

Section 4 continued

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where, a child's father and mother are not married to each other at the time of the child's birth, the father may also acquire parental responsibility for that child, if he registers the birth after 1st December 2003, in accordance with section 4(1)(a) of the Children Act 1989. Where neither of these circumstances apply, the father, in accordance with the provisions of the Children Act 1989, can acquire parental responsibility.

From 30 December 2005, where a person who is not the child's parent ("the step-parent") is married to, or a civil partner of, a parent who has parental responsibility for that child, he or she may also acquire parental responsibility for the child in accordance with the provisions of the Children Act 1989.

From 1st September 2009, specific provision has been made in relation to parental responsibility in certain cases involving assisted reproduction. Parental responsibility is held automatically by a woman if—

- she and the child's mother were in a civil partnership with each other at the time of treatment unless that woman did not consent to the treatment; or
- she is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and subsequently enters into a civil partnership with the mother.

A woman who is a parent of the child by virtue of section 43 of the 2008 Act but who does not subsequently enter into a civil partnership with the mother may acquire parental responsibility in accordance with the provisions of section 4ZA of the Children Act 1989

Section 5

A non-molestation order can forbid the respondent from molesting you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any question in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

- Are you the sole legal owner of the dwelling-house?
- Are you and the respondent joint legal owners of the dwelling-house?
- Is the respondent the sole legal owner of the dwelling-house?
- Do you rent the dwelling-house as a sole tenant?
- Do you and the respondent rent the dwelling-house as joint tenants?
- Does the respondent rent the dwelling-house as a sole tenant?

If you answer

- **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling-house
- **Yes** to (c) or (f) you may not be entitled (unless, for example, you are a spouse or civil partner and have home rights – see notes under 'Home Rights' below)
- **Yes** to (b), (c), (e) or (f), the respondent is likely to be entitled to occupy the dwelling-house
- **Yes** to (a) or (d) the respondent may not be entitled (unless, for example, he or she is a spouse or civil partner and has home rights).

Box 1 For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner, former civil partner, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer yes to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make the order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent is or was married to you, or if you and the respondent are or were civil partners, and he or she is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Home Rights

Where one spouse or civil partner "**(A)**" is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse or civil partner "**(B)**" is not so entitled, then **B** (who is not entitled) has home rights.

The rights are

- if **B** is in occupation, not to be evicted or excluded from the dwelling-house except with the leave of the court; and
- if **B** is not in occupation, the right, with the leave of the court, to enter into and occupy the dwelling-house.