

Parental rights

The mother of a six year old child asked her GP practice to amend the child's surname on the medical records. The parents had divorced and there were ongoing disputes between the parents over custody, although the child was resident with the mother.

The Practice Manager contacted the MDU to ask whether the practice should agree to this request.

MDU advice

The member was given the following advice:

The issue of changing children's surnames is a complex area of family law. It is possible to change a child's name by change of Name Deed if he or she is under 18 and those who have parental responsibility for the child consent to the name change, as must the child if he or she is over 16.

'Parental responsibility' means having "all the rights, duties, powers, responsibilities and authority which by law a parent has in relation to the child and his property".

In the case of this 6 year old child living in the UK, the mother automatically has parental responsibility for her child from birth. If the child's father was married to the mother at the time of birth then he, too, will have parental responsibility whether or not the parents subsequently divorce unless it is removed by the courts.

Section 13 of the children Act states: "where a residence order is enforced with respect to a child, no person may cause a child to

be known by a new surname, or b) remove him from the United Kingdom; without either the written consent of every person who has parental responsibility for the child or the leave of the court".

In relation to the change of a child's name if a parent has responsibility then his/her consent must be obtained, whether or not he/she is living with the other parent and/or the child; that is the consent of both parents is required. If this consent cannot be obtained then it is only possible to change the child's name with the permission of the court.

Case law regarding the changing of a child's surname means it is necessary for the parent wishing to change the child's name to demonstrate to the court that it is in the child's best interest for the surname to be changed.

The Outcome

The Practice Manager was advised not to change the surname of the child without confirming, usually with the solicitor acting for the mother, that the appropriate processes have been followed and that there is lawful confirmation of the child's change of name. In the absence of this confirmation, the practice should not agree to the mother's request.

Choose your words

A patient was referred by his GP to a Consultant Rheumatologist with symptoms that the patient believed were directly related to his vasectomy. The patient was unhappy at having had the procedure done and clearly regretted it, but the consultant was of the opinion that the symptoms he described were probably not attributable to the vasectomy.

In the presence of the patient, the consultant dictated a letter that started;

'X is clearly a man with a mission to prevent the medical profession from unnecessarily inflicting vasectomies on people as they may be more dangerous than appears to be the case. I am sure he is entirely sincere.'

When the patient subsequently discovered the letter had been written to other healthcare professionals, he made a formal complaint under the NHS Complaints Procedure. The consultant indicated that this was despite the letter being dictated in the presence of the patient when the patient had not raised an objection at the time.

MDU advice

The member was advised to respond to the complaint in accordance with the NHS complaints procedure, give an explanation to the patient and to offer the patient an apology.

Missed wrist fracture

An 18 year old patient attended A&E having sustained an injury to his right wrist during circuit training. An x-ray showed no bone injury. Still in pain two weeks later, the patient consulted his GP.

The GP had received the negative x-ray report and advised the patient that he had probably suffered a sprain. The patient was told to use light strapping, avoid circuit training until the wrist had noticeably improved and, if there was no improvement in a further two weeks, to return for reassessment. The GP did not examine the patient.

The patient returned after four weeks saying that his wrist had become increasingly painful. He saw a different

GP who referred him for re-x-ray. On this occasion, based on detailed referral notes from the GP, the radiographer took scaphoid views that confirmed an ununited scaphoid fracture. Despite bone grafting and pinning the fracture failed to unite and the patient went on to develop avascular necrosis.

The Outcome

The claim was settled on a shared basis between the hospital and the first GP, based on expert advice. The expert concluded that the first GP should have been alert to the possibility of a scaphoid injury and should also have examined the patient.

Root and crown

A new patient at a dental practice attended her dentist with a fractured lower premolar. On examination, it was noted that the tooth had previously been root-filled.

Treatment options were discussed - either a post-crown to restore the tooth, or removal of the root and replacement of the tooth. The patient opted for a post-crown but during the next few years this came out at times and needed recementing. The patient subsequently moved to another practice.

Seven years after the crown had been fitted, the patient wrote to the original practice complaining that it had come out again, that the root was found to have split and that it had had to be extracted by her new dentist. She was unhappy that the crown had not lasted longer and that she would now be incurring further cost as a bridge was to be provided.

The DDU assisted the member in responding to the letter of complaint.

The Outcome

The patient's dental records confirmed that she had been warned of the uncertain prognosis of the post crown and the complaint was satisfactorily answered. By electing to have this treatment, the patient had retained her natural tooth for at least a further eight years before extraction had finally been necessary.

In the DDU's experience of complaints and claims against DDU members, patients are often either not advised of the uncertain prognosis or later forget the advice given. Complaints and claims may be brought many years after the treatment was carried out, as in this case. It is therefore important to note in the patient's records any advice or warnings given about the treatment at the time.