



## Community Services: Education

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To: Heads of all Educational Establishments

Dear Colleague

### **Parental rights and responsibilities of unmarried fathers**

The Family Law (Scotland) Act 2006 came into force on 4 May 2006. It introduces a number of changes in family law and among these is a change to the granting of parental rights and responsibilities to unmarried fathers.

Prior to this change an unmarried father had no automatic parental rights and responsibilities and could only acquire these through a voluntary parental rights agreement with the mother or through an order from the Sheriff Court. The Family Law (Scotland) Act 2006 changes this and provides parental rights and responsibilities to the unmarried father if he jointly, with the mother, registers the child's birth.

A consequence of having parental rights is that, among other things, any such person can consent to medical treatment for the child or young person, and to the child or young person participating in establishment outings. Such a person can change a child or young person's name and access the child or young person's records etc.

The Family Law (Scotland) Act 2006 does not apply retrospectively and therefore only covers the registration of children born following the commencement of the Act on 4 May 2006. This will have an immediate effect in relation to any day nurseries (or equivalent) that take children from 6 weeks old. It should be noted however that the Act will also cover situations where the parents jointly re-register the birth of a child as the father's name can be added to the birth certificate at that point. From 4 May 2006 an unmarried father who jointly re-registers the birth of his child with the child's mother, in order to add his name to the certificate, will automatically acquire parental rights and responsibilities in relation to that child. This could involve children and young people who are currently on the roll of a nursery, primary or secondary establishment.

Establishments are sometimes asked to intervene in matters of dispute between the parents. You will be aware, however, that matters regarding parental rights are private matters between the parties involved and Argyll and Bute Council has no legal powers to intervene in such situations. Establishments must therefore ensure that they do not provide advice to any parent on the above matter. The onus rests with the individual parent to alert you to any change in parental rights and, before you amend your own records, you would be entitled to request that a parent furnish you with sight of the registered or re-registered birth certificate. If any issues arise from this change you should seek advice from Legal Services.

Yours sincerely

Executive Director of Community Services

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