

## REQUESTS RECEIVED FROM PARENTS TO CHANGE THE SURNAME OF THEIR CHILD ON SCHOOL RECORDS

Problems can arise following the breakdown of a marriage in relation to the surname by which a child is known. A mother with whom a child resides following divorce may ask the school to change the child's name in its records, perhaps to her maiden name.

When such a request is made, schools should bear in mind the following:-

- Parents who are married both have the power and duty to register their child's name within 42 days of the date of birth.
- Once registered, the child's name can be changed provided that all those with parental responsibility consent to the name change.
- An unmarried father who registers the birth of his child jointly with the child's natural mother, and has his name recorded on the birth registration form, will for children born on or after 15th April 2002, acquire parental responsibility.
- Parental responsibility is a legal term derived from the Children (NI) Order 1995 that 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 having all the legal rights, duties, powers, responsibilities and authority. This includes the power to determine a child's education, where the child lives and the name of a child. Parental responsibility cannot be surrendered or transferred but it can be shared.

The legal position which applies to the changing of the surname of a child is basically:

- i. Where one person only retains parental responsibility for a child (for example the natural mother), this person may legally determine and change a child's name without any other permission or consent.
- ii. Where two or more people have parental responsibility for a child then only one of those persons can lawfully change the surname, if all other persons having parental responsibility consent or agree. In the event of a disagreement the matter can be brought before a court by the disputing parties.
- iii. Where a residence order is in force with respect to a child, no person shall 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.
- iv. In any other situation an appropriate court order is required.

The basic legal position, therefore, is that one parent is not allowed to change the child's surname without the consent of the other parent or of anyone else who has parental responsibility for the child. In such circumstances, a school should refuse to make such a change in its records unless there is evidence – independent of the parent seeking to make the change – that consent has been given. The clearest evidence would, of course, be something in writing from the 'other parent' giving consent to the change". Alternatively the parent may be able to produce an appropriate court order.

In the majority of cases, it is appropriate for a school to ask the parent who is requesting that a child's name be changed on the school records to provide a letter of consent from anyone else with parental responsibility or a court order. A change of name by deed poll is no guarantee that consent to a change of name has been given.

Parents can apply to the General Registrar Office for Northern Ireland to change a child's surname on a birth certificate on the basis that a new surname is in use. However, this application must be signed by everyone with parental responsibility. Schools are under no obligation to use a new surname simply because such an application is being made – particularly in the absence of consent from all those with parental responsibility.