

Parental Rights & Separated Parents Policy

Policy Code:	SW18
Policy Start Date:	March 2025
Policy Review Date:	March 2028

Please read this policy in conjunction with the policies listed below:

- HR6 Data Protection Policy
- SW5 Safeguarding and Child Protection Policy
- SW9 Parental Communications and Complaints Policy

1 Policy Statement

- 1.1 The policy outlines the Trust's approach to parental rights, particularly in instances where a child has separated parents. The Trust recognises that family circumstances can vary and that separated or divorced parents may face unique challenges. Whilst this Policy cannot cover every specific issue that might arise, it sets out a foundation of principles from which the Trust will work.
- 1.2 References to the Trust or Academy within this policy specifically include all primary, secondary and special academies within the Trust, as well as the Early Years setting at the Priory Witham Academy, Priory Apprenticeships and Lincolnshire SCITT.
- 1.3 This policy does not form part of any member of staff's contract of employment and it may be amended at any time.

2 Roles, Responsibilities and Implementation

- 2.1 The Education & Standards Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. This committee delegates day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Director of Safeguarding.
- 2.2 Leaders and Managers have a specific responsibility to ensure the fair application of this policy and all staff are responsible for supporting colleagues and ensuring its success.

3 Aims

- 3.1 To ensure that all parents are treated fairly, and the welfare of the child remains the paramount consideration.
- 3.2 To set out clear guidelines for communication, involvement and decision-making for separated parents.
- 3.3 Where there are any differences between this policy and any court order, the terms of the court order will prevail.

4 Key principles

- 4.1 **Welfare of the child** – the child's welfare, safety and education will be at the core of all decisions.

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- 4.2 **Legal compliance** – legal responsibilities, including court orders and/or agreements, will be adhered to.
- 4.3 **Respect and professionalism** – staff will remain neutral and professional, avoiding involvement in parental disputes.

5 Parental responsibility

- 5.1 Parental responsibility may be acquired in a number of ways and by several different people (including a Local Authority where a care order has been made). A child's birth mother automatically acquires parental responsibility from birth. This is also the case for fathers and second female partners if they are married or in a civil partnership with the child's mother at the time of the child's birth. Unmarried partners do not automatically have parental responsibility but they can acquire it in several ways, including by being registered on the child's birth certificate. It is also possible for non-parents to acquire parental responsibility.
- 5.2 Parents will be asked to identify who holds parental responsibility for a child on the Trust's Admission Form.
- 5.3 In the event that an individual claims parental responsibility, but they were not named in the child's Admission Form, the academy will seek evidence of parental responsibility, for example, a copy of the child's birth certificate.
- 5.4 It is the responsibility of parents to inform the academy if there is any change to legal arrangements that affect the child's schooling or parental responsibilities. Parents should be aware that the academy will ask to see evidence of any changes to legal arrangements (i.e., copies of court orders and/or legal agreements), and cannot make any changes based on the word of a parent/carer alone (unless in exceptional circumstances, in which case the Trust may seek legal advice).

6 Defining who is a parent under education law

- 6.1 Section 576 of the *Education Act 1996* states that, in relation to a child or young person, a 'parent' includes any person who is not a parent (from which can be inferred 'biological parent') but who has parental responsibility for or care of the child.
- 6.2 For the purposes of education law, the Department for Education (DfE) 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, a guardian or other relative; or
- any person who, although they are not a biological parent and do not have parental responsibility, has care of a child or young person.

6.3 If a person is not the biological parent of a child, does not have parental responsibility for the child, and the child no longer lives with them, it is unlikely they will be recognised as a parent under education law.

7 Parental rights

7.1 The academy recognises that, in most instances, parents have a legal right to participate in their child's education.

7.2 As defined more specifically in this policy, parents are usually entitled to:

- receive the annual written report;
- be informed if special educational provision is made for the children in school;
- be given the opportunity to participate in school activities e.g., vote in elections for parent governors; and
- be informed about meetings involving the child, such as a governors' meeting on the child's exclusion from school.

7.3 The academy will remain neutral and shall consider all requests from parents equally.

7.4 Disputes between parents over the exercise of their parental rights need to be resolved between the parents concerned and/or the courts. It is not for the academy to provide advice on domestic arrangements or become involved in parental disputes.

7.5 The academy is not generally a party to court orders which are in place in relation to the family. As such, the school will strive to facilitate the terms of any court order, but is not responsible for enforcing orders of the court. Individuals should seek their own legal advice in the event of any alleged breach of the terms of any order.

8 Information sharing

8.1 In line with part 6 of the schedule to the *Education (Independent School Standards) Regulations 2014*, academies must provide a parent with an annual written report of a registered pupil's progress and attainment in the main subject areas unless the parent has agreed otherwise.

- 8.2 Under the principles of the Data Protection Act 2018, children can assume control over their personal information and restrict access to it, assuming the child is able to understand and deal with the implications of exercising their rights. This control extends to cover information which is held within a child's educational record. Therefore, any request for data that does not form part of the annual written report will be treated as a Subject Access Request (SAR). Please see the Trust's HR6 Data Protection Policy for more information.
- 8.3 When considering whether to respond to a SAR for information about a child, the academy will consider:
- whether the child has capacity to provide or withhold consent in relation to the sharing of their data;
 - as the data belongs to the child, if it is in their best interests to provide the information to the requestor, even where the parent has provided their consent;
 - the nature of the personal data being requested;
 - any court order relating to parental responsibility or restriction on access to information about the child that may apply; and
 - any consequences of allowing the parent to have access to the child's information.
- 8.4 In certain circumstances, an academy may reach a decision to not share information with one parent, that has been shared with another parent. In this instance, the academy will always act in the best interests of the child, and will not make this decision without consultation with the Trust's Data Protection Officer (DPO) and the Trust's Designated Safeguarding Lead (DSL). The Trust may also seek legal advice.
- 8.5 Safeguarding information is treated separately and will usually be provided to parents where it is in the child's best interests to do so.

9 Obtaining consent

- 9.1 If an academy seeks parental consent for extra-curricular visits and activities, the consent of the resident parent will be sought (i.e., who the child will spend more than half of their time living with), unless a court order limits a parent's ability to make educational decisions, participate in school life or receive information about their child. In an instance of 50:50 residency, the academy may seek the consent of both parents.
- 9.2 The academy will not become involved in parental disagreements regarding consent and it is for the parents to come to an agreement between themselves or seek independent legal advice.

- 9.3 Consent will automatically be required from both the resident parent and the non-resident parent in instances when the decision is likely to have a long-term impact on the child, such as any medical treatment.
- 9.4 The non-resident parent in this context does not include absent parents or those who have no contact with the child(ren).

10 Medical treatment

- 10.1 An academy may experience an issue when a child has had an accident and consent is needed for emergency medical treatment. Section 3 of the *Children Act 1989* states that a person who does not have parental responsibility but nonetheless has 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’.
- 10.2 This permits the academy to act ‘in loco parentis’ (in place of a parent) or to seek consent from a parent who may not hold parental responsibility.
- 10.3 In circumstances where emergency medical treatment is required, the academy will endeavour to inform parents, including a non-resident parent who has asked to be kept informed of events involving the child, as soon as possible.

11 Pupils moving schools

- 11.1 In the case of separated parents, government guidance outlines that all those with parental responsibility must be consulted before important decisions are made, such as removing a child from their school, when they should leave the school or which new school they should attend.
- 11.2 The Trust must have a legal ground to remove a child from the academy’s roll. Any request to remove a child from the school register will be considered in light of the legal requirements and the relevant context in each case. There is no statutory obligation on an academy to notify one parent if the other decides to remove their child – that responsibility rests solely with the separated parents.
- 11.3 However, the welfare of the child is paramount, and so if one parent decides to remove their child, staff may enquire if the other has been informed and has agreed to the move.
- 11.4 The Trust/academy will avoid becoming involved in parental disputes, and so will recommend parents/carers seek legal advice if they are unable to agree on

issues relating to their child's education. In the case of disagreement as to which school a child shall attend, the child will remain on roll until either:

- the disagreement is resolved between the parents;
- by court order; or
- another lawful ground for removal from roll is satisfied.

12 Changing a child's legal surname

- 12.1 For pupils under the age of 16, the school will only change the child's legal name on its admission register and in the school records on receipt of a signed and witnessed change of name deed poll (enrolled or unenrolled). Without this confirmation, the school cannot change the child's legal name on their records. This evidence will be sourced independently of the parent seeking to make the change.

13 Collection of children from school

- 13.1 The academy will release a child to any person with parental responsibility, or a person authorised by them, unless alternative arrangements have been notified to the academy or the academy has safeguarding concerns about sending a child home with a particular parent/person.
- 13.2 Where parents collect their child(ren) alternate days or weeks, the school are not obligated to inform the other parent about who has collected their child(ren) if there are no safeguarding concerns and this has been authorised to the school by the parent responsible for collection on that day.

14 Data protection

- 14.1 In line with the *Data Protection Act 2018*, personal information about one parent/carer will not be disclosed to the other parent/carer unless there is a lawful reason for doing so.

15 Academy events

- 15.1 All parents should be invited to attend academy events, e.g., Parents' Evening, Award Ceremonies, Sports Day, etc, unless legal restrictions apply or there is a lawful reason for withholding an invitation.
- 15.2 Unless specified by a court order, the academy is not required to provide separate appointments for parents at Parents' Evenings. However, the academy will work with parents to ensure fair and equitable access to information.

16 Contacting the academy

- 16.1 Parents are asked to adhere to SW9 Parental Communications and Complaints Policy with regards to contacting the academy.
- 16.2 The Trust/academy will not act as an intermediary for parental disputes.

17 Procedure following contact from absent parents

- 17.1 On enrolment, we do expect to be provided with the contact details of all those with parental responsibility for the child, if known. Information provided to the academy when the child was enrolled will be presumed to be correct unless a court order or original birth certificate proving otherwise is provided to the academy.
- 17.2 Where the academy is contacted by a parent of a child on roll at the academy with whom the academy has no previous information (known in this policy as an 'absent parent'), if no court order exists, the academy will contact the absent parent to ask them to confirm their identity and to confirm whether they have parental responsibility for the child.
- 17.3 Upon receipt of proof of parental responsibility, the academy will clarify as to whether there is any legal reason that they cannot share this information with the resident parent.
- 17.4 If it is confirmed that legally this information can be shared with the resident parent, the academy will contact the resident parent to confirm whether the person is known to them and whether there is any legal reason why information should not be provided, i.e., a court order.

18 Policy Change

- 18.1 This policy may only be amended or withdrawn by the Priory Federation of Academies Trust.



The Priory Federation of Academies Trust

Parental Rights & Separated Parents Policy

This Policy has been approved by the Education & Standards Committee:

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.