

PARENTAL SEPARATION POLICY

**HAROLD'S CROSS
NATIONAL SCHOOL**

Policy – Parental Separation
Created Feb 2006
Updated Aug 2010
Updated and Amended June 2013
Amended January 2014
To be Reviewed 2016

Procedures for Dealing with Parental Separation in Harold's Cross NS

This document has been approved by the BoM and is used in Harold's Cross NS to guide our dealings with parents, of pupils in our school, who have separated.

Preamble

In a situation where the school is notified formally or is aware of Parental separation, the teachers dealing with any pupil from such a home will approach the issue with sensitivity with the well being of the pupil paramount. Particular care will be taken when topics such as family or relationships are being covered in RSE, SPHE, and Alive O etc.

All teachers and SNAs will be reminded of the rights of parents/guardians and of school's legal requirements, of reporting obligations to the parents/guardians and that guardianship requires that both parents may have the right to a say in matters affecting the child's welfare which includes education.

All school staff will further be reminded of the following, annually, in September

- That unless precluded by Court Order, each parent continues to have the right to consult with relevant staff in regard to the educational welfare of the child
- Notice of and attendance at parent /teacher meetings,
- Have access to school reports,
- Notice of meetings with NEPS, SENO, and NEWB etc.
- Notice of in-school and after-school programmes
- Notice of school closures
- Notice of preparation meetings for the various sacraments/school events etc.

Procedures

1. Where the school has been notified, in writing, that where parents are married to each other, separated and living apart, both parents are entitled to all of the above. Separate letters / communications will be made available to each parent.
2. Where the school is notified, in writing, that where parents married to each other, living apart with a Separation Agreement in place, then both are entitled to all of the above. Separate letter will be made available to each parent.
3. Where the school is notified, in writing, that Parents are in a new relationship both parents are entitled to all of the above. Separate letters/communications will be made available to each parent.

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4. Where the school has been notified, in writing, that parents are unmarried and living together, or apart, the natural father will be provided with notification only if a court order or statutory declaration (by the mother), granting rights to same, exists and that copies of relevant sections are made available to the school.
5. Where the school has been notified, in writing that parents are unmarried and in a new relationships the natural parents are entitled to the notices as in paragraph 4 above. Letters/ communications will be made available to the guardian. If a court order or statutory declaration exists and is notified to the school the other parent will have these made available to them.
6. The school will recognize the rights of parents who are in Civil Partnership arrangements subject to legal advice and in accord with current legislation.

Where the school is made aware that there is discord between parents arrangements may be made for separate parent teacher meetings and consultations.

It is the experience of the school that issues of dispute are often centered on the following

- Collection of children
- Parents seeking access to children during the school day
- Reporting... behavioral/educational/
- Granting of permission for assessments
- Preparation for Sacraments
- Permission to go on tours/trips.

All parents will be informed that the school will not act as arbiter in these or other disputes but will require clear written instructions from the legal guardian in such cases.

During school hours teachers are “in loco parentis”. Where there is disagreement between parents, it must be understood that parents must sort these matters outside of the school setting. Where meetings are held and discord is expressed an agreed report of meetings may be shared between all parties.

Where teachers are concerned about such arrangements they must bring them to the immediate attention of the Principal teacher who will bring the matter to

the notice of the Chairperson of the Board of Management. The BoM may also request copies of the relevant sections of Court orders.

All parents will be informed upon enrolment of their children that information relevant to a pupil's care may be passed from teacher to teacher as the pupil passes throughout the school.

Where outside professionals or solicitors acting on behalf of one parent, request a school report on a pupil, the teacher in consultation with the Principal and Chairperson of BoM (if deemed appropriate) will make a decision on the provision and type of such report. (Educational/Behavioral). This may take the form of the normal end of year report and will be supported by verifiable data such as standardized test results.

As a general rule where a report is issued to one parent a copy will be provided to the other parent. The school also recognizes that it may at times be inappropriate to provide copy reports to the other parent and each case will be dealt with sensitively. Legal advice may be sought if required.

All of the above is subject to Data Protection Acts 1998 and 2003.

Where a solicitor acting for one parent, seeks a written report from a teacher it is recognized that there is a strong possibility that any report generated may be produced in a subsequent court hearing and that the teacher may be called as a witness and may be subject to cross examination. In failing to supply such a report the possibility of being subpoenaed may arise. In this case the teacher should inform the Principal and consult with INTO.

All reports emanating from the school must be done in consultation with and countersigned by the Principal.

Arrangements for distribution of routine notes.

Most routine written communication between school and home is by note sent home in the pupils' schoolbag, by text or in the case of holidays and policy matters posted on the school website.

Copies of such notes/communications will be made available to separated parents who are not living at the same address. These notes will be available for collection from the school secretary as it is impractical and costly to postal effect delivery to all who may be entitled to them. Notes may be collected at any time during the school day.

Where separated parents have shared their mobile phone numbers with the school for texting purposes they will be included in group texts.

APPENDIX 1

FAMILY LAW ISSUES – WHAT SCHOOLS NEED TO KNOW (OVERVIEW)

The content of this appendix relates to notes issued at a Family Law Workshop held Autumn 2013.

OVERVIEW OF WORKSHOP

General Overview

- **Guardianship** – rights and duties in regard to the upbringing of children.
- **Custody** – day to day care of children
- **Access** – visitation and communication rights
- **Relationships** – Who has rights? What rights? What schools need to do when an issue arises?
- **Married**
- **Married** and now separated/divorced
- **Unmarried**
- **Others** – Grandparent/New Partners etc.

GUARDIANSHIP

Guardianship is:

- Having responsibility for the **welfare of the child**. Welfare includes the religious, moral, intellectual and physical wellbeing of the child.
- The right to make **all major decisions** affecting the child's upbringing eg:
 - Choice of school.
 - Medical treatment.
 - Religious matters.
 - Health requirements.
 - The decision about leaving the country.
 - Other.

CUSTODY

Custody is:

- The right of a parent to exercise physical care and control over a child on a day to day basis:
 - Washing.
 - Feeding.
 - Ensuring child has sufficient sleep.
 - Schooling.
 - Supervisions.
 - Managing behaviour.
 - Other.

ACCESS

Access is:

- The right to see and communicate with the child eg:
 - Overnight stay.
 - Weekend stay.
 - Collect child from school/home.
 - Go on holidays.
 - Other.
- **Access** can be by agreement or Court order.
- If a person has custody of a child – access is not an issue.

RELATIONSHIPS

- **Married Living Together:** Parents, living together, of a child are automatically joint guardians and have joint custody.
 - Both parents are entitled to:
 - To be consulted in regard to educational welfare of a child eg consent for assessment.
 - Notice of a right to attend formal parent/teacher meetings.
 - Copies of school reports.
 - Notice of meetings with NEPS, SENO etc.
 - Notice of in-school/after school programmes.
 - Notice of school closures.
 - Notice of preparation for the various sacraments/other meetings.
 - Other.

- One letter/communication to both parents will suffice.
- **Married – and now Separated/Divorced:**
 - Both parents will remain as **Joint Guardians**.
 - They are entitled to the same/equal information from the school.
 - **Custody** – Joint/sole (subject to Court order/agreement)
- **Married – and now Separated/Divorced / Information from School:**
 - Both parents are entitled to:
 - Consulted in regard to educational welfare of child eg consent for assessment.
 - Notice of and right to attend formal parent/teacher meetings.
 - Copies of school reports.
 - Notice of meetings with NEPS, SENO etc.
 - Notice of in-school/after school programmes.
 - Notice of school closures.
 - Notice of preparation meetings for the various sacraments/other meetings.
 - Other.
- **When an issue Arises. The school needs to:**
 - Verify arrangements with parents:
 - Informal?
 - Separation Agreement?
 - Court Order?
 - Request certified copy of relevant section(s) of Court orders/separation agreement or a letter of clarification from solicitor.
- **Married – Parents Separated/Divorced – New Relationship.** The guardianship rights of the natural parents do not change.
 - New partners have no statutory rights in relation to the child.
 - **No** communication should issue from the school to the new partner **unless**
 - It is agreed between the guardians or
 - Provided for by a Court order.
 - New partners may have a role with regard to ‘domestic arrangements’ eg collection from school etc.

- **When an issue Arises. The school needs to:**
 - Verify arrangements with parents:
 - Informal?
 - Separation Agreement?
 - Court Order?
 - Request certified copy of relevant section(s) of Court orders/separation agreement or a letter of clarification from solicitor.
- **Unmarried Parents:**
 - If parents are unmarried the natural mother **only** has automatic right of guardianship.
 - Mother can grant the father guardianship by statutory declaration.
 - Father can apply to court for guardianship, custody and/or access.
 - Should the natural mother and father subsequently marry each other, both then have equal guardianship rights and are entitled to information as set out above.
- **Unmarried Parents – Information from School:**
 - The **natural mother** has automatic entitlement to the information as set out above.
 - The **natural father** does **not** have an automatic entitlement to the information as set out above.
 - Where the natural father is in possession of either a Court order or a statutory declaration, entitling him to guardianship, he is entitled to the information set out above.
- **When an issue Arises. The school needs to:**
 - Request a certificate copy of the statutory declaration **or**
 - Request certified copy of the relevant Court order **or**
 - Letter of clarification from solicitor.

OTHERS

- **Others** – grandparents, extended family, anyone who has acted in *loco parentis* to the child:
 - May apply to the Court seeking orders in regard to guardianship, custody and or access.
 - Where such a person obtains a court order granting her/him guardianship rights, she/he is entitled to the information set out above.

- **Having 'Custody' and/or 'Access' may entitle the person to some information from the school eg school opening/closing times.**
- **When an issue Arises. The school needs to:**
 - Establish **legal status** of person asking questions/making request of the school:
 - Is she/he a **guardian**?
 - How do I know the person asking is a guardian?
 - a) A Married/Birth Certificate.
 - b) Statutory Declaration.
 - c) Court Order.
 - Information should not be shared by the school until such time as the school satisfies itself that the person is entitled to receive it.
 - If a solicitor's letter is received, the school should not respond to the solicitor's letter but should contact Allianz and seek authorization for legal advice.
 - A solicitor's letter should always be responded to by a solicitor.

SUMMARY

- NB Guardianship.
- Stay out of family disputes.
- Where an issue arises:
 - Err on side of caution.
 - Establish the fact.
- What appears correct on the face of it may need further clarification eg. Court Order may have been updated.
- The response of the school will be determined by the facts of each case.

RELEVANT LEGISLATION

- 1. Guardianship of Infants Act 1964.**
- 2. Judicial Separation and Family Law Reform Act 1989.**
- 3. Childcare Act 1991.**
- 4. Family Law Act 1995.**
- 5. Family Law (Divorce) Act 1996.**
- 6. Children Act 1997**
- 7. Other**

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