



## Coronavirus Crisis: Guidance on Compliance with Court Orders Relating to Parental Responsibilities and Rights

This short statement offers general advice to parents and carers whose children are the subject of orders made by a court relating to parental responsibilities and rights, for example in relation to contact or residence. During the current Coronavirus Crisis, it is understandable that there may be some concern regarding how court orders can safely be complied with. The circumstances of each child and family will differ, but the following general guidance suggests how to proceed appropriately.

1. Following the Scottish Government's announcement that mainland Scotland is to return to a temporary national lockdown, it is as important as ever that all those caring for children act sensibly, safely and in line with the most recent [Scottish Government guidance](#).
2. The guidance makes the general position clear: you should stay at home as much as possible. It is not permitted for a person to be outside their home for any reason other than for an [essential purpose](#). Facilitating or participating in shared parenting is considered an essential purpose. It is therefore a reasonable excuse for an adult or child to leave their home and, if necessary, travel outwith their local authority area, for the purposes of shared parenting. This is the case regardless of which [local protection level](#) you are in, as well as if you are subject to the temporary national lockdown.
3. For separated families, this means that if there is a court order or formal agreement in place, the arrangements which it sets out should be adhered to, unless you and the other person with parental responsibilities have agreed to alternative arrangements, or you are concerned that compliance with the arrangements would compromise the safety of yourself, your child or your household. Many people have been affected by Coronavirus and remain concerned about the health of themselves, their children and their extended family. Even if a parent thinks it is safe for contact to take place, the other parent or carer may be concerned about this. This may be particularly relevant to households which include a person who is self-isolating or who is in the 'shielding' category. At such times,

communication between all parties is key to managing the situation and agreeing a sensible, practical solution.

4. If alternative arrangements to those set out in the court order have been agreed, it would be sensible for each parent or carer to record these in a note, email or text message sent to each other. If you have a more informal arrangement with the other parent or carer, you should discuss how best to approach the situation and make a decision on whether a child is to move between homes after a sensible assessment of the circumstances, including the child's present health, the risk of infection and the presence of any recognised vulnerable individuals in one household or the other.
5. Where there is a dispute about acting in accordance with a court order, and one parent unilaterally varies the arrangement to one that they consider to be safe in the circumstances, parents should bear in mind that, if their actions are challenged by the other parent in court, the court will consider whether each parent has acted reasonably, fairly and in line with the Government guidance in place at the time.
6. If there is any reason that a child does not spend time with the other parent or carer as set down in a court order, alternative arrangements are expected to be made to establish and maintain regular contact between the child and the other parent safely. In such circumstances remote contact via FaceTime, WhatsApp, Skype, Zoom or other video connection or, if that is not possible, by telephone, should be facilitated.
7. Courts and tribunals are an essential service and will continue to operate during this period. Information regarding court hearings can be found on the [Scottish Courts and Tribunals](#) website. Urgent and non-urgent business will continue to be dealt with. If you had a previous court hearing scheduled, which you missed because of the Coronavirus, you should contact your legal representatives or the court to rearrange this. Procedural and substantive hearings will be conducted remotely. In very rare cases where the hearing cannot be held remotely, witnesses may be allowed to attend court but will require to adhere to strict physical distancing arrangements. Cases involving children will be given priority. For the avoidance of doubt, all child welfare hearings will continue to proceed by way of remote means. Parties are not required to attend court buildings for child welfare hearings unless directed to do so by a sheriff.

**Lord President**

**13 January 2021**