

5. MY RIGHTS IN THE FAMILY

5.1 General

Do I have a right to live with my family?

Yes. You have a right to live with your family if this is in your best interests.

What is guardianship?

Guardianship is the collection of rights and duties which a parent has for their child. A guardian has a duty to maintain and properly care for the child and has the right to make decisions in the major areas of the child's life such as choice of religion (if any), choice of school, adoption, consenting to medical treatment, passports and decisions about leaving the country.

Your guardian is the person who has 'guardianship rights' – legal responsibility – for you. This is usually your mother and father but can also be another relative or person.

Who is my guardian?

If your parents were married to each other when you were born, they are automatically your guardians.

If your mother was not married when you were born, she is automatically your guardian but your unmarried father is not automatically considered your guardian. He can become your guardian by marrying your mother, through a joint agreement with your mother or by applying to a court.

If your parents are a female same-sex couple, your biological mother will be your automatic guardian. If your parents are a male same-sex couple, your biological father can seek guardianship. At the moment your non-biological parent cannot gain guardianship rights for you, but the law in this area may change soon.

If one of my parents enters a relationship, does their new partner automatically become my guardian?

No. If your mother or father's partner is not your biological parent then he or she cannot become your guardian. The only exception is if your parent marries the new partner. In this case, the new partner can formally adopt you with the consent of your other biological parent.

Do my relatives have the right to make decisions about me?

Not usually. However, if your parents were unable to look after you because of an illness or if, for example, they died, a relative could apply to the court to become your guardian and have the right to take legal decisions about you and to exercise your rights on your behalf. Your parents could also nominate someone to take on this role in their will in the event that they die.

At what age can I move out of home?

You can leave home at 16 if your parent or guardian agrees. You can leave without consent when you reach 18.

5.2 Changes in my family situation

What happens to me if my parents split up?

Ideally, your parents will decide:

- how they will share the day-to-day responsibilities of taking care of you;
- where you will live;
- whether you will live with one of them or share your time with both;
- how often you will see each parent and for how long; and
- how much each of them can afford to pay towards running the home.

If your parents cannot agree on these issues, someone else will have to get involved to help your parents to decide. This could be a mediator, a lawyer or a judge in a court.



Do I have a right to a say in these decisions?

No. Your parents will make these decisions. If your parents get help from the Family Mediation Service, you may be invited to attend a session with your parents to discuss the arrangements they have made. If your parents cannot agree and the matter goes to court, the judge may ask for your views but you will not be directly involved in any court proceedings.

Do I have a right to see both of my parents if they split up?

Yes, in most situations. Arrangements will usually be made for you to see both parents unless there is a concern for your safety. If your parents cannot agree about this, the court may be asked to decide for them. Step-parents, grandparents, aunts, uncles, sisters and brothers may also apply to the court for the right to see you. The court will allow this if it is in your best interests.

If you are unhappy with the amount of time you spend with either parent, try to explain your point of view to them. You might want to get help from organisations that work with children and young people such as Teen Between. See page 81 of this guide for contact details.

Do I have a right to financial support from my parents?

Your parents have a duty to support you financially until you are 18. If your parents separate or divorce, they must both provide for you. If they cannot agree, the court will decide based on your parents' income and other family responsibilities. A step-parent who is not your legal guardian does not have to continue to financially support you.

5.3 Young parents (under 18)

The law has different rules depending on your relationship with your child and your status as a parent (whether you are married or single). Also see section 3.7 of this guide.

Can I go to school after the child is born?

Yes. By law, you must be in school until you are 16 years of age. You may miss some time at school during your pregnancy or after your baby is born, so it is a good idea to talk to a teacher or the school principal about making up for lost time or joining the Home Tuition Scheme which lets you learn from home.

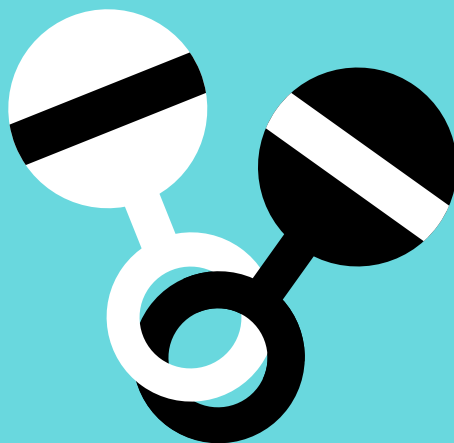
If you are due to have your baby around the time of your Junior Certificate or Leaving Certificate exams, you should ask your school to make arrangements for you to do your exams separately and in more comfort. If you cannot complete your exams, you can always go back to school after the child is born.

How will I pay for all the things my baby needs?

There are a range of supports available to you from the Department of Social Protection including Child Benefit payments to help you to pay for the baby's needs. Your parent or guardian may be able to help you apply for these payments or you could contact the Department of Social Protection or your local Citizens Information Centre yourself. There are also special guides for young parents such as the Young Parents Survival Guide from the Teen Parents Support Programme - www.tpssp.ie. Visit www.treoir.ie or www.welfare.ie for more information.

Do I have rights as an unmarried mother?

Yes. You are automatically the child's legal guardian from birth and have full custody of your child.



Do I have to register the name of my child's father at birth?

You must register the birth of your child within three months of the birth. You do not currently have to record the details of the child's father if you are not married. A new law will change this rule soon, but at the time of going to print the procedures for this have not been finalised. However, it is generally in a child's best interests to have their father's name on the birth certificate. Many people assume that having the father's name on the child's birth certificate gives the father legal guardianship rights – but this is not so. Nor does it affect an unmarried mother's entitlement to One-Parent Family Payment.

You can find out more about registering the baby's birth from the General Registrar's Office on 1890 25 20 76. You can also get information on the Citizen's Information website at: www.citizensinformation.ie.

Do I have rights as an unmarried father?

You have no automatic rights if you are an unmarried father. You can apply for guardianship if the mother agrees. You do this by signing a guardianship form in front of a peace commissioner or commissioner for oaths. If the mother does not agree, you can apply for guardianship through the local district courts. The court may refuse to

appoint a father as a guardian if this is not in the best interests of his child. If the biological father and mother marry, the father will automatically become the child's guardian. You can get information on how to apply for guardianship, seek custody of your child or get access rights from Treoir (www.treoir.ie). You may also need to get legal advice. You can find out about how to get civil legal aid by visiting the Legal Aid Board's website on www.legalaidboard.ie or by phoning them on 1890 615 200.

You can also contact the Teen Parents Support Programme if you are a young father or a young father-to-be. See www.tpssp.ie to find out what parenting supports are available to you.

5.4 Adopted children What is adoption?

Adoption is a legal process which enables an adult to permanently become the legal parent of a child. In an adoption, the legal relationship between the child and the birth parent no longer exists and the adoptive parents have the same rights and duties as if the child was born into their family.

For parents and guardians

How can I place my child for adoption?

Only children born to unmarried parents can be placed for adoption. For more information, contact the social work team at your maternity hospital, your local Child and Family Agency adoption team, an adoption agency, the Adoption Authority or a pregnancy counselling service such as Positive Options. You can contact these agencies at any stage of a pregnancy or on the birth of your child. You can change your mind about the adoption at any time up to the point that an Adoption Order is made.

Treoir along with the Crisis Pregnancy Programme has produced an information booklet on the adoption process for parents thinking of placing their child for adoption. You can visit www.treoir.ie or call 1890 252 084 to speak to someone about your situation.

As a child's father do I have a right to be consulted before my child is placed for adoption?

Yes. As the child's father, you have the right to be consulted before your child can be placed for adoption by the mother, even if you do not have joint guardianship. If you have joint guardianship of the child, your consent is required before the adoption can go ahead. If you cannot be contacted, an order from the High Court is needed before the adoption can go ahead.

When can a child be adopted?

A child must be six weeks old before he or she can be placed for adoption. If you are older than seven years, the court must take your wishes into account having regard to your age and level of maturity before making the adoption order.

If I am adopted, do I get a new birth certificate?

Yes. If you have been adopted, a new birth certificate will be issued for you in the name of your adoptive parents and your name will be entered into the Adopted Children Register.

Do I have a right to see my original birth certificate?

No. There is no automatic right to see or get a copy of your original birth certificate.

Do I have a right to see my adoption records?

No. You do not have a right to your adoption records in Ireland. You can apply to the Adoption Authority of Ireland for details of your birth parents. However, the Adoption Authority has a duty to protect your birth mother's privacy unless she decides to give her consent to the release of records. If the Adoption Authority refuses your request, you can ask the High Court to review the decision.

Do I have a right to have contact with my birth parents?

No. However, the Adoption Authority operates a National Adoption Contact Preference Register to make it easier for adopted people and their birth families to contact each other, if they both wish to do so. It is up to you to decide if you want to put your name on the Register but you must be over 18 to do so. You and your birth family will only be put in contact with each other if you have both registered.

The Register lets you choose what level of contact you wish to have. This can range from meeting your birth family to telephone calls, emails, letters or no contact at all.

Who can I talk to about being adopted?

If you want to talk to someone about your adoption, Barnardos runs a confidential telephone helpline on (01) 454 6388. You can also contact the Adoption Authority of Ireland, the Child and Family Agency or Childline if you have concerns – see pages 73, 75 and 81 of this guide for contact details.

