



For Life

NEWS AND ADVICE FROM BIRKETT LONG

Schools and the social divide



Commentators and academics suggest that academy schools create greater segregation between pupils from rich and poor homes.

Academies are schools which used to be run by the local authority and become independent schools, but are still funded by the state and subject to certain controls.

It has been suggested that academies have greater autonomy over the selection of pupils and are now carefully picking which they accept, so creating greater segregation between pupils from rich and poor homes than those schools still run by local authorities.

In reality, opinion on academies is more balanced. When a school becomes an

academy, it must agree to follow the School Admissions Code and the School Admissions Appeals Code as published by the Department for Education.

Generally, schools converting to academy status have not done so with great fanfare. Most have their own reputation and strong ethos already, and although they wish to be able to have the option to make the most of the best aspects of academy status, do not wish to change the way they work or the local communities they are supported by just for the sake of change.

In some areas of Essex almost all of the formerly local authority-run secondary schools now have academy status. Indeed over two thirds of secondary schools across the country are now academies, with primary schools following closely, so it would seem to be difficult in practice for schools in academy-heavy areas to be able to only take on the 'best' or the wealthier pupils. Teachers and governors seem to be at pains to ensure that pupils and their communities (rather than just league tables and numbers) come first, but perhaps we are on the whole just fortunate in this area.

If you would like advice about academy status, admissions or are a school governor and would like to find out more, please contact Emily Brown.



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Parental responsibility - what does it mean?

We are regularly asked by parents what parental responsibility means, what rights parents have and the circumstances in which these rights can be acquired. We hope that this article will assist with some of the misunderstandings in this complex area of law.

Parental responsibility is described as “all rights, duties, powers, responsibilities and authority which, by law, a parent has in relation to a child and their property”. It provides the authority to choose a child’s school, form of religious upbringing, medical treatment and by what name the child should be known. Therefore a father may find that a school, doctor or hospital will not deal directly with them unless he has parental responsibility.

Where parents share the responsibility, neither of them can take the child out of the country without the consent of the other.

There is an exception; if one parent has a Residence Order in their favour, this will allow that parent to take the child out of the country for a period of no more than 28 days, without the authority of the other parent. If consent is withheld, the parent seeking to remove the child can make an application through the courts.



Who automatically has parental responsibility?

- A child’s mother has automatic parental responsibility from the date of the child’s birth, as does the father who is married to the mother of the child either before or after the child’s birth. If the parents divorce they will still continue to share parental responsibility for the child.
- If a couple jointly adopts a child, they will share parental responsibility for the adoptive child.
- The father of a child born after 1 December 2003 who is named on the child’s birth certificate automatically has parental responsibility whether he is married to the mother or not.

How can parental responsibility be obtained?

Where a father who is not married to the child’s mother wishes to acquire parental responsibility, there are several options available to him.

A Parental Responsibility Agreement can be drawn up, which is signed by the parents and witnessed at the local court and then registered with the Principal Registry of the Family Division in London. The court can grant the father a Parental Responsibility Order or even a Residence Order which

Bare essentials

Legal facts you can’t do without

Is your will valid?

If you do not have a valid will at the time of your death, then legislation dictates who will receive the benefit of your estate – and very often it is not the beneficiaries you would choose yourself!

Under current legislation, the surviving spouse or civil partner is entitled to receive any jointly held assets, all personal possessions, and the first £250,000 of the estate (known as the statutory legacy).

Any amounts over this sum can very often be shared with children, parents, siblings or in some cases, distant cousins you never

knew you had. If no surviving family members can be traced, then your hard earned money could end up passing to the Crown. Unmarried couples have no entitlement under the current rules.

Making a will can be a quick, straightforward process and, once completed, can potentially last a lifetime.

To find out more please contact Emma Harper on 01206 217387 or email emma.harper@birkettlong.co.uk

would also give him parental responsibility for the child.

Step parents are also able to acquire parental responsibility for a step child either by entering into a Step Parental Responsibility Agreement (which requires the consent of all of those who hold parental responsibility) or by an order granted by the court. A Step Parental Responsibility Agreement will need to be registered in the same way as that for an unmarried father.

Parental responsibility for same sex couples, civil partners and in relation to surrogacy arrangements, is a very complex area of law and we would recommend that couples seek specialist legal advice as soon as possible to establish what rights they may acquire automatically, what rights can be acquired and who can share parental responsibility.

Although we hope this information will be useful, it cannot replace specialist legal advice on your specific circumstances. To discuss any issues relating to parental responsibility, please contact Yolande Millar.



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Meet the team

Mel Loxley

Mel is an associate solicitor and the Team Leader of the private family team. She advises on relationship breakdowns and the financial and children issues that result for both married and unmarried couples.

Mel is a member of the Law Society Family Panel and a former member of the Essex Resolution Committee. Resolution is a nationally recognised body of family lawyers that abide by a code of conduct for lawyers.

Mel achieved a joint honours degree in law and psychology at Keele

University and attended law school at The College of Law, Chester. Before joining Birkett Long in June 2006 she worked as a paralegal and subsequently qualified as a solicitor with a large legal firm in South Essex.

“ Throughout the painful process your guidance has been invaluable. Your words reminded me of the current popular advertising slogan, “keep calm and carry on”.
A client recommendation ”



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under the spotlight

The pitfalls of solar panels

It is difficult not to notice the outbreak of solar panels across the nation's roof slopes. Householders have been embarking on their own "green" adventure with subsidised solar energy generation, many are tempted by the promise of long-term free electricity and, for the lucky few, perhaps an income from selling their spare electricity to the nation's power companies. What could possibly go wrong?

Well, quite a lot is the simple answer. The technology itself is sound, but some installations will be less productive than homeowners hoped due to geographical location or orientation. Perhaps more worryingly, in the coming years some unfortunate owners are likely to find that their houses have been rendered potentially less saleable by their venture into green energy.

Some home-owners have paid outright for panels and installation at considerable cost. They will benefit from free electricity and sell any surplus to the national electricity suppliers under a system of Feed In Tariffs (FITs). This might save £500 annually on the domestic energy bill and, under the initial higher tariff (which has since been significantly reduced), could produce a real income - potentially not a bad return on their initial investment.

The majority of owners, however, opt to avoid an initial investment but have more potential drawbacks in the longer term. In such cases the PV (Photovoltaic) panel providers retain ownership of the panels and take a lease, usually for 25 years, on the roof and airspace above. They install the panels for free and provide free electricity to the home-owner, but retain income from the FITs payment. The attraction to the home-owner is obvious: free electricity for the long term at no cost.

A 25 year lease of a roof is technically no different from leasing a part of your garden or the house itself. It may be less intrusive but the legal commitment is the same. More seriously, there may be implications for maintenance of the installation or of the

roof covering itself. It is far from unusual for the roof of an older property to require periodic maintenance during a 25 year period. For example, does the lease agreement clearly set out the responsibilities for removing the solar panels while works are carried out?

Research shows that many lenders expect solar panels to affect the marketability of a property, not least due to a negative 'kerb appeal'. Some installations are more intrusive than others and could deter potential purchasers. Even when the legal aspects of the arrangement have been properly dealt with, the practical implications of panels on the roof for the 25 year lease term remain. Building Regulations' approval is required if panels add more than a third to the weight of the existing roof covering, so a proper initial assessment is critical. Avoiding damage during this work is difficult, so completing effective repairs should be a standard part of the installation process.

Our advice would be to check carefully so that you do not unwittingly become entangled in any arrangement which is likely to have a long term adverse impact on your most valuable asset, your home.



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Forthcoming events

Coming up in 2014

- Growing and protecting your money
A free seminar in February
- Re-claiming your care home fees
A free seminar in March

For more information on any of our events please visit www.birkettlong.co.uk/events or email seminars@birkettlong.co.uk

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