



Coronavirus Crisis: Updated 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. As we adapt to the Scottish Government's [local protection levels](#), all those caring for children are expected to continue to act sensibly, fairly, and in line with the most recent [Scottish Government guidance](#).
2. The guidance makes the general position clear: in all levels, there is an exemption to any travel restrictions which are in place where the travel is for the purposes of shared parenting. This means that where parents do not live in the same household, children can move between their parents' homes. This applies no matter what local protection area you are in.
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. If alternative arrangements 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.
4. 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 still 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. Parents or carers who live a long distance away from each other may, entirely reasonably, be worried about travelling to a different area of the country or abroad, regardless of the fact that there is an exemption to any travel restrictions which are in place for travel relating to shared parenting. At such times, communication between all parties is key to managing the situation and agreeing a sensible, practical solution. It may be necessary to consider for example, whether the venue at which contact takes place could be changed to decrease the risk to a household which includes a person who is shielding, or to limit the need for the child and the other parent or carer to travel.

5. Where there is a dispute about acting in accordance with a court order, 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 and sensibly in all of the circumstances of the case and 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, it is expected that alternative arrangements are 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. Information regarding court hearings can be found on the [Scottish Courts and Tribunals Service](#) website. Urgent and non-urgent business is now being dealt with by the court. If you had a 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 are proceeding by way of remote means and parties are not required to attend court buildings for child welfare hearings unless directed to do so by a sheriff.

Lord President

18 November 2020