident parent or sending them their child's prescribed statutory educational information.

13. Pupils moving school

In the case of separated parents, the school will ensure that those with parental responsibility are consulted before the decisions are made in respect of:

- Removing a pupil from the school.
- When a pupil should leave the school.
- Which new school a pupil should attend.

The school will comply with the Education (Pupil Registration) (England) Regulations 2006 when it receives a request to remove a pupil from the school register; however, the responsibility to notify one parent if the

other decides to remove their child rests solely with the separated parents. Staff may, however, ask the parent making the decision to remove their child if the other has been informed and has agreed to this.

The school will not become involved in conflicts relating to pupils being removed from the school, and parents will be advised to seek independent legal advice or other options such as referring the matter to non-court dispute resolution, e.g. mediation, or to the family court for adjudication.

14. Management of the Policy

The Head Teacher/Designated Safeguarding Lead (DSL) will familiarise themselves with this policy and ensure all Staff, Governors and Volunteers are aware of the procedures to follow should the need occur.

The policy will be made available to parents and published on our school website.

Appendix A - Child Arrangements Orders

Applications for child arrangements orders are usually between private individuals, under s8 Children Act 1989. Where someone seeks an order in respect of a child who is in the care of the local authority it will be considered a public law matter.

In private law cases the child is not a party to the proceedings unless there are particular circumstances that make the case complex. The court can request a welfare report under s7 Children Act 1989, either from the local authority or from a Children and Family Reporter who is an officer appointed by Cafcass. The report will usually inform the court of the child's wishes and feelings, but the officer will make a recommendation based on what they think is in the child's best interests rather than just report on the child's wishes.

In some circumstances the court may order that the child is made a party to the proceedings. A Children's Guardian (who again is an officer of Cafcass) is appointed to represent the child in the proceedings and the Guardian will appoint a solicitor. If the child and Guardian do not agree on what recommendations to make to the court and the child is of sufficient age and understanding, they will be able to instruct a solicitor directly to represent their views and the Guardian will present their own views to the court.

Certain categories of people are entitled to make an application for a child arrangements order under s8 without having to seek permission from the court first, and they are:

1. The parent, guardian or special guardian of a child;
2. Any person who has parental responsibility;
3. Anyone who holds a residence order in respect of the child;
4. Any party to a marriage or civil partnership where the child is a child of the family;
5. Anyone with whom the child has lived for at least three years;
6. Anyone who has obtained the consent of:
 - a) a residence order;
 - b) the local authority if the child is in their care; or
 - c) everyone who has parental responsibility for the child.

Other people can make an application to the court for permission to issue an application for a child arrangements order. In deciding whether to give permission the court will take into account, amongst other things:

1. The nature of the application;
2. The applicant's connection with the child;
3. The risk there might be of the proposed application disrupting the child's life to such an extent that they should be harmed by it.

It is via this route that wider family members such as grandparents are able to apply for orders in respect of their grandchildren.

The Welfare Checklist - section 1 Children Act 1989

When a court considers any question relating to the upbringing of a child under the Children Act 1989 it must have regard to the welfare checklist set out in s1 of that Act. Among the things the court must consider are:

- a) The ascertainable wishes and feelings of the child concerned (considered in light of his age and understanding);

- b) His physical, emotional and/or educational needs;
- c) The likely effect on him of any change in his circumstances;
- d) His age, sex, background and any characteristics of his, which the court considers relevant;
- e) Any harm which he has suffered or is at risk of suffering;
- f) How capable each of his parents and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
- g) The range of powers available to the court under the Children Act 1989 in the proceedings in question.

For all proceedings under the Children Act 1989 when the court considers a question of the child's upbringing the child's welfare is the court's paramount consideration.

Child Arrangements Orders - section 8 Children Act 1989

These orders decide who the child is to live with and/or who the child will spend time with, and can be granted to more than one person whether they live together or not. If a child arrangements order states that the child will live with a person, that person will have parental responsibility for that child until the order ceases. Contact with a child can either be direct e.g. fact to face meetings, or indirect e.g. by letter or exchange of cards.

Some orders will make very specific arrangements for the child, other orders will be more open with detailed arrangements to be made between the parties by agreement. Child arrangements orders are not only made in respect of parents; there can also be orders for arrangements between siblings, and wider family members. Sometimes the order will give directions that contact is to be supervised by a third person, or that contact is to take place in a specific location.

Failure to comply with an order may result in the court making further orders specifying activities for a party to undertake or the court making other enforcement orders which can include an order for unpaid work.

Parental Responsibility - sections 3 and 4 Children Act 1989

Parental responsibility means all the rights, duties, powers, responsibilities and authority, which by law a parent of a child has in relation to the child and his property.

The birth mother of a child will always have parental responsibility unless it is extinguished by the making of an adoption order to another person.

Where the child's father and mother are married to each other at the time of the birth, they both have parental responsibility for the child.

Where the child's mother and father are not married to each other at the time of the birth the general rule is that the mother has sole parental responsibility for the child. However, an unmarried father will have parental responsibility for a child born after 1st December 2003 if he is named on the Register.

Other ways in which a father can obtain parental responsibility are by:

- a) drawing up an agreement with the mother (a parental responsibility agreement), which is a specific form that has to be signed by both parents;
- b) marrying the mother;
- c) the court making a child arrangements order for parental responsibility if the parents cannot agree on the father having parental responsibility.

Other people may acquire parental responsibility by entering into an agreement if they are the husband or civil partner of the mother, or if they obtain a child arrangements order for residence.

More than one person can have parental responsibility for the same child at the same time. Parental responsibility is shared between everyone, but where more than one person has parental responsibility for a child each of them may act alone in meeting that responsibility except in circumstances where the consent of everyone with parental responsibility is required.