

**GENERAL SYNOD  
LEGAL ADVISORY COMMISSION**

**Baptism: consent of parent**

**Involvement of parents, guardians and godparents**

1. The canon law has never required the consent of a parent before a child is baptized. Indeed, had that been so, emergency baptism would have proved impossible. Although the *Common Worship: Christian Initiation: Emergency Baptism* (Note 2 at p. 105) provides that it is the parent's responsibility to request emergency baptism, it also recognizes that the parents may be absent and that they may not even have named the child (see Note 3 at p. 105). The Ministration of Private Baptism in Houses in the BCP also seems to envisage the possibility of the absence of the parents. In relation to a healthy infant, however, Canon B 22 envisages some involvement of the child's parents or guardians as the minister is required to instruct them in their responsibilities.
  
2. However, Canon B 22 must be construed in relation to the general law applicable in England and the word 'parent'<sup>1</sup> must therefore now be construed as referring only to a person having parental responsibility for the child<sup>2</sup>. The Children Act 1989, section 3(1), defines 'parental responsibility' as

'all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child ....'

And, although the Act does not further define the scope of this responsibility, subsequent case law has made it clear that it embraces both the right to determine a child's religion and to change a child's name. This being so, the decision whether or not to baptize a child is in the Commission's view also part of parental responsibility.

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<sup>1</sup> The word 'guardian' must similarly be construed in relation to the general law applicable in England.

<sup>2</sup> If one or both parents of the child are, or have been, resident other than in England and Wales since the birth of the child, it may be that different considerations apply and advice in such cases should therefore be sought from the diocesan registry.

In consequence, no person (other than one authorized by a civil court) can lawfully authorize a child's baptism unless that person has at the relevant time parental responsibility for that child<sup>3</sup>. Nevertheless, more than one person may have parental responsibility at any given time (CA 1989, s 2(5)), although each of them may act alone in carrying out that responsibility unless there is any enactment to the contrary (CA 1989, s 2(7)). In addition, a person who has parental responsibility may arrange for some or all of his or her responsibility to be met by one or more persons acting on his or her behalf (CA 1989, s 2(9)). In the latter circumstance a minister should not baptise the child until he or she is satisfied by reference to the original document making such an arrangement that the person applying for the baptism to take place does, indeed, have the requisite authority.

3. The Commission recognises the pastoral situation of the minister when asked to baptise a child and that any enquiries as to parenthood and who has parental responsibility requires sensitivity. Nevertheless, it is necessary for the minister to make some enquiry into these matters as to proceed without the requisite authority could in theory amount to an assault on the child. For this reason it may be best practice to provide a simple questionnaire to be filled out by those bringing the child to baptism. Such a questionnaire should include simple questions as to who are the natural parents of the child and who has parental responsibility for the child. (A table as to who in law has parental responsibility is set out in the Appendix but in the case of any complication the advice of the diocesan registry should be sought before proceeding further.)
4. Although any one person having parental responsibility may in law act alone (see above) and therefore may bring a child to baptism without the knowledge or agreement of others having contact with or responsibility for the child, the minister should not proceed without attempting first to ascertain the views of those other people. To act otherwise may cause a difficult pastoral situation and in any event it is always open to another person to apply to the civil courts for an order preventing the

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<sup>3</sup> Nonetheless, the exercise of parental responsibility may be subject to an order of the civil courts and in certain circumstances a local authority is entitled to exercise parental responsibility to the exclusion of any others having that responsibility. The unusual case arising in relation to section 3(5) of the Children Act 1989 is referred to later in this opinion.

baptism. In the event of any disagreement the minister should seek the direction of the diocesan bishop.

5. There is also the duty under Canon B 22, paragraphs 3, to instruct the parents or guardians that “the same responsibilities rests on them as are in the service of Holy Baptism required of the godparents”<sup>4</sup> and this may prove difficult if others having parental responsibility are not involved from the outset. In addition, in a case such as the natural father who may not have parental responsibility but nevertheless has involvement with the upbringing of the child, the spirit of the Canon would suggest that such persons should similarly be instructed. In all such cases, if that person should refuse to be instructed, the direction of the diocesan bishop should again be sought.
6. In English law, including the ecclesiastical law, a child is any person under the age of 18. Therefore, although Canon B 24 (Of the baptism of such as are of riper years) makes no mention of an actual age, it must be read as referring to adults, rather than to older children. The relevant rite in the Book of Common Prayer is entitled *The Ministration of Baptism to such as are of Riper Years and Able to Answer for Themselves* but the latter words should not be read as referring to children who are able to answer for themselves as the final rubric to that rite makes clear.

#### **Who has parental responsibility?**

7. Unfortunately, the question who has parental responsibility in any given circumstance in English law may often be complicated: see the Appendix. Where there is any doubt, guidance should always be sought in the first instance from the diocesan registrar. This is particularly so in cases where care proceedings are ongoing or the mother has undergone treatment for assisted reproduction and the creation of the embryo carried by the mother was not brought about by the sperm of the other party to the relationship (see CA1989, s 2(1A)(1B); Human Fertilisation and Embryology Act 2008, ss 35, 42 & 43) and also in cases of surrogacy (HFEA 1990, s 30).

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<sup>4</sup> See, too, Canon B 23, paragraph 2.