

# Parental Status & School Communications

The separation of parents following marital or non marital difficulties is extremely traumatic for all parties involved and this is particularly true where children are concerned. The issue of marital and non-marital separation will be approached with sensitivity and with a clear focus on the well-being of children when in the care of St Joseph's.

## Legal Guardianship

- In a marital relationship both parents are joint guardians.
- In a non-marital relationship, the mother is automatically the guardian of any children. An unmarried father will automatically be a guardian if he has lived with the child's mother for 12 consecutive months after 18 January 2016, including at least three months with the mother and child following the child's birth. If there is disagreement as to whether they have been cohabiting for the required time, an application for the necessary declaration can be made to the court.
- If the mother agrees the father can become a joint guardian if both parents sign a statutory declaration.
- It is open to the natural father to be appointed a guardian through the courts.
- Written evidence of guardianship will be requested by the school.

Parental separation can occur in a number of ways, for example:

- 'de facto' separation: no formal/legal arrangements in place for custody/access to children;
- custody and access of children set out in a mediation agreement (no formal legal standing);
- Separation Agreement/Deed of Separation (negotiated between both parties solicitors);
- District Court Orders for Custody and Access;
- Decree of Judicial Separation (Circuit and High Court) may deal with custody/access;
- Foreign Divorce/Decree;
- Irish Decree of divorce.

It is important to note that the issue of schooling may not be explicitly dealt with in every case whether in the Separation Agreement or in the Court Order. In many cases the issue of custody is agreed between the parties without the necessity for court orders and expert reports.

## **Once a parent always a parent**

Parents, although separated following marriage breakdown, remain the legal guardians of their children. In cases of marital breakdown the issues of custody and access arise. This may be resolved with both parents sharing joint custody, or with one parent having or being awarded custody and the other parent having access.

Irrespective of the issue of custody in marriage breakdown, parents remain as joint guardians of their children and their legal obligations and rights as guardians remain unaltered.

Custody may be defined as the daily care and control of the child. The right of custody is only one of the rights that arise from the guardianship relationship between parent and child.

Guardianship gives both parents a say in all matters affecting the welfare of their child/children whether physical, religious, moral, social, educational - irrespective of the issue of custody. As guardians, parents continue to have rights in relation to the upbringing of their child. Essentially the issue of guardianship supersedes that of custody.

### **Implications for St Joseph's.**

a) In cases of separation, Separation Agreements and Court Orders, details relating to custody of children, access, etc. are generally considered private to the parties involved and are not copied to school authorities. The guardianship relationship remains unaltered.

Once a court order is issued, parents will be requested to provide their solicitors interpretation of the order and the implications that it will have for the school

b) Because of the guardianship relationship and the say it gives both parents in matters affecting the welfare of their children, both parents, unless precluded by Court order, continue to have a right to information regarding their child as follows:

○ Once a parent is legal guardian, they are entitled to all information pertaining to a child's education including attendance, reports, access to PTM's, consult with class teachers etc.

○ The normal practice is to communicate with home through newsletter, text a parent, email or through the child eg. invite parents to a parent teacher meeting by sending a note home via the child. However, when requested, the school will send two such communications, one to each parent provided both addresses, phone numbers and email addresses are supplied.

c) Where custody and/or the collection/delivery of children to/from school are in dispute and brought to their attention, teachers should:

- seek direction from the Board of Management on how to handle this situation; endeavour to comply with the request of the parent who has to all intents and purposes 'de facto' control of the children;
- refrain from giving guarantees to either parent regarding handing over of children at the end of the school day etc.
- avoid becoming embroiled in the marital dispute and place the onus on the custodial parent to collect the children at the end of the school day.

d) During school hours, children are under the control of the principal and teachers who are in 'loco parentis'. Where a parent seeks to use the school as a venue for informal access to his/her children, the principal and teacher should decline the occurrence of

of this. If in doubt advice should be sought from the Board of Management.

- e) Appropriate information, relevant to the child, regarding family structure etc., may be passed on from teacher to teacher within the school as part of normal professional communications.
- f) Increasingly teachers are requested by a range of professionals (social workers, psychologists, probation officers etc.) to provide written reports on pupils. Likewise, in custody/access cases solicitors acting for one parent may seek a written report from a teacher.

Accordingly, the Board of Management advises that:

- i. any reports provided should relate to the type of information a teacher is professionally capable of giving and being within the teacher's area of expertise.
- ii. The report should be similar in content to the normal end of year school report and supported by verifiable data (attendance, test results etc.) where required.
- iii. The terms of the report should be discussed with other colleagues who have a responsibility for the child (learning support teacher etc.) and with the principal teacher.

Generally, the prior written consent of parents should be sought where outside agencies are seeking a report on a child. There may be circumstances where it may not be appropriate to obtain the prior written consent of the parents (e.g.) cases involving alleged child abuse. In such cases the terms of Child Protection Procedures for Primary School 21017 ( "Children First" ) will be followed.

This policy was reviewed and ratified at the Board of Management meeting on June 14th 2021.

Signed: Goretti Whelan  
Chairperson of BOM