

FAMILY PROCEEDINGS BUSINESS CONTINUITY ARRANGEMENTS: COVID-19

ISSUED 25 March 2020

The Lord Chief Justice has approved the following approach across all tiers of the Family Courts (children order and matrimonial) with effect from **25 March 2020**. **This must be read in conjunction with the most recent ‘Guidance for all Courts’ published at <https://judiciaryni.uk/coronavirus-covid-19>.**

Where an urgent matter is to be adjudicated on, or the parties have agreed the way forward in a family matter before the court at any tier or business type, the legal representatives should complete **FORM FCI1** as directed. Where a party is unrepresented, they should complete **FORM LIPCI1** as directed and in line with guidance for Unrepresented parties / Litigants in Person. All parties are asked to consider the need for applications in line with the changing situation and Public Health Agency (PHA) guidance.

The judge will decide how to proceed on receipt of the appropriate form, having reviewed the application and any relevant papers, given the circumstances at that time. The court office will advise what steps should then be taken, and issue any interim orders or further directions to the parties involved.

Arrangements for INTERIM CARE and SUPERVISION ORDERS

Article 57 of the Children’s (NI) Order 1995 deals with the making of Interim Care Order (ICO) or Interim Supervision Orders (ISO) for specified periods which may not exceed 8 weeks for a first order or 4 weeks for subsequent orders. Where the court is satisfied that Article 57(2) is complied with, the court office will inform concerned parties of the renewed ICO/ISO and give such persons the opportunity to object to the renewal of the ICO/ISO. Any objections must be received by email submissions before a specified date. The Trust may be required to provide more information to support the renewal of the ICO/ISO if there are any objections.

Interim arrangements for CONTACT ORDERS under The Children (Northern Ireland) Order 1995

We have been informed that all five Health & Social Care Trusts have confirmed that Courts Children’s Service staff have been redeployed to frontline services, and Contact Centres have been closed. All contact services have therefore been suspended for the remainder of the pandemic period to protect the safety of children, staff and parents¹. The trusts have advised that all parties known to the service should contact their legal representative.

¹ ‘Parents’ is used throughout this document but applies also to any person who has been granted contact with the child under Article 8 of The Children (Northern Ireland) Order 1995

It is important that children should maintain their usual routine of spending time with each of their parents in compliance with a Contact Order unless to do so would put the child, or others at risk with regards to Government and PHA guidance during this period. Where contact can be continued, this will help the child to feel a sense of consistency, whilst also reassuring them that the parent they don't always live with is safe and healthy.

Government guidance issued alongside the Stay at Home Rules on 23rd March deals specifically with child contact arrangements. It says:

“Where parents do not live in the same household, children under 18 can be moved between their parents’ homes.”

This establishes an exception to the mandatory ‘stay at home’ requirement; it does not, however, mean that children **must** be moved between homes. The decision whether a child is to move between parental homes is for the child’s parents to make 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.

Where Coronavirus restrictions cause the **letter** of a court order to be varied, the **spirit** of the order should nevertheless be delivered by making safe alternative arrangements for the child. If it is not possible to maintain the child's routine due to illness or self-isolation, or non-availability of, or risk to, people who ordinarily support contact, **the courts will expect alternative arrangements to be made** to establish and maintain regular contact between the child and the other parent, for example remotely – by Face-Time, WhatsApp Face-Time, Skype, Zoom or other video connection or, if that is not possible, by telephone.

It must be noted however that new emergency legislation makes it an offence to record or transmit an image or sound which is being transmitted via audio or video live link.

Temporary variations to contact orders WITHOUT REFERENCE TO THE COURT can be made by one of the following means:

- Where parents agree to temporarily vary the arrangements of a contact order they are free to do so, and each should record such an agreement in a note, email or text message sent to each other and to their legal representative (if they have one);
- Where parents do not agree to vary the arrangements of a contact order, because one parent is sufficiently concerned that complying with the arrangements would be against current PHA advice, then that parent may exercise their parental responsibility and vary the arrangement to one that they consider to be safe. If, after the event, the actions of a parent acting on their own in this way are questioned by the other parent in the Family Court, the court will consider whether each parent acted reasonably and sensibly in the light of the official advice and the Stay at Home Rules in place at that time, together with any specific evidence relating to the child or family.

If any court directed contact arrangements are missed or found to be unreasonable, the court may take this into consideration when making further orders, and separated parents may be able to 'make up' time with the child after the restrictions are lifted. It is vital that child's needs are put to the fore by both parents, and the child should not be used as a source of tension or conflict – especially at a time when the child is likely to be feeling anxious about the effects of the pandemic.

These arrangements will be kept under review and will be revisited as circumstances develop.