

**December 2018**  
**Management Circular No. 92**

To Heads of all educational establishments

## **EQUAL PARENTS: Involving non-resident parents in their children's education.**

### **1 Introduction**

Parental involvement and engagement has been shown to have a positive effect on children's educational achievement. The Scottish Schools (Parental Involvement) Act 2006, and the accompanying guidance, placed obligations on schools to be active in engaging with parents in general, and fathers and non-resident parents in particular. The approach of the 2006 Act is now complemented by the National Parenting Strategy which makes clear the obligations of all public authorities to ensure that their practice is inclusive and promotes full participation of parents for the benefit of their children.

It is a reality that many children have parents who live separately either through divorce or separation or who have never lived together. Most but not all non-resident parents are fathers. Schools can find it difficult to manage differing expectations when family relationships and communications break down. It is important that schools do not take sides, but encourage a joint approach from both parents that meet the needs of the child. Schools should welcome all parents and show respect to parents who do not live together.

When a school makes clear to parents from the beginning that it will treat both equally and that neither parent has a veto over its relationship with the other it will reduce the potential for dispute down the line.

It is important that this message is understood not only by school leaders and pastoral care staff, but also by administrative staff, who may be the first point of contact between the non-resident father or mother and the school.

### **2 How the law currently affects non-resident parents**

#### **2.1 Who is a parent?**

A parent is defined in section 135(I) of the Education (Scotland) Act 1980 as: "Parent includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section I (3) of the Children (Scotland) Act 1995 in relation to, or has care of a child or young person." The Act covers state schools and pre-school nursery classes.

Nurseries are regulated separately from schools. The Care Inspectorate regulates early years services provided by the statutory, voluntary and private sectors. The Scottish Schools (Parental Involvement) act does not apply to these services. However, it is the stated view of the Care Inspectorate that registered care services should be aware of the need of all parents to have information which enables them to properly fulfil their parental responsibilities to their children, regardless of whether the child lives with them or not and that this should be reflected in their policies and procedures.

The Family Law Scotland Act 2006 extended recognition of unmarried fathers, awarding parental rights and responsibilities provided their name is on the birth certificate and the child was born after 4th May 2006. This generated a new anomaly in that an unmarried non-resident father may have parental rights and responsibilities for his younger children but not for any born before the May 4th 2006 cut-off date even though they are all children of the same relationship and his desire to support their learning is the same for them all.

Some non-resident fathers can acquire parental rights and responsibilities by legal agreement with the mother or by court order.

## **2.2 What is a non-resident parent entitled to?**

Fathers must be treated as parents for the purposes of statutory education rights unless their rights have been restricted or withdrawn after due process. A nursery or school should ask to see a copy of any such court order.

Whilst it is important to build good relationships between school and both resident and non-resident parents and carers to promote broader engagement, there is a statutory entitlement for the non-resident parent enshrined in the Pupils' Educational Records (Scotland) Regulations 2003.

Educational Records are not set out in regulations, but a non-resident parent should expect to receive copies of correspondence, including the child's school report and attendance/absence and any welfare/disciplinary issues including exclusion. Parents should be fully involved in the planning processes in relation to meeting the child or young person's educational needs. It is important that schools do as much as they can to support the continued involvement of parents who do not live with children. In doing so, schools must be sensitive to the needs and wishes of both parents who may not always agree. The views of the child or young person may be particularly important in such circumstances. Though the school should be sensitive to the need to ensure that it is not putting the child in the position of making the decision that should properly be taken by adults.

Non-resident parents should receive their own notification of parents' night at which they can discuss their child's educational progress. A non-resident parent is entitled to ask for a separate appointment if they are unable to attend. This will be particularly appropriate when parents do not wish to have direct contact with each other. There are particular challenges in accommodating such requests in the secondary school context where pupils have several subject teachers. Parents should be encouraged to work together in the interests of the child. If it is genuinely impossible or likely to lead to conflict, either parent should feel able to make an appointment with the child's named Pastoral Care Teacher to discuss progress or make alternative arrangements without being made to feel that s/he is a problem.

Schools should also consider how they can routinely keep non-resident parents informed in relation to sports days and other school events along with general information about the work of the school.

## **2.3 When can the school refuse to provide records?**

The general assumption in policy and law is that schools should treat both parents equally and that they should be entitled to the same information about their child.

A non-resident parent is entitled to information about their child even if they have no direct contact unless there is a court order prohibiting it. Unless a non-resident parent has had parental rights and responsibilities removed or there is a court order restricting contact, then the school should engage with him or her as with any other parent. The preferences of the parent with care should not be accepted as a veto unless it falls within criteria set out in the Act under which the school is not permitted to disclose information.

Section 6 of the Pupil Educational Records (Scotland) Regulations 2003 sets out the statutory basis for withholding information.

These are:

- If its disclosure would, in the opinion of the school, be likely to cause significant distress or harm to the pupil or any other person.
- It consists of a training/employment reference by the school for the purposes of the education, training or employment (prospective or otherwise) of the pupil.
- It is covered by certain sections of the Data Protection Act 1988 (Section 2, 30(2) or 38 (1)).

The terminology of the first ground is somewhat vague and can put the school in an uncomfortable position of having to assess 'significant distress or harm' not just to the pupil but to 'any other person' and balance the implications of such a request against the general benefits of continuing involvement. An establishment cannot refuse to disclose records simply because one parent and/or child or young person does not want the other parent to have access. Consent is not required from one parent for disclosure of information to any other parent.

### **3 Checklist for parental engagement:**

On admission check both parent/carer names and contact details. If you don't ask you might not get both.

Ensure that administrative staff are familiar with the process of adding both parents' contact details into SEEMIS.

Establish rights and responsibilities of each parent: e.g. residence of child, contact arrangements, shared residence. Where the terms of a court order are open to interpretation e.g. the child will be collected by mother/ father 3 days per week, specific details should be requested and written confirmation shared with both parents. \*

Make contact with the non-resident parent if contact details available.

If no contact details are available, work with other professionals e.g. social work services to establish a productive contact with non-resident parents.

Ensure relevant staff know there is a non-resident parent with parental rights and responsibilities and remind them on an annual basis.

Ensure all staff know how the school communicates and stays in contact with parents and carers, and the type of information that is shared.

Identify parents who are not engaging with the school and make an effort to encourage them in an appropriate manner.

\* It is a common discouragement to non-resident parents that the first response from school office staff is to give them a list of documents they must supply to establish their status. These are important and essential but schools should be aware that a negative first response by the school office to a parent can be a barrier to their future involvement.

Maureen McKenna  
Executive Director of Education