

# Separation And Parenting Through The Pandemic: Key Questions Answered

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**With a foreword by**  
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# **Separation & Parenting Through The Pandemic: Key Questions Answered**

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**Rebecca Giraud and Bob Greig**

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## Introduction from the editors

Since setting up our not-for-profit social enterprise, OnlyMums & Dads eleven years ago, the vast bulk of our work has involved in pointing separating parents in the right direction when they encounter problems during their divorce/separation. The advent of the Covid-19 pandemic saw a very sudden increase in enquiries with three broad areas of concern.

- General confusion over how cases were now going to be heard in court.
- A disturbing rise in parents mentioning domestic abuse.
- A breakdown in contact with many feeling either the other parent wasn't keeping the children safe or on the flip side, a breakdown in contact with the feeling that the other parent was using the pandemic as "an excuse" to stop contact.

We called on a range of experienced professionals to answer the most frequently asked questions we have received since the Covid-19 pandemic started. We are fully aware that the family law process may well change over the coming months and to that end we will ensure that up-to-date information will be available in the Covid-19 sections of our websites ([www.onlymums.org](http://www.onlymums.org) & [www.onlydads.org](http://www.onlydads.org)).

For all families, this pandemic has created worry and difficulties. For separated/separating families the impact on the parents and especially the children has been compounded.

Never has there been a time to be kinder and more understanding and we wish you well during this difficult period

Bob and Rebecca

June 2020



*Bob Greig and Rebecca Giraud*



MD Communications is proud to be a pro-bono campaign partner for OnlyMums & Dads. We see the vital work they do around protecting children and supporting parents, during and after separation, as a major factor in defending mental health and resilience of the next generation.

## Foreword by Margaret Heathcote

We are being told at every turn that these are “unprecedented times”, and that the effect of the global Coronavirus pandemic will not only be with us for many months to come, but will effect every aspect of our daily lives well into the future. No doubt all of these things are true, and we must all believe that those who are better placed to do so than we are will find a way through, scientific, political and economic.

Such generalities are of little use, however, when you are faced with an actual change in *your* life, *your* arrangements and are concerned for the safety of *your* children both now and in the months to come. We are told how to manage our own households: to self distance, to wash our hands repeatedly during the day, to exercise, to home educate our children, to work from home where possible and so on, and so on.

But what if you are co-parenting with a former partner and anxious that all of those government guidelines may not be followed, or where an existing order may be breached in the face of those guidelines? Is it reasonable, right or even legal for you to disrupt what may be a fragile contact regime for your child or children, order or no order? What do you do if that pattern is disrupted and you are unable to see your child? How will your child be affected by these “unprecedented times” and the decisions you make for them at this time? When the Family Court is in crisis, what recourse is there for enforcement and what sanctions exist or are likely to be imposed?

In their publication **101 Questions Answered About Separating With Children**, OnlyMums & Dads tackled those frequently asked questions which are asked by so many parents in their varied circumstances even in “normal times”, but to which the answers must be both general, and of sufficiently clear application to be of assistance. As Sir Andrew McFarlane, President of the Family Division, said in his foreword, “*a parent in a family case who is hungry for hard information [and] sound realistic advice ... [would] find much to feed on in [those] pages.*”

How much more valuable is such information and such advice, readily accessible to parents at a time such as this? It is both remarkable, and entirely in keeping with their organisational goals, that in such a short space of time OnlyMums & Dads have rallied their Resolution Family Law Panel and others to provide sound, cogent and considered advice to help parents as they are now doing in this Covid-19 specific edition. I do not doubt that there will be more to feed upon for parents within these pages also, and, like the President before me, I commend reading as much of the advice contained within them as may be pertinent to you, and to your children now or in the future. It will all be helpful.

Stay safe, and stay well.

Margaret Heathcote

National Chair, Resolution

June 2020



## Acknowledgements

We would like to acknowledge the parents who have been contact us during this pandemic. Sharing their problems (and in some case, solutions) have helped form the foundations of this book.

A big thank you must also go to all those professionals who have signed up to our Green Phone initiative volunteering their time for male and female victims of domestic abuse.

Adele Ballantyne and Mike Flinn have again been supportive of our work and we owe them a debt of gratitude for their contributions and work behind the scenes.

It's always a pleasure to work with Helen & David (Bath Publishing) and thanks also go to Margaret Heathcote for her contribution and support of our work.

It takes teamwork to pull together a book like this. We are especially grateful to Ruth Hawkins, Lucy Reed, Lucy Mead, Rachael Buckley and Anna Vollens who willingly shared their professional experience. Their thoughtfulness is greatly appreciated.

Thank you to the Transparency Project for allowing us to publish their guidance on remote hearings.

Thank you also to Mills & Reeve who have allowed us to replicate their glossary from Divorce.co.uk

Kathryn McTaggart deserves a special thank you. A long-term supporter of all we do, Kat not only wrote an excellent piece for the book but kept her hand on the tiller as we added and filtered and ordered the contents.

Finally, working from home during lockdown has meant our own families have had to put up with numerous 'phone calls, Skypes and Zooms ... and many hours of us being hunched at our laptops. We want to say thank you for all your patience and understanding.





## How to use this book

This book contains answers to questions that have asked of OnlyMums & Dads since the start of the pandemic. The questions have been answered by experts in their field including tips and reflections from parents.

A list of organisations has been included at the back of the book. We encourage readers to check individual websites to see what services they are offering during the pandemic.



This advice has been written by Adele Ballantyne (Family Consultant, MA Relationship Therapy, Director at Eleda Consultancy) and Mike Flinn (Counsellor and Family Therapist)



Rebecca and Bob work with separating parents every day and they have added in their top tips



A number of professionals have contributed handy tips and helpful nuggets of wisdom throughout the book

“

*Some words of wisdom from parents who've been through the separating journey. There are some regrets, words of advice and hopes for the future.*

”



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Parenting is a tough job. Parenting as a separated or divorced couple is even tougher. Add in a global pandemic, and the job can feel overwhelming. This next chapter offers information and advice on a range of unique scenarios that arise during a prolonged period of lockdown. While some parents will find it increasingly difficult to co-parent during this time because they live far away from one another, other families will be desperate for space away from one another as their relationships become increasingly violent and abusive. Law and mediation companies continue to offer excellent support online, and there is guidance on managing online court hearings. As with any family difficulty, communication is the key. Becoming familiar with alternative ways of keeping in touch, such as social media and online contact centres, will help children feel listened to and cared for by both parents. The following articles offer a pathway through our altered daily lives, and provide hope that this strange, worrying time can actually give rise to a lot more flexibility and kindness in ourselves and the people around us.

Dr Angharad Rudkin



# Parenting in a pandemic – what can I do if my ex is refusing to let me see my kids?



## About the author

**Kathryn McTaggart,**  
family solicitor at Woolley & Co

Kathryn specialises in divorce and separation, as well as related financial matters, and has a particular interest in disputes around children. This includes specialist knowledge of applications by a parent to move with a child to another country.



In this article Kat shares her understanding of the law and experiences of their clients to help readers navigate their way through childcare at this difficult time.

## The Law

Child arrangements orders must be complied with unless there are specific health reasons that would make moving between two households unsafe or the

isolation requirements required by Public Health England/Wales apply (in which case there will be a temporary suspension for the duration of the isolation period).

The government have explicitly confirmed that children are permitted to travel between parents' homes under the stay at home measures currently in place.

## Guidance from the President of the Family Division for Parents about child arrangements

If a parent stops a child seeing his or her other parent face to face, the court in the future will look to see whether that 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 a child does not get to spend time with the other parent as set out in a child arrangements order, the courts will expect alternative arrangements to be made to establish and maintain regular contact between the child and the other parent within the stay at home rules, for example – by FaceTime, WhatsApp, Skype, Zoom or other

video connection or, if that is not possible, by telephone. (CAFCASS have also given guidance on what is expected of parents in this situation).

## How Magistrates and Judges will interpret this Guidance

Stopping a child from seeing his/her other parent unless there are legitimate health reasons to explain why is unlikely to be viewed by the court as reasonable or sensible.

Failing to make arrangements for a child to spend time with his/her other parent by phone or app is unlikely to be viewed by the court as reasonable or sensible.

Covid-19 is not a licence to breach an order. Family lawyers should be advising parents to adhere to existing orders where it is safe and practical to do so and any justification for not doing so will need to be evidenced.

It is the writer's view that what will be regarded as sensible and reasonable will be considered in the fullness of time against the family background and litigation history and in the context of the quality and consistency of alternative arrangements



offered.

Countries with similar family law systems to ours, such as Ireland, Canada and Australia, have made it clear that they expect parents to follow court orders.

### So, what are your options?

- Reason and reassure (even if you think it is unreasonable – scared people can be very unreasonable and arguing is unlikely to make them less so);
- Offer/accept a different way of spending time for now (some contact is the best option for your child and it demonstrates to the court that you are acting reasonably and sensibly);
- Try video or telephone mediation to see if a neutral third party can help you find a temporary way forward (you would need to do this before making a child arrangements order application in any event);
- Speak to a lawyer to see if you can get a dialogue going or prompt your child's other parent to take advice;
- Make an enforcement application (if you have an existing order) or apply for a child arrangements orders (if usual arrangements have been stopped and/or if you would like to arrange some 'catch up' time in the future).

### A message on remote mediation from Louisa Whitney of LKW Family Mediation

Family Mediation is a great way to address short term or long-term difficulties with regard to arrangements for children. Because of the lockdown all family mediation meetings are taking place online and meetings can be set up in a matter of days (or weeks at the most), which can resolve issues much more quickly than using different processes. You won't need to leave your home to have a meeting, and many mediators are offering evening meetings to ensure that parents are able to talk when children are in bed.

It's a place where you can talk about what you would like to happen; what you're concerned about; and also listen to how your child's other parent feels about these issues.

Understanding where you are each coming from is a big part of finding a solution. You might not agree with the other person's views; or why they're fearful; but by understanding how they feel you can start to build a solution.

The presence of a professional family mediator can help to stop discussions quickly becoming an argument. They can also help you to stay on track with particular issues rather than jumping from issue to issue and ending up going round in a big loop. Family mediators are also hugely knowledgeable about the situation you find yourself in, and have seen many different

parents put in place many different arrangements, so they are well placed to suggest ideas you may not have thought about. This can help you to find a palatable way forward for you both (which may not be what either of you originally wanted) which will minimise the upset for your child or children.

This is a time of considerable anxiety and children pick up on anxiety and tension around them. Worries about the pandemic combined with worries about seeing a parent, or about conflict between their parents, could make the world seem a very challenging place for your children and addressing issues as quickly as possible may well help to bring down everyone's anxiety levels.

### Some of the scenarios we have been dealing with recently

#### The continuous cough

We have had a flurry of enquiries about what to do if someone has a cough or other symptoms. Is that a reason not to let a child travel to the other parent? Following Public Health England/Wales advice, the answer is, short term, yes.

When arrangements are disrupted because the child or someone in the household is symptomatic or needs to isolate there can be nagging worry that 7 days might become 14 days and 14 days will become 28 days etc.

If a parent refuses to handover (or return) a child because or someone in the house is sick, be calm, keep communicating,

make alternative short-term arrangements by phone or app and remember isolation periods end.

If isolation periods run back to back for an entire public health crisis, we have made it very clear the Court is unlikely to consider that a parent has behaved sensibly and reasonably and there may well be consequences to decision making that is for the comfort of parents rather than the welfare of children.

### **Babies and very small children**

Practically, moving babies between households for short periods of time where mother or other family members are assisting or supervising is going to be very difficult to do and adhere to the stay at measures between households.

In one separated family involving newborn twins, it was possible to agree FaceTime live stream or sharing of film of the babies playing with mobile, in their cot etc. twice a week. This was conditional on both parents ceasing all reference to the children on all forms of social media and until the stay at home measures end or something else changes.

Father had to be practical and Mother was advised that this is a temporary situation. Avoiding contact now would not mean it would not be dealt with once the public health crisis ends and she realised that offering nothing would not show she was acting in the children's best interests.

### **Families at increased risk**

Some people do have health conditions that will require them to self-isolate or shield and that means that it will not be safe for a child to move between homes. Do communicate clearly on this and, whilst parents are not entitled to be privy to private medical notes, we have found sharing a shielding letter or providing an explanation as to why self-isolation is a necessity rather than a desire will go a long way to promoting acceptance if not agreement.

If older or vulnerable family members are in the household, new arrangements should be made for health reasons. Be realistic – it might not be safe for a child to move between households and that is no one's fault – and look to what you can put in place now and in the future. Some of our parents are in this position and focusing on looking forward: longer holidays and catch up time.

If a child's other parent is a key worker, don't suggest that this is a reason to change residence by the back door – it is only going to increase fear – but do offer childcare. This has worked for one of our families, helping the key worker mum practically and reassuring her that dad was not manipulating the situation to change the status quo. Dad's fears about the children being at higher risk of exposure to the virus were also managed. Be aware that the settings that exist in school should be a last resort so don't look a gift horse in the mouth if assistance with childcare is offered. The safest option for children in this health

crisis is to be at one of their parents' home.

Some NHS key workers have very reluctantly decided that it is best for their children to stay with their other parent whilst they work on the front line for the duration of this pandemic. That is a personal decision based on specific risk assessment and in no way should be seen as mandatory or 'the norm'.

### **Travel arrangements**

Using public transport to move children between households is best avoided so rather than argue the toss, make other arrangements. One mum offered to drive the children in a private car even though she didn't normally have responsibility for travel arrangements. This is a sensible and reasonable adjustment to make.

If parents need to travel long distances to spend time with children, it does not mean it shouldn't happen. Parents should risk assess travel and communicate on what can be done to make it more comfortable i.e. minimise stops and breaks, meet half way, ensure there is a hand sanitizer in the car and the children have drinks and snacks so there is no need to stop and purchase them. Spend longer periods of time to minimise travel and handovers.

Unfortunately, children who travel between countries to see their parents are unable to do so for the foreseeable future. In most cases, robust arrangements will already be in place for indirect contact, but additional holiday time is likely

to be on the cards for those children once travel restrictions are relaxed.

### **"I don't have Skype"**

We have had a number of objections to indirect contact on the basis of technology. Not everyone is tech savvy but most video apps such as Zoom, House Party etc can be accessed by means of one parent sending a link to click on. Most people will have access to some form of video call such as FaceTime but everyone will have phone access. Some contact centres will facilitate video contact so see what is available. As a last resort, send cards, pictures and magazines via post – it is slow but it is still working.

The other common objection we hear is "I don't want her/him calling my mobile phone constantly" or "He/she will expect my child to walk around my home filming it". No one should be allowed to use this situation to control or harass someone or invade another's privacy and these are valid concerns. However, with a bit of structure, these worries should not be a reason not to facilitate video contact.

Being out of school and with parents juggling home working and other responsibilities within the stay at home measures, means children have long, unstructured, boring days. Scheduling in phone or video contact can be helpful for everyone. Set times and a designated chatting space (preferably with a monitor or laptop if available) gives everyone space and comfort.

Lots of our families are using Zoom, FaceTime, Whats App to chat, read stories, show and tell, help with schoolwork, do PE with Joe Wicks etc. Most of your child's home-schooling requirements will be online so log in and stay current and perhaps pick some tasks you can complete together remotely. There are some great drawing games and quizzes on House Party. Try to look for the opportunities – whether that is a break from childcare or a chance to be more involved in the day to day minutiae than you would normally (and to show off your parenting skills to someone who usually doesn't see them first hand).

### **Opportunities for change**

One of our lawyers recently had an update in a case where the final order set out a child would spend most of their time with one parent. After schools closed, the parents agreed a shared care plan of 50/50 to help the child through this period, to be reviewed on return to school. This was a great outcome for a parent who worked tirelessly to avoid conflict and improve relations with the other parent.

Another very high conflict family whose children have been subject to a very detailed child arrangements order (which had been returned to the court for interpretation and enforcement on multiple occasions) managed to agree it was best for the children to live with the furloughed parent during the week and the working parent on weekends.

Does it matter if these changes

have come about through necessity or because there has been a genuine shift in attitude about what is in the best interests of the children? From the children's perspective the net effect is the same and it is an awful lot of work for grown ups being awkward and angry in a pandemic – enjoy having one less thing to worry about.

### **A final word on communication**

Communication has been raised time and time again but please do keep in touch with the other parent and, if you are frightened, share your fears. It should go without saying now that parents will not be taking children out and about but if you are concerned say 'can I just check you will be staying at home?' 'Do you have enough hand sanitiser or shall I send him/her with a bottle?' Ask nicely and respond compassionately (even if you feel restricted or picked on) – we are all unusually fearful at present. Try to remember that the thought of not seeing a child for a potentially undefined period is going to create some huge emotions – be kind.

And if you can't have face-to-face contact (even if you feel this is unreasonable) make the best of what you can have. The parent on lockdown with the children will have their own challenges – there are no winners here. Your life-long relationship with your child, ultimately, is not going to be irreparably damaged by these miserable weeks. And when this is all over, there will be an opportunity to sort out extra

time (either by agreement or if necessary, by asking for a court order).

Your children are likely to be anxious, bored and discombobulated. If you can

keep communication open and you can find a way to muddle through this, it will be life changing for them, now and in the future. Covid-19 may have given separated parents the best opportunity they will have

to show their children they can work together in their best interests. Keep calm, communicate and try to find the big picture.



## Online conversations with children during Covid-19

### Young Kids

Young kids have short attention spans and are really easily distracted. My best advice here is to go for low hanging fruit, so read them a bedtime story, or a morning story, or have a 'milk and cookie' ten minutes. If you can do these things regularly, then they will look forward to them. Other ideas are drawing together over FaceTime, playing simple games like Simon Says. Don't be disappointed when they get bored. It's normal.

### Pre-Teens

Possibly the easiest age to interact with online. Try playing a virtual game of snap, or draughts, or something where you can easily adapt the game so you can play it together. It won't be perfect, but you can laugh together at the messiness of it. Stories are also good, as are making up stories together taking turns with the sentences. Make it fun. Keep it light and keep it up to maximum 20 minutes, but regularly.

### Teens

Online games, conversations on what's going on in the world are all good ways to develop an online relationship with your teenager. Keep it neutral unless they need to bring something to you about school or their personal life. Just make it clear that they always can. Let them have some control of the length of time of the call as the ownership makes them more likely to be engaged.

**Marcie Shaol**

**Rolling Stone Coaching**

# How do you respond to changes outside your control?



## About the author

**Adele Ballantyne, MA  
Relationship Therapy**

Adele is a Family Consultant, member of Resolution Parenting After Parting committee and founder of Eleda Consultancy. She has experience in helping a variety of individuals, couples and families and specialises in providing help for separating couples and their children.

Separation brings couples many changes – some of which are not of their choosing.

The Covid-19 pandemic is similar, except, this time, there is a genuine threat to life, bringing with it a bucketful of emotions, feelings and survival instincts that have a direct impact on how people co-parent.

Children themselves are good at coping with change; they do it all the time and, when parents separate, they get used to

differing parenting styles and characteristics.

As a relationship therapist, I fully comprehend the process of how we choose our partners and opposites definitely do attract! But this can create difficulties when trying to co-parent, as the differences are magnified once couples separate.

Factors affecting separated parents during the current crisis include:

## Personality type

It's quite common for one parent to be more worried and the other laid-back. This can create problems when parenting during this pandemic, because of the risk of spreading infection during the transfer from one home to the other.

If a child develops symptoms and has to isolate for two weeks with the non-resident parent, this can be problematic if the court order has specified only weekend contact.

Personality type, level of understanding and communication skills can also impact how governmental information is assimilated and put into practice - it might be that one parent is rigid and becomes upset if the other parent tries to negotiate time with the children.

## Stress

It's not unusual for parents who are opposites to become even more polarised - especially during times of high stress. This can lead to parents becoming entrenched, feeling they are only keeping the children safe.

Stress can also lead parents with manipulative tendencies to be even more so, as they try to gain control over the situation.

## Past experience

Parenting differences are common in any couple relationship. We all have unique childhoods, where we watch and learn from our care-givers and other influential adults around us. It's unlikely any of us have been truly prepared for a situation like the one we are currently facing. Consequently, most parental behaviour going on right now is a mixture of 'learn as we go' and survival instincts, hopefully with the best intentions.

As with personality types, opposites may occur around discipline. One parent is more relaxed, the other strict, again often leading to polarisation which could, in turn, lead to disputes between co-parents.

## Here are a few 'Top Tips' to help separating parents:

- Remember, this situation is unique. We're all afraid and don't know what's going on or how this will end up.
- Be kind and helpful to each other. It's hard for everyone at the moment.
- Communicate with each other clearly and ask for what you need, rather than make demands. Clear communication is even more vital with the current restrictions on our day-to-day life.
- It's OK to struggle and ask for help. Even the strongest, most assured people are struggling at the moment.
- Ensure you all have some space from each other. We're not used to being together for this length of time and we don't know how long it will last. Ensuring children see both parents means everyone can have a break.
- If things go wrong, seek guidance from helpful friends and family, family law professionals, mediators and family consultants.

During times of enforced change, we seek to make our lives as they were. In other words, we try to squeeze what was, into what is now. Only by accepting the situation and making small daily adjustments can we seek to gain some 'control' again.

This moment in time will come to an end: remember, we are not stuck at home, but safe at home.



## Communicating with your ex in a pandemic

### If it's verbal/ FaceTime etc

- If necessary give a pre-warning of the subject to allow time for your ex to consider their approach.
- Listen, then check you've understood, and only then reply.
- Use a tone, volume and language that you would like to be used by your ex.
- Use I statements like "I think", "I feel" etc.
- Take time-outs to listen and reflect.

### If it's text or email

- Remember that the message will be filtered through the mood of the recipient.
- Don't get into tit for tat – call a time-out and reflect.
- Use non-challenging language and read your message over before you send. If you're annoyed take time to calm before you send.
- Think how you'd feel if your ex sent it to you.
- Use "I" statements.
- Don't tell your ex how they're feeling. Ask them.

# How are the courts functioning during the Covid-19 crisis?



## About the author

**Jo Edwards, partner, mediator and Head of Family at Forsters LLP; past chair of Resolution**

Jo specialises in dealing with issues which arise on relationship breakdown and resolving arrangements for children, including cases involving relocation with children. She also has expertise in advising on pre-nuptial agreements and acting in cases involving unmarried couples.

not being child- focused when talking about possible child arrangements - need the court's help.

The provisions made in the family courts during Covid-19 could be with us for some time to come. Since full lockdown was announced, around 85%-90% of all court cases that have happened have taken place remotely. Many other hearings have been delayed ("adjourned") as judges get to grips with things and having to move away from in person hearings, the norm in family cases. Understandably, though lawyers and judges have adapted to a new digital way of working, it is much more difficult for those going through divorce or separation (if they have lawyers or especially if they don't) to understand and follow a hearing being done by telephone or video.

## How to start a court process

Before Covid-19, there was already work being done to move much more court work online. It is already possible to start and progress a divorce process online. It is also now possible in most areas to apply for a child arrangements order or domestic abuse injunction online. The court will communicate with you (or your lawyer, if you have one) by email or phone to let you know what is being arranged.

## When can I expect my court hearing(s) to take place?

First, you should be aware that the court may be working at reduced capacity. Your case will be "triaged" and a decision made about whether it is urgent. If you are the victim of domestic abuse and need the protection of orders, that will rightly be treated as urgent. Likewise, in relation to children, if there are

**W**ith the world talking about a 'new normal' following the onset of a global pandemic, anyone thinking about separation or divorce will have to get to grips with what that means for their process. Though many people sort things out through discussion at home or mediation, many others – for instance where there has been domestic abuse, or your ex is being unrealistic about a fair outcome in relation to money/ secretive about what there is, or

## What do you need to know?

Bear in mind that the situation is changing all the time. Check the websites referenced at the end of this chapter for the most up-to-date information.

“

**I always advise 24 hours on everything. If you're fed up with something said, always wait 24 hours to respond. First conclusions are often formed in anger. A bit of time helps you see it's not as dramatic as you perceive it.**

*Sarah, Mum*

”



child welfare issues and/or one parent isn't letting the other parent see the children (without good reason), the court will want to arrange a hearing as soon as possible. If your ex isn't providing "interim" financial support (i.e. whilst everything is sorted out), you may be entitled to an urgent hearing.

More routine children cases will be treated less urgently. You can still expect a hearing to be listed, but not prioritised.

### What is a remote hearing?

The judge will decide if your hearing should happen by phone or video. It will be rare to have an in person hearing, though the judge may be able to decide to do that soon provided it is safe. It is important to tell the court about anything that might make a phone or video hearing difficult, such as a disability. If you are unwell, you can ask the court to delay the hearing.

### How will it work?

If you are taking part in a phone or video hearing, you will need to work out the technology and that may be new to you. If joining by phone, make sure the court staff have the right phone number for you; they will be responsible for dialling everyone in (including the judge). If it is a video hearing (usually Skype but a judge may decide to use another medium like Zoom or Lifesize), you will need a phone or computer with internet access, a webcam and a microphone. The court has published a guide about remote hearings. However the hearing is taking place, an audio recording will be made.

## Remote Hearings – Tips and Advice

The court will be keen to ensure that the seriousness of an in person hearing is maintained. Some people report that having their hearing done remotely is actually much less stressful than travelling to an imposing court building; others find it hard to follow what is going on when a hearing is by phone or video.

### Some tips

#### Do:

- Sit in a quiet place, where you won't be interrupted and where no-one is listening (hearings are private and the judge will want to know that no-one other than those involved are on the call);
- With a video hearing, ensure your face is well lit and that the background is suitable for broadcast;
- Use earphones – they may help you hear more clearly and protect the confidentiality of your case;
- Have a notebook alongside you to make notes;
- Use the mute button, other than when you are invited to speak;
- If you have a lawyer, set up a separate messaging system (on e.g. WhatsApp) to have a clear line of communication, ask questions and give your instructions as the hearing takes place.

#### Don't:

- Move away from the screen/call unless the judge decides

to have a break in the hearing. You should think of asking for a break if you are struggling to follow;

- Interrupt proceedings if not called on to talk – although do speak up if you are having technical difficulties or are otherwise unable to hear;
- Record the hearing – it is a criminal offence.

## Is this the future?

We all hope that the pandemic will be under control soon and that life can begin to go back to normal. Few people think that remote hearings are ideal in family cases, where outcomes are based on a judge helping a couple sort things out or making decisions having heard from them and decided whose case (or which parts of each) they prefer. However, the courts have been undergoing a modernisation and reform programme in recent years and in the future some family cases (probably the shorter initial "directions" hearings, at which it is decided what information is needed for a case to be sorted out) may well be heard online. With more and more courts being closed around the country and people having further to travel to get to their nearest court, in some cases this makes sense. In deciding which cases may be heard remotely in the future, it will be very important to learn from the experience of lay members of the public (represented and especially unrepresented) during the pandemic and make sure that those voices shape future change.



# What are the alternatives to going to court?



## About The author

**Karin Walker, KGW Family Law**

Karin set up KGW Family Law in 2012. She is a solicitor, mediator, collaborative practitioner and arbitrator, committed to resolving family law disputes through constructive communication.

**T**he impact of Covid-19 on the family judicial system is severe.

With the full support of the President of the Family Division, 'out of court' dispute resolution is poised to become the 'new normal'.

Below are the most common forms of alternatives to court and when they might be used.

## Early Neutral Evaluation

The couple may want an early 'steer' in relation to specific disputed issues or their circumstances generally. An early neutral evaluation would be undertaken by a solicitor, barrister or arbitrator jointly

instructed by the couple either in person or through their legal advisors. This not advice. It is purely a general overview of the case from someone who is not taking sides. Neutral evaluation at an early stage can provide clarity for the couple before they become positional and incur unnecessary cost.

## Mediation

Due to the government requirement to attend a Mediation Information and Assessment Meeting or 'MIAM' prior to the issue of a Form A (financial proceedings) or Form C100 (children proceedings), mediation is the form of out of court practice best known to the public.

The mediator is a jointly instructed neutral facilitator. Following safeguarding checks and, in financial cases, full financial disclosure, their role is to assist the couple in reaching their own outcome. They will negate any power imbalance between the couple and will explore a variety of options with them. If they feel that independent advice is needed by either or both of the couple (as a mediator they can only provide information from a neutral position) they will flag this up.

Mediation can take place face to face or in separate rooms. In

some cases solicitors may be present to provide support and immediate advice alongside the process. This is particularly useful in cases where conflict between the couple is high.

Although the couple may find a plan with which they are happy to move forwards, this will not form a binding agreement until they have had the chance to run it past their own solicitor, thereby providing a second 'check' for the suggested outcome, which must be within the bracket of what a judge would order.

In child mediation it is possible for the children to have their own confidential meeting (with the agreement of themselves and their parents) so that their voice, although not determinative, can be heard and considered by Mum and Dad.

Ideally mediation will achieve resolution of all issues. If, however some points remain outstanding, arbitration, rather than court, may be the most time and cost efficient means of adjudication.

## Arbitration

If the couple cannot agree, an arbitrator can be jointly instructed to make a decision over all or just some outstanding issues. The arbitrator will be paid by the

couple but because the process is so much quicker and more bespoke than the court service the overall cost (financially and emotionally) will be significantly less. Benefits include:

- Choice of arbitrator;
- Choice of date and location;
- The arbitrator is available to make interim decisions by email;
- Suitable for litigants in person as well as those with legal representation;
- A private arbitrator is paid to achieve a fair and considered outcome.

### Private FDR

Most court cases settle at or shortly after the FDR stage following an indication from a judge who has heard the issues but not evidence. This can be replicated on a private basis at any stage (if necessary more than once) to help guide the couple to settlement. Choice of date and location assist convenience.

### The Certainty Project

A new way of working but using tested alternatives to court, providing the couple with certainty of duration and cost. An arbitrator is appointed to have overall control of the case. Solicitors provide preliminary advice and deal with disclosure. A mediator then facilitates discussion. If issues are resolved the arbitrator delivers an award (finances) or determination (children) which the solicitors turn into an order by consent. If

issues are unresolved the arbitrator will adjudicate all or the outstanding issues. The process will be completed within about 6 months which is parallel to the time required to achieve a divorce. Costs are limited by the point at which resolution is achieved.

### Collaborative Practice

The couple and their lawyers will sign a participation agreement confirming that they

will work together to resolve all issues by agreement, excluding the possibility of a court application. They will do so via face to face meetings and both lawyers will give their advice openly in front of the couple. Due to the fact that were the process to break down both lawyers could no longer act, the process had become less popular but with court fast becoming such an unattractive option it is hoped to become more prevalent again.



## Communicate

Talk through any of those fears. Be honest and clear about your concerns with the other parent. It is likely that they will share those fears in any event.

## Be flexible

Discuss options, be willing to compromise, get creative in making alternative arrangements.

## Make the right decisions for now

Many parents will be worried about agreeing something else for fear it might set a precedent for the future, but they need to work together on what's best now. Deal with what is in their best interests after the pandemic, after the pandemic.

Karen Holden

A City Law Firm

# Can online mediation help me through the Covid-19 crisis?



## About the author

**Louisa Dickinson, Southern Family Mediation**

An accredited family mediator with the Family Mediation Council, Louisa is passionate about helping couples to move forward, make the necessary decisions and create a new co-parenting relationship. Her wealth of knowledge, compassion and experience, combined with her work as a mediator, child consultant and family coach, helps her to support individuals and families going through the process of divorce and separation.



*"My ex doesn't take the virus seriously enough and so I can't trust my child will be safe with him."*

*"I am frightened that letting my child travel to the other parent will increase their risk of getting Covid-19."*

*"I normally see my children in a contact centre, but I have been told it is closed."*

**N**ow more than ever mediation is needed by separated families. Tensions are running higher than ever, everyone is worried or scared for their children and their families, and the courts are running a severely reduced schedule with even longer delays.

Online mediation works brilliantly at this time, and I can see it being used more often even when the Covid-19 crisis is over. Being able to participate from the comfort of their own home can put participants much more at ease, and not having to be in the same room as an ex-partner can ease anxiety and help people to think more clearly and less emotionally. It is also quicker as there is not the travel time and waiting before and after an in-person mediation meeting, making it easier to schedule around the rest of life. Not to mention the fact that you could take part in your pyjama bottoms and no one would know!

## So how does online mediation work?

The process is still the same as if we were meeting in person. Each parent would have an initial assessment meeting 1:1

with the mediator, then an appointment would be set up for both parents and the mediator. Here at Southern Family Mediation we use Zoom which is very reliable and stable and each person to the mediation can see who is speaking, which helps participants not to talk over the other.

## What about if there has been domestic abuse?

The mediator can have each participant in a separate 'room' online so in cases where there has been domestic abuse neither party can see or hear the other party. Each parent would speak to the mediator and then the mediator would relay the conversation to the other parent, just as if the parents were in separate actual rooms as in shuttle mediation.

## What happens if we can reach an agreement? Or if we can't?

It really is no different to face-to-face mediation. If an agreement can be reached in online mediation, then the mediator can write up the agreement and email it to both parties. This, however, is not legally binding, and if both parents wish to have a consent order made through the court then they would apply online to the court as before, ticking the

box on the front of the C100 requesting a consent order.

## Can we still sort out our finances in mediation during this time?

Absolutely. However, we are finding that it is taking longer to get some of the information required for this, such as pension valuations. Most information may be gathered electronically nowadays, such as downloading bank statements, and this can be emailed to the mediator who will collate everything and then the final disclosure to each participant. Once agreement has been reached the mediator would draw up the proposals to be checked by the parties to the mediation. This would then be sent to a solicitor who would draw up the financial consent order.

## Practical considerations for online mediation

There are a number of practical issues to consider, as for the mediator and the parties mediating.

### Children at home

If you have children who are in one of the homes, it is important to be aware of where they are. The mediation meeting may take up to an hour and a half, so ensure that your children are occupied and out of earshot from the room that you are in. At Southern Family Mediation we offer mediation meetings late into the evening when children are in bed.



Parenting is challenging. One challenge is opening your mind and understanding that your child may have a different way of viewing the world.

*Claire Field*

*Parenting Apart Programme*

### Preparation

You are likely to need time to prepare for your mediation, which may include the production of financial disclosure or speaking to your solicitor. Make sure you have enough time set aside to do this given your other childcare, home schooling and work commitments.

### Software and devices

Make sure that you have the right software loaded and have tested out the online conference tool prior to the meeting. Also make sure that your video and audio work. You can use a smartphone, but as a rule, the bigger the screen the better your experience is likely to be. It will make seeing the others taking part and viewing documents so much easier.

### Internet connection

A reliable broadband connection of at least 2Mbps will give you the best experience. If you haven't got access to broadband, 4G and 3G networks should also be fine. Just be careful that you don't use up your data allowance on

the call, as video calls rapidly consume a huge amount of data.

### Therapeutic support

Managing emotions can be difficult during separation or disputes over children. The current and unprecedented circumstances are placing a huge amount of pressure on everyone; emotions are heightened, and tempers frayed. It is more important than ever that people have a safe place in which to voice their worries and process their feelings. Having this support available will make it more manageable to engage in the mediation process.

# Contact arrangements during Covid-19; how do we encourage meaningful contact online?



## About the author

**Jade Lloyd, Parenting Jungle**

With lived experience of a blended family, Jade is the editor of The Parenting Jungle lifestyle website which seeks to support and empower parents. She has an MA in Social Work and as a dedicated advocate keeps a child centred focus at the forefront of everything she does.

**M**aintaining contact with both parents after separation or divorce is important for a child's attachment and wellbeing. Co-parenting can be challenging at the best of times, but the reality of a global pandemic has made things even more complicated in shared parenting households.

In a time of high anxiety, children more than ever will need the reassurance of routine to help them feel safe and secure.

Hard questions will be asked. The constraints of Covid-19 will mean families may decide, because of illness, working commitments, travel distance, a mutual decision in the interest of a child's safety, etc. that traditional direct contact may not be the best option at this time. The welfare of the child(ren) is the most important factor. What works for one family may not necessarily work for another.

## Finding a new way forwards with virtual visitation

Parents will be concerned about how changes made to contact arrangements will impact on them and their children. The accessibility of online tools and video media offers a way to maintain regular communication and positive interaction. The first step is to decide on the best tech to use. There is the option of FaceTime, Zoom, Skype, or WhatsApp. If access to the internet is a barrier then phone calls are a sound option.

Often, the non-resident parent, feeling like their time is already limited, wants to maximize their involvement in their children's lives. Other parents may feel it is an imposition, especially when seeking to find time in the busy

routine of a child's life. Disputes happen because both sides often have reasons for feeling the way they do.

Making the contact work requires the commitment of both adults and children. It may not always be smooth sailing. Below are some simple tips to encourage meaningful contact for children with their absent parent. Equally, contact arrangements may be in place for grandparents, siblings and other family members.

## Discuss and prepare for contact with the other parent

Agreeing on the practicalities of contact is best done without a child present. Have FaceTime, Skype etc. accounts set up before calls. You do not want to be frustrated trying to connect to another parent for 15 minutes whilst your child sits beside you – they will also get bored and irritated. Have batteries charged ready so no one cuts out half way through a conversation. Consider the best place to facilitate contact, somewhere quiet, comfortable. Help your child adjust for the medium.

## Finding a routine for contact. How often and how long for?

Contact timeslots need to be arranged in the best interests of the child and sometimes this may need tweaking. Parents will also have to consider working hours etc. Make timings achievable – why not start with three times a week? What is important is to keep contact consistent. Consider the child's own wishes and the feelings if they are of an age and understanding to express such views. Schedule – do not start calling constantly in inappropriate hours but remind children they are free to talk to other parents whenever they need them and want reassurance, especially when they may be feeling afraid or confused.

The length of the call will generally be dictated by the age of the children and their attention span. Do not force things. If you had arranged with other parent to have half an hour FaceTime but your child, especially if they are younger, gets bored and wants to stop after 10 minutes, then this is OK.

## How do you encourage children to feel comfortable with indirect contact?

Make sure that the child is comfortable, warm, been to the toilet etc. before contact starts. Don't set them up for disappointment by picking a time when they are hungry. Turn off the TV. Give the child space as this time is for them, not you. Be respectful of the non-resident parent's time with the children. Do not fall into the 'tell this to mum, show this to dad' trap, speaking over the child to the other parent. If there are questions you need to ask, leave them until after. Perhaps sit in the next room with the door slightly ajar in case anything is needed. Make the contact via FaceTime fun for your child. Why not read a story, encourage them to discuss home learning, grab musical instruments, or play a game online? Have materials at your side prepared.

## Managing a child's feelings and ending contact.

It may be hard for a child to say goodbye. Consider giving 5- and 1-minute countdowns so they know what to expect. Children may feel happy and excited, but

also confused and upset after contact because they miss absent family members. Time wise, I would suggest not having contact too close to bedtime, so your child has time to work and talk through their feelings. Listen more than you speak – answering questions will help them to open up.

If a contact is missed the child deserves an explanation – life happens but they need reassurance.

## What to do in the case of parental conflict.

If arranging contact is contentious then seek support from a third party. Contact time is not an occasion to manipulate or ask questions about the other parent. Your children are watching how you behave towards someone they love, and they are learning about relationships. Be a good example despite how you feel about your ex.

This is an especially difficult and unsettling time for those who parent apart. We hope this article may help you work together to focus on what your children need. They require love and support from both parents.

“

**It has been extremely difficult as a dad to accept you can't cuddle or kiss your children but being realistic and accepting this time will pass, helps. Also having a good structure around you is essential to your own mental health.**

**Mike, Dad**

”



# How can we support children's emotional wellbeing during Covid-19?



## About the author

**Dr Sabina Dosani, MBBS MSc MRCPsych**

Sabina is a consultant child and adolescent psychiatrist with many years of experience in helping children, teenagers and their families with psychological and psychopathological conditions. She regularly acts as an expert witness for the Family Court. Her clinical interests are in childhood behavioural disorders and autism spectrum disorders. She also has an academic career in the medical humanities.

**T**hese are worrying times – worrying for parents, but especially worrying for children and for teenagers. For most of us, it is the first time that we and our children are feeling under threat constantly and living with so much uncertainty. Children everywhere are missing their friends. They're not able to see their grandparents. Some might be suddenly seeing one

parent a lot less, or not at all. There are a few things that parents can do to support children's emotional wellbeing during lockdown and social distancing.

## 1. Keep talking to children about their worries

Keep talking to children. You can do this by talking quite casually about the changes due to coronavirus, 'it's strange that we can't visit grandpa at the moment but we can send him letters.' It is also a good idea to check in with children at least once every week and ask directly, 'what's worrying you at the moment?' When I asked my children, they were most worried that their father and I would die of coronavirus and that they would have to live in an orphanage, without their pets. We were able to talk about how unlikely it would be for us both to die, but that even if we did, they would not go to an orphanage, nor be separated from pets. We talked about who would look after them. They were also worried about the scary things on the news, about falling behind in school, about their parents not teaching them properly and about the possibility of people walking too close to them.

As well as addressing the individual worries that my own children and other children

express, I have been telling lots of children and their parents that it is normal to feel like this. I keep emphasising that everyone is feeling scared right now, but that this doesn't mean that terrible things will happen to us. I recommend open conversations, but also focusing on balanced facts, like looking at the number of people who have survived, which goes up each day.

## 2. Expect some behaviours and problems to get worse

It is also normal for pre-existing problems to get worse for a while during these strange days, for some new problems to show themselves and for children to regress a bit. For example, my five year old, who has been dry at night for a couple of years, has had lots of nightmares, wet the bed a couple of times and started to play with toys she played with when she was younger. I think she is trying to get back to a safer time in her life. My older daughter, who is nearly nine, has cried a lot over small things that would not normally upset her. Many of the children I see in clinic have experienced a worsening in attention span, anxiety, distractibility, sadness, poor concentration and disturbed sleep. This is absolutely to be expected. Lots of things might be worse for a while, but it won't

stay like this. Many of these problems will get better with support from parents and other adults.

### 3. Talking to teenagers

Teenagers were never meant to be locked in with their families. Their job is to be forging independence. Many have the additional stress of not knowing what will happen with their education and their plans for the rest of this year are in disarray. Teenagers might not be as open about their worries as younger children, but they are more likely to open up if you go first: 'I'm worried about grandma. Have you been worried about her too?'

Teenagers are generally really supportive of one another. Although it can feel as if they have disappeared into their screens, keeping them socially connected during social distancing is vital. Encourage them, if you can, to have a break from scrolling through news.

### 4. Making a list of what helps

With children of all ages, make a list of things that help them feel better. Almost inevitably, this will include doing something within their control, like baking, reading or writing in a diary. Some things might not be possible at the moment, but it might be possible to do a different version of them.

From this big list, aim to do three a day.

Three a day, while in lockdown, might be:

- What am I going to make today?
- How am I exercising today?
- How can I show kindness today?

### 5. When the 'what ifs' intrude

All the 'what ifs' run riot through children's minds sometimes. What if mum gets ill? What if there's no-one to look after us? What if dad loses his job? What if we can't get the things we need? What if gran dies and we can't see her? Children of all ages need a strategy for 'what ifs.' Tell them, 'for now, we will just think about today. Your job today is to do today. We will deal with tomorrow when it comes.'

### 6. Prioritise wellbeing

To stay mentally healthy, children (and their parents) need sleep, to eat well and exercise. Children need to be moving for about an hour a day. It isn't possible for everyone to get their children outside as much as usual. Encourage them to join you in an online class or dancing to music. Many children (and parents) have disturbed sleep at the moment. It is more important than ever to have early nights, stick to regular bedtimes, involve them in cooking healthy meals. These sound like such simple things, but they are not easy. If you can prioritise a good night's sleep, healthy eating and daily exercise, that is absolutely the best for wellbeing.

## 7. Home education

As if life wasn't hard enough right now, school closures for all children except for those of essential key workers with no other option have meant that most parents are now educating their children at home. The advice I have been giving to clinical families, to my friends and to myself, because almost everyone seems to be feeling overwhelmed with resources, printing, downloading and teaching, is simply to do what works. Some families need a timetable, some structure to guide their week. Others have embraced outdoor learning, some are discovering unschooling, where children set the lead. Just do what works, for your family. If 'what works' is different in the households your children move between, that is absolutely fine. If you have a timetable, on some days the timetable will fall by the wayside. That is fine. For so many families, just getting through each day is an endurance. Schools will continue to send work, well-meaning friends will send many educational resources, but you do what works, whatever works for you. Try not to compare yourself to other families.

## 8. Look after yourself

This is hard. Parenting through the Covid-19 pandemic is the hardest parenting I've done. It's hard because we are having to be parents and educators. Many of us are working from home or trying to care for elderly relatives at a distance. We can't see the people who would usually support us and there's



nowhere to get away from it all. Enforced proximity strains all our relationships, even the good ones. Do at least one thing that is kind or luxurious, just for yourself, every day. For some

people self care is a mindfulness app, or a zoom yoga class. For other's it's baking, painting or half an hour at the piano. You might not feel as if there is time, that it's an indulgence, or that

you don't deserve it, but if you keep taking care of yourself, you'll be a less stressed, more resilient parent for all the challenges that this pandemic brings.



## When separating couples first come to see me, one of the first things they usually say is, "we don't want to hurt the children".

Quite often what occurs if parents don't seek help early on is that through behaviour, body language and intonation they end up doing just that.

Separation is a journey most couples don't think will happen to them when they first get together. So when it does they only have the narrative about what happens when you separate from the media, if friends have separated, or if their own parents had separated.

Getting help early on is crucial if you want a less painful separation journey especially for your children.

It is important during this pandemic that co-parenting couples try to focus on their own behaviour and understand the impact of what it's "saying" to their children.

### Some points to consider

You are doing the best you can under the circumstances, sometimes you will get it wrong. That's OK, there's no such thing as a perfect parent.

- Remember you are not your child's 'best friend', they have their own friends, you are their parent and they need you to parent, especially during the 'lockdown'. That means rules with consequences and setting boundaries
- Try to be aware of how you communicate with your ex over the telephone, or video

call, think about whether your children can hear you, think about how you sound when you speak, try not to argue, if things get heated call a time out and try again later.

- When discussing arrangements with your children, try to sound positive even if you aren't, they will pick it up if you aren't happy about it and that can give a negative message about them spending time with mum or dad.
- Remember that children will often mirror your behaviour. It is easy to misinterpret this as them being reluctant to see their other parent.
- Sometimes when returning from their other home children will say they haven't had a good time or it's been boring or indeed that their other parent doesn't do anything with them. In my experience this happens when children pick up non-verbal cues from the parent they live with most, that imply it's not ok to go and be with their other parent.

It is so hard for children who end up managing their parents conflictual co-parenting relationship, they can do this from quite a young age and it really affects their emotional wellbeing as they grow up.

The best thing that you can do to help prevent this is to encourage your children to have a relationship with both parents.

Be the best and most consistent parent you can be especially during this pandemic.

# What do I do if I am a victim of domestic abuse?



## About the author

**Emma Benyon-Tinker,**  
**Associate Solicitor, Dunn & Baker**

Emma is a collaboratively trained lawyer, a trained mediator and Resolution Accredited

Specialist She can deal with all aspects of family disputes, including divorce, civil partnership dissolution, financial issues, cohabitation disputes, pre-nuptial agreements, domestic abuse and all children issues.



**W**hilst for many people, the only problem being required to stay at home is boredom, for others it is the requirement to stay in the same house as the person who is being domestically abusive to them. Domestic abuse takes many forms including physical, emotional and financial. It affects both women and men, from all backgrounds, all ages and all social classes. There is

no “typical” victim or perpetrator.

It is possible that the situation at home might be exacerbated by the current situation with pressures on employment, finances and relationships.

## What should you do if you are a victim of domestic abuse during this period?

Firstly, if you believe you are in immediate danger you should still call 999 and request help from the police.

If you cannot speak, you at least need to make a sound, cough or bang the phone against something and then once prompted by the automated system press 55. A silent call will not be dealt with by the police unless you take these steps.

Whilst the government advice is to stay at home, you are still able to leave your home and go to a refuge if you are at risk.

## What other steps can you take?

It has been suggested that keeping your mobile full charged is useful to enable you to ask for help

should you require it. You can keep a diary and tell others you trust, plus there are apps like Bright Sky that can be used. Bright Sky is a free to download mobile app providing support and information for anyone who may be in an abusive relationship or those concerned about someone they know.

Mark Brooks, the Chairman of ManKind Initiative says “We know that many men fear they will not be believed by the police or be taken seriously by the legal system in general. About ten years ago, we would agree but that is not the case now, even more so if you have evidence. They do take men seriously and will provide help, so please do contact them. There is nothing wrong in taking a trusted friend or family member with you when you do contact them. You can also ring helplines like ours and we can talk you through how to approach the police or solicitors.”

“

**My advice is to be open, ask for help, people won't always know how you're feeling or what you're dealing with.**

*Nicki, Mum*

”

## But what happens if you require an emergency protective court order?

The courts are still open, and will be dealing with emergency applications. Solicitors are also still working and will be able to assist clients who require emergency orders.

However rather than visiting the solicitor, an appointment will be conducted via telephone or

video calling. The solicitor will take instructions and will provide advice about the most appropriate order to be applied for. Legal aid is still available for those who require an emergency protective order.

The court will hear the case by telephone and will then make the orders that the court believes are necessary.

If the court believes that a

hearing needs to take place with the parties present, then that will be arranged. This might be using video conferencing, or if justice requires it, a hearing actually in the court building. A limited number of courts are remaining open throughout the country to facilitate emergency hearings as required. You might need to travel to a hearing, but if one is required, it will take place.

## Also published by Bath Publishing

**The Family Court without a Lawyer** is the book you need if you have to go to court to sort out issues over separation, money or children and do not have a lawyer to represent you.

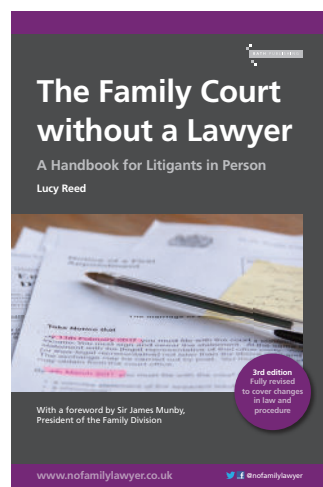
The 3<sup>rd</sup> edition of **The Family Court without a Lawyer** is fully up to date with the recent, fundamental changes to family court procedure so you can take it to court with confidence.

The author, Lucy Reed, is a barrister specializing in family law, a family mediator, legal writer and Chair of **The Transparency Project**. She has distilled the knowledge and expertise gained from representing clients in court over many years to write the essential guide to the Family Court for the non-lawyer. In clear language she provides a thorough guide to the law that you will need to know, plus countless tips and insights on how you should best prepare and present your case such as:

- what to expect and where to go when you turn up at the court;
- what to think about when deciding to call a witness;
- how to challenge a judge's decision through an appeal;
- clear explanations of legal terms, jargon and concepts.

All this practical advice and support makes **The Family Court without a Lawyer** much more than just a DIY divorce book. It is a practical tool to help you in court and a reference to help you understand what happens in the Family Court, whether or not you have a lawyer.

**The Family Court without a Lawyer** is also useful if you are supporting someone through the court process, if you have a lawyer but want to gain a better understanding of what is going on in your case, or if you are considering what your options are before going to court.



# How can I obtain a non-mol in the time of Covid-19?



## About the author

**Jill Read-Brown, The Family Law Company by Hartnell Chanot**

Jill is a qualified lawyer and a Fellow of the Institute of Legal Executives. She was presented with the Law Society's most prestigious "Legal Executive of the Year" award in 2008 for her work in the forum of domestic violence. She is also an Accredited Resolution Specialist in Children and Domestic Abuse Law.



**A**s concerns grow for victims of domestic abuse and the situation they find themselves in during this unprecedented time The Family Law Company explains how to obtain a non-molestation order (a type of injunction that may be sought by a victim of domestic abuse against their abuser).

## If you think you need to obtain a non-molestation order first make sure you are in a place of safety.

The Government's advice on social distancing does not prevent those who find themselves in an abusive relationship from moving to a place of safety.

Priti Patel, the Home Secretary, has specifically said: *"Whilst our advice is to stay at home, anyone who is at risk of, or experiencing domestic abuse is still able to leave and seek refuge. Refuges remain open, and the police will provide support to all individuals who are being abused – whether physically, emotionally, or otherwise."*

If you are in immediate danger, call 999 to seek urgent protection from the police.

When you are in a place of safety you should seek advice from a solicitor specialising in domestic abuse matters. They can guide you with the steps that can be taken to secure protection by way of a non-molestation order. In the current circumstances, the courts are still accessible, particularly for emergency orders though telephone and video hearings. Solicitors can also be contacted by telephone, via email or through their website.

## Assistance from the family court: application for a non-molestation order

Whilst your solicitor will advise you as to whether or not you will be eligible for Legal Aid, you can still, regardless of this, seek the orders you need and then meet the costs of your application afterwards. The Government rules allow you to do this so that no one is left without immediate protection. This is known as DV waiver.

In order to progress with an application for Legal Aid you will need evidence of your financial circumstances including bank statements and wage slips/evidence of benefits. Your solicitor will advise you specifically about this according to your circumstances.

Next, you will need to spend some time with your solicitor who will take further details about the abuse you have suffered and explain this to the court in a statement to support your non-molestation application. Once this has been prepared your solicitor will email this to you and telephone you to take you through your statement to ensure that it accurately reflects your position to the best of your knowledge and belief.

It would help if you can give your solicitor as much detail as

possible to assist them and the court in ensuring that any order made comes to the attention of your abuser.

The order can prohibit the abuser from contacting you by any method either directly or indirectly (through a third party) and, if necessary, from directly or indirectly contacting any children of the family. The order can also provide an exclusion zone around your property so that the abuser cannot enter or come within a certain distance of it. In some cases, the court can order an abuser to leave the property and not to attempt to return or enter it. The court has the power to make any necessary restrictions against the abuser to ensure your safety.

Once the application is submitted to the court, your solicitor will be advised of when the court will hear your application. This will be a telephone/video hearing. As this is an emergency hearing to protect you, your abuser will not be advised of it until after the non-molestation order has been made.

The abuser will be personally served, where possible, with the order and advised of a further hearing date. In the alternative they may be called by the court to advise of the order or served by email. As these hearings are currently remote, you will be able to participate from your place of safety with your solicitor representing you. You will not be required to speak to the judge or to your abuser, as your solicitor will do this.

If your abuser seeks to dispute

the order then the court will allow it to remain in place and the matter will progress to a further hearing allowing additional evidence to be filed.

Non-molestation orders contain the power of arrest, and if the order is breached, you should immediately call the police.

“

**We were worried about remote court hearings but I must say, they have been incredibly effective and efficient.**

*Harry, Dad*

”

Notes

# The Family Law Panel and the #Covid19 Green Phone Initiative



## About The Family Law Panel

**The Family Law Panel is a network of leading solicitors and mediators supporting the work of OnlyMums & OnlyDads. All are Resolution members. Many hold accredited specialisms.**

conversations setting out your options

- A range of price options including reduced fees

Choosing a solicitor or a mediator for first time can be a difficult decision. By using the OnlyMums and OnlyDads Family Law Panel you will be able to see photographs and comprehensive profile pages helping you to make a personal and informed decision.

It is stressed throughout this

book just how important it is that you get on with and trust your chosen professional. We recommend that you take time and care making your choice. Using a Family Law Panel member means that you will also be choosing a professional that has committed to supporting our social enterprise.

All members of the panel are signed up to the Resolution Code of Practice that promotes a constructive approach to family issues.

**T**he Family Law Panel is a UK-wide network of leading family law professionals (solicitors and mediators).

It is particularly useful for those parents who might need some professional advice and/or are looking to appoint a professional for the first time

The Family Law Panel ([www.thefamilylawpanel.org](http://www.thefamilylawpanel.org)) offers:

- Easy navigation
- Clearly laid out profiles of all members
- Specialisms in Children, Domestic Abuse and Finance
- Guaranteed free initial

## The Green Phone Initiative



**T**he Green Phone Initiative is for any family member with concerns about a domestic abuse situation in their household. This service is for men and women. It connects you with a regulated and qualified professional who will talk you through the applications that can be brought through the family court.

Options that will be explained include:

- Non-molestation orders to prevent the perpetrator's violence, abuse, and harassment;
- Occupation orders to exclude the perpetrator from your home;
- Prohibited steps orders, to prevent the perpetrator from removing the children from your care without your consent.

This is a FREE service. You will not be charged for your call.

Look for the Green Phone Symbol using this link: [thefamilylawpanel.org/categories/1](http://thefamilylawpanel.org/categories/1). Enter your postcode and you will find professional near you.

# When should I call the police during Covid-19?



## About the author

### Vicky Booty

Vicky is a Strategy, Policy and Performance Officer at the Office of the Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly. Prior to joining the commissioner's office she worked as a Community Safety Partnership Lead Manager within a local authority.

Living with abuse is hard and can be exhausting. During the lockdown those experiencing abuse are likely to have had even fewer opportunities than usual to get out of their home for any sort of emotional and physical break. For those living with abuse during the lockdown it may also have seemed almost impossible to contact anyone for help and support. How do you call the police for help if you're not allowed to use the phone? How do you search for advice if the person hurting you monitors and sees everything you do online?

Although Covid-19 may have stopped a lot of people from doing a lot of things, what it hasn't stopped is the practical help and support that is available for anyone experiencing domestic abuse. Some of that help and support may look, feel and sound a little different because of the pandemic and the need for things like social distancing, but it is very much still there for anyone who may need it right now.

## When should I call the police?

If you feel that you or someone else in your family is in immediate danger as a result of domestic abuse you can call the police on telephone 999. This could include for example, when:

- you believe that you (and/or others in your family) are at immediate risk of violence;
- there is an immediate threat of violence to you or someone else in your family;
- there is an immediate danger to your life (or that of someone else such as your child);
- the situation is violent at that moment or you believe it is going to become violent and you need help;

- you (or someone else in your family) have been injured and you need help.

Ultimately if you feel that you need the police in an emergency, then don't hesitate to call them. The person taking your call will ask you some questions and explain how the police are going to respond. Details about how to make a silent call to the police in an emergency can be found below.

## What happens when I call the police?

For anyone who wants to report what's happening to police, they can contact the police in an emergency by calling 999 and in non-emergencies via the 101 service. If it's too dangerous for someone to speak, they can make a silent call to the police but it's really important that it's done correctly. A guide about silent calls can be found at the Independent Office for Police Conduct website at [www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/Silent\\_solution\\_guide.pdf](http://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/Silent_solution_guide.pdf). Many police forces also offer other ways to get in touch like email and live webchat, and provide information on their own websites for people experiencing domestic abuse.

When you call the police their priority will be your safety and the safety of your children if you



have them. To find out more about what exactly the police may do when you call them in an emergency, visit Women's Aid <https://www.womensaid.org.uk/the-survivors-handbook/police-and-the-cps/> for detailed information. After you've contacted the police you may be offered a range of help and support from other organisations. This could include

being offered the support of an Independent Domestic Violence Advocate (IDVA). An IDVA is a specialist caseworker who can help you to decide what action you want to take and the support and help that you might need which feels right for you.

### Other help

There are many national and local organisations including statutory agencies, charities and other not-for-profit organisations who can offer help and support to anyone experiencing domestic abuse. You will find them at the end of this book in the Advice & Support section.

## Support Through Court

Every year, thousands of people in the UK face court alone. Without help, they have to represent themselves while they go through a divorce, seek custody of their children, or face eviction from their home. They are forced to navigate a complex legal system alone, often against the professional legal representation of the other party.

The increase in cuts to legal aid over recent years has meant that thousands more people face the civil or family courts alone. Their access to justice is limited by how overwhelming the legal system can be to those who have never faced it before, and many struggle to represent themselves effectively in court.

Our 750 volunteers provide a free service across England and Wales, offering support and guidance before, during, and after court. We ensure that those facing court alone feel prepared and supported in accessing justice.

<https://www.supportthroughcourt.org/>



## National Association of Child Contact Centres

More than a million children have no contact whatsoever with one or other parent after separation. Unfortunately some children experience behavioural issues including antisocial behaviour, distress, unhappiness, and both physical and emotional problems. The NACCC is the only charity in the UK dedicated to solving this problem, by providing safe spaces where children can meet the parents they don't live with. We oversee around 350 contact centres across the UK, run by a network of nearly 4000 volunteers. Our

#lostparents campaign aims to raise awareness of the work centres do in keeping children in touch with parents.

<https://naccc.org.uk/>





# How will Covid-19 affect my ability to access legal aid?



## About the author

**Hannah Porter,**  
**The Family Law**  
**Company by**  
**Hartnell Chanot**

Hannah specialises in all areas of family law, providing expertise in both financial matters and children act matters.



**L**egal Aid remains available for victims of domestic abuse (whether that abuse be physical, emotional or psychological) despite Covid-19.

Covid-19 has not limited a person's ability to access Legal Aid. Our working methods have altered but we remain constant in working protect the victims of

domestic abuse

## 1. Will I be able to contact a solicitor during Covid-19?

Yes. Family Solicitors are considered to be key workers and although, they may not be working in the office, most solicitors are working remotely and remain available to help and advise clients in their time of need.

## 2. What do I need to provide to my solicitor if I think I may be eligible for Legal Aid?

### Evidence that you have been a victim of domestic abuse or your child is at risk of abuse

The evidence required by the Legal Aid Agency is very limited and in most cases requires specific wording. This can be evidence from your GP, police, a domestic abuse support service or social services. Your solicitor will be able to advise you as to the wording required and provide any template letters to assist you in obtaining the evidence.

During Covid-19, it is likely that you will be unable to see your doctor in person in order to obtain medical evidence. However, this does not mean that you are unable to obtain the required evidence. There are technical innovations which mean that you can be assessed over the telephone or via video call. All the required documents can be uploaded digitally and an emailed letter in support of your status as a victim of domestic abuse with an electronic signature is now acceptable.

### Evidence of your Financial Eligibility

You will need to provide evidence of your income and any capital assets that you own. If you have a partner, they will also need to declare their own financial position to the Legal Aid Agency. Your solicitor will be able to provide you with a list of the specific evidence required according to your own circumstances.

These documents can be provided to your solicitor by email, enabling them to submit



**If you are wondering whether or not to call the police, call the police.**

an assessment for you without the need for you to attend at their offices.

### 3. Do I need to provide evidence that I am victim of domestic abuse if I am applying for protective orders?

No. If you are applying for protective orders such as a Non-Molestation Order, then you will not be required to provide evidence that you have

been a victim of domestic abuse.

### 4. What can I do if I feel in immediate danger and do not have time to speak with a solicitor about Legal Aid?

If you feel as though you are in immediate danger for any reason, please dial 999 and call the police.

If you are unable to speak, please then dial 55, which will

automatically transfer you to a police call handler.

Family solicitors are here to help and support you and can be accessed in various way including telephone, emails, text messaging and video calling. If you think you need help and even if you are uncertain about this, we would actively encourage you to contact a family solicitor for a confidential discussion.



## Top tips for communicating during the Covid-19 crisis

**Listen, check meaning, then reply** is the mantra here. If you are disagreeing it's essential that you know what you're disagreeing about. Summarise what you've heard before you launch into your reply. You don't have to agree, but it's pretty useful to know what exactly it is that you disagree on.

If you find yourself getting heated or upset, call a time out. Calm down for 10 to 15 minutes, then restart with a summary. Having someone independent there isn't essential, but can sometimes be useful.

Sometimes a family therapist can help unblock communication by raising awareness of where

individual parents responses might be coming from.

Agree ground rules around behaviour for any difficult conversations and stick to them.

Use 'I' statements – I feel, I think, I would like, NOT you do, you did, you're aggressive.

Do not bring up issues from the past, stay with now and what you would like for the future. I'm very good at my job, but I can't change the past, and neither can parents. Going backwards generally derails a conversation and you can't change what happened, only do it differently as a result of lessons learned and mistakes made.

# What will happen if I contact a solicitor about a domestic abuse concern?



## About the authors

**Ruth Hawkins and Irena Osborne, Boardman, Hawkins & Osborne LLP**

Ruth and Irena are founding partners of Boardman, Hawkins & Osborne LLP. Ruth has been qualified as a solicitor for over 20 years and became a family mediator in 2012. She qualified earlier this year to do child inclusive mediation.

Irena has over 14 years' experience representing parents in care proceedings, dealing with international family matters and with family litigation in general. She represents victims of domestic abuse and is a trustee of the DA charity FLAG DV.



**T**here has been a massive reported increase in domestic abuse, and even in serious assaults and homicide, during the Covid-19 lockdown, and there are fears amongst those of us working in this area that victims might not know how, or be able, to access the help they need to protect themselves.

There are a number of applications that can be brought through the family court: non-molestation orders to prevent the perpetrator's violence, abuse and harassment; occupation orders to exclude the perpetrator from your home; prohibited steps orders to prevent the perpetrator from removing the children from your care without your consent. These are just a few that may be appropriate to consider. The police can also assist with removing the perpetrator from your home; warnings and cautions; protection from harassment orders; domestic violence protection notices, to name just a few.

We must of course be cautious about safety for victims of domestic abuse and the practical difficulties and danger to their personal safety that seeking legal advice could bring. Lockdown can offer no respite from the perpetrator, who may also be home all day, every day, and avoiding leaving the home adds greater danger

for the victims of domestic abuse. That alongside the stress of the situation, including financial worries, undoubtedly puts them in greater danger than normal.

It is important that victims of domestic abuse realise that they are specifically exempt from the Coronavirus Act, and are specifically permitted to leave the home, and stay somewhere safe, if they need to. Victims could be encouraged to do that as a first step, and go and stay with a friend or family member, where they can then seek further help and assistance.

Many organisations and businesses have become more aware of this issue. For instance, Boots the Chemist recently made an announcement that anyone alerting one of their pharmacy staff that they needed help would be taken into a separate room and offered assistance. GWR announced free travel for victims fleeing their home and travelling to a safe place. The police forces up and down the country have also taken a very proactive approach to assisting victims of domestic abuse, and have introduced a way of dialling 55 after dialling 999 which will instantly alert emergency services that there is a domestic abuse emergency that needs dealing with. Many of the 'at-home' sales sites (like Body Shop) have alerted their reps to this so that a victim can

send a coded message to their usual rep who will then assist them in notifying the police.

But if (and when) you need some legal steps, help is definitely still out there.

Any urgent court applications must be dealt with very carefully. Protective orders can be obtained very quickly and effectively if we all think a little bit creatively and employ the technology that is available to us, for the protection of our clients and victims of domestic abuse.

Victims may have limited ability to contact support services or lawyers for any help and any contact will have to be done in a way that does not put their safety in jeopardy, but the positive message is that legal action can be taken if such orders are necessary.

### What legal protection can a victim obtain?

Victims may well wonder whether it is even worth contacting a solicitor to seek

advice about protective measures thinking that the courts might be closed. Although it is true that the courts are largely closed to the public, the judges, lawyers and court staff are still able to work. We are fortunate enough that technology has been implemented by the courts very quickly to enable hearings to take place. It is also very much the case that over the weeks since lockdown was introduced, professionals involved in the family justice system and the judiciary and courts have worked hard to open up the courts, safely or remotely, to ensure that protection, even in emergencies, is available.

It has certainly been possible to obtain emergency protective orders and although it has required some thinking outside the box, the process is fairly smooth.

Lawyers are able to take instructions over the telephone, from which they can prepare the necessary paperwork, and this can be sent to clients electronically for their approval.

Working from home can also

assist the lawyers with the flexibility to speak with a client outside of usual office hours and at times when it is convenient for the client to accommodate their own personal circumstances, so that perhaps they can talk when they are out for their daily exercise, or popping to the shops or chemist. The Legal Aid Agency have relaxed certain requirements, and legal aid can be applied for remotely.

The application can be issued with the court via email, and the lawyer can then arrange with the court staff a telephone or video hearing with the judge.

The lawyer can then hold a telephone hearing or a hearing via a web platform such as Skype at the allocated time. At the same time the lawyer can have contact with the client on a separate device so that they are able to understand what is being said in court on their behalf and what the judge's decision is. Alternatively, a client's attendance can be excused if that would put them in immediate danger due to presence of the perpetrator.

After the hearing, the lawyer will draft the court order and email it to the judge who can then approve or amend it in a matter of minutes. The lawyer can then arrange for the court order to be served on the perpetrator remotely.

It may be a bit more complicated but given the fact that nobody has to travel anywhere, the process can be dealt with more quickly in some cases than pre-Covid-19 times.

“

**One of the characteristics of our case is alienation from me, my partner and my son's extended family. Covid-19 restrictions have allowed me to address some of the issues face on and spend quality time with my son. This has allowed me to understand the depths of his upset.**

**Robin, Dad**

”

# The Green Phone Initiative



All the individuals below are qualified and regulated. They will discuss orders being sought from family courts including non-molestation orders, prohibitive steps orders and occupation orders.

This service is designed to help you understand which option is best for you and your family. It is not a full legal advice service. The professionals below are donating their time, you will not be charged for your call. It is available to male and female victims of domestic abuse.

South West	
Barcan + Kirby	Georgia Holmes
Children 1st Mediation	Mable Edge
Dunn & Baker	Emma Benyon-Tinker
Goughs Solicitors	Alice Blackmore
Inspire Family Law	Emily Hall
Progressive Mediation Ltd	Frances Place
Ralph & Co Solicitors LLP	Katie Clixby
Rutters Solicitors	Genette Gale
Stowe Family Law	Zoe Carter
The Family Law Company	Derek Jordan
The Family Law Company	Donna Hart
The Family Law Company	Jill Reed-Brown
Trethowans	Dawn Gore
Trethowans	Kimberley Davies
Watkins Solicitors	Beverley Watkins

South East	
Awan Legal	Nargis Awan
Boardman Hawkins & Osborne LLP	Ruth Hawkins
Brethertons LLP	Gemma Kelsey
BPS Solicitors Ltd	Angela Phelan
Campbell Hooper & Co	Stephen Aldred
Cotswold Family Law	Ian Davies
Divorce Ltd (t/as Mediate UK)	Ali Carter
Edward Cooke Family Law	Edward Cooke
Excello Law	Naomi Lelliott
GoodLaw Solicitors	Emma Taylor
Gill Turner Tucker	Rebecca Bye
Charles Hoiles	Alexandra Scott-Malden
Just Family Law	Joanne Houston
Kay & Pascoe LLP	Tara Sanger
K J Smith Solicitors	Chris Sutton
LSL Family Law	Linda Lamb

### South East (cont)

Mancini Legal Ltd	Nadine Moaddel
Northwood & Burnham Law	Noorani Tiwana
RHW Solicitors LLP	Elizabeth Leah
Stowe Family Law	Rebecca Coates
Swain & Co	Samantha Lee
Thames Valley Family Mediation	Alison Crossley
Whealers Solicitors	Amanda Dodge
Venters	June Venters QC

### London

Allard Bailey Family Law Ltd	Sabrina Bailey
Anthony Gold	David Emmerson
A City Law Firm Ltd	Natalie Sutherland
Aletta Shaw Solicitors	Rachel Duke
Bowling & Co	Martin Real
Burgess Mee Family Law Solicitors	Peter Burgess
Collins & Hoy Solicitors	Bernadette Hoy
Family Law In Partnership	Helen Greenfield
Farani Taylor Solicitors	Ishratara Islam
Hanne & Co	Elinor Feeny
Hecht Montgomery Solicitors	Barbara Hecht

Mansouri & Son  
Solicitors

Cyrus Mansouri

National Legal Service

Kirsty Richards

OGR Stock Denton

Peter Martin

Pinney Talfourd LLP

Yanoulla Kakoulli

Russell-Cooke

Hannah Minty

Shepherd Harris & Co

Jamie Byrne

### East of England

Backhouse Solicitors	Karen Farrow
Beacon Wealth Legal	Alex Adeyemo
Birketts LLP	Tom Wright
Birketts LLP	Denise Findlay
Birketts LLP	Molly Barker
Gillbanks Family Law	Vanessa Gillbanks
Julie McDonald Family Law	Julie McDonald
Stowe Family Law	Melanie Quinn
Stowe Family Law	Laura Webster
Trinity Chambers	Andrew Bailey

### West Midlands

Clarke Willmott	Rayner Grice
Clark Brookes Turner Cary	Nick Lines
Higgs & Sons	Richard Port

**East Midlands**

Alexanda & Co Ltd LLP	Manesha Ruparel
Belderbos Solicitors	James Belderbos

**Yorkshire and Humberside**

Bridge Law Solicitors Limited	Carol-Anne Baker
Eaton Smith LLP	Zahra Nawaz
Graysons Solicitors	Bradie Pell
Hartlaw LLP	Dianne Burke
Howells LLP	Wendy Bailey
Malcolm C Foy & Co Solicitors	Lauren Clarke
Nadat Solicitors	Inayat Nadat
Stowe Family Law	Claire Chinsall
Thorpe & Co	Deborah Agus
Williscroft & Co	Lucy Cohen
Williscroft & Co	Stephanie Adams

**North West**

174 Law	Helen Pittard
AFG Law Ltd	Emma Cordock
Aticus Law Solicitors	Rachel Ward
Broudie Jackson Canter	Haley Farrell
MSB Solicitors	Emma Carey
O'Donnell Solicitors	Anthony Jones

Pilgrim Hope Solicitors	Helen Boynton
Poole Alock	Helen Stoller
Slater Heelis LLP	Philip Rhodes

**North East**

Caris Robson LLP	Helen Robson
Gordon Brown Law Firm	Simon Daker
Paul Dodds Law	Paul Dodds

**Wales**

Alun Jones Family Law	Alun Jones
George Davies & Evans	Christine Dyer
Infinite Law	Pauline Mainwaring
Paton Carpenter Solicitors	Richard Singh
Shanahans	Juliet Thomas

**Scotland**

Brodies LLP	Rachael Noble
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**Northern Ireland**

Phoenix Law	Ciaran Moynagh
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# What happens if my ex stops paying child maintenance?



## About the author

**Lisa Burton-Durham, Family Law Partners**

Lisa is a Director and Resolution trained Collaborative Lawyer with Family Law Partners. She has over 25 years' experience in family law. Lisa specialises in finances and children issues following separation, divorce or civil partnership dissolution.

**A**t the risk of giving the rather predictable lawyer's answer, it all depends! It will depend on what the arrangement was. Was it court based? Was it via the Child Support Agency (CSA)/Child Maintenance Service (CMS)? Was it voluntary? Unfortunately, there's no single answer or solution. The answer will be specific to each case.

The different types of arrangements you can put in place are:

## Family Based Arrangements

Parents don't have to use the CSA/CMS to arrange child maintenance. Over half a million families choose to make arrangements between themselves. This is known as a 'family based arrangement'.

You should be aware that family based arrangements are not generally legally enforceable.

What should you do if child support is not paid in accordance with your agreement?

1. If it is safe to do so, speak to the other parent. Try and find out why they have stopped paying. If circumstances have changed and if the change can be proved, look to agree a voluntary change between you.
2. If that doesn't work the CMS will need to be asked to work out the amount of child maintenance due using a standard formula. They can collect payments on your behalf and can also take enforcement action if the other parent stops paying through this arrangement. But please note, there are fees associated to using the service depending on whether you use the full collect and pay service (the paying party pays a fee of 20% of the payment and the

receiving party pays 4%) or just the assessment service.

## Statutory child maintenance arrangements

The CMS opened in 2012 and manages all new applications for a statutory arrangement. The CSA is now closed for new applications but it does still manage many arrangements that were set up before December 2013.

An arrangement through the CSA or the CMS is legally binding. This means that action can be taken by either service if the payments stop.

The CSA and CMS have significant powers which include the following:-

- Taking money directly from the non-payer's earnings - a deduction from earnings order.
- Taking money from the non payer's bank or building society account - a deduction order.
- Applying to the court for a liability order. Once a liability order is obtained it can be referred to the bailiffs who can take property away from the non payer to be sold to cover arrears and costs.
- Applying to the court for a charging order. Once



obtained the non payer can be forced to sell property and use the money to pay off child maintenance arrears.

- Taking money from the non payer's benefits if your arrangement is under the CSA scheme.
- Applying to the court for the non payer to be disqualified from driving or sent to prison if all other enforcement methods have failed.
- Recently new powers exist to disqualify a non-resident parent with child maintenance arrears from holding or obtaining a United Kingdom passport

The CSA or CMS also have the power to apply to the High Court to prevent the non payer from getting rid of property or transferring property if they believe he/she is doing this to avoid paying child maintenance or if already disposed by applying to the court for an order to cancel the sale or transfer of property.

There is usually no time limit within which the CSA or CMS can collect child maintenance arrears including the discretionary power to recover from a deceased's estate.

### Consent Orders

This is a type of court order which makes the agreement legally binding. These types of agreements are often made with the benefit of legal advice, usually within divorce/dissolution/judicial separation proceedings. They can be enforced through the Family

Court if either parent is in breach. If your order has an inflationary increase clause, check the changes are up to date.

So, what should you do if payments stop?

1. If payments under the consent order are not made you should apply back to the court to enforce the payment of arrears.
2. The court's permission is needed to recover arrears of longer than 12 months.
3. If – and only if – the order is more than 12 months old you can approach the CMS so that they can carry out a fresh assessment. However, the CMS can't recover arrears under the court order.
4. On an assessment, payments may change – up or down.

You should also note that if you apply to the court to enforce the arrears, the other parent can – if the order is over 12 months old – make their own application to the CMS so that they take over the responsibility of the child maintenance arrangements rather than the Family Court.

It's important to get any application to the Family Court to enforce arrears as quickly as possible.

Like the CSA and CMS, the court can take a number of enforcement measures which include:

- A deduction from earnings order
- Taking property away from the non-payer to be sold to cover arrears and costs.
- Taking money directly from the non-payer's bank account
- Forcing the non-payer to sell property and use the money to pay off child maintenance arrears
- A judgment summons which means the non payer could be sent to prison

The frustrating aspect is that there are fees in applying to the court and if you use solicitors you will need to assess the cost/benefit of paying for advice and/or representation in the enforcement proceedings.

### Enforcing child maintenance if a parent lives abroad

Parents can still make family based arrangements even if they live in different countries.

In some circumstances parents are also able to use the CMS if the paying parent lives abroad and they are a civil servant; works in Her Majesty's Diplomatic Service; is a member of the Armed Forces; works for a company that is based and registered in the UK or is working on secondment for a prescribed body like a local authority.

If the paying parent lives in Australia the Australian CSA may be able to assist.

If the paying parent lives outside the UK and you have a court order in respect of child maintenance you may be able to get the court order enforced in a foreign country. The UK has a number of reciprocal arrangements with foreign countries (which are updated regularly). Where reciprocal arrangements exist and a maintenance order needs to be enforced abroad the first port of call is the Reciprocal Enforcement of Maintenance Orders (REMO) Unit.

However, the impact of Brexit will involve significant changes to some of the reciprocal enforcement arrangements depending on the foreign country involved. As such it would be wise not to delay any enforcement application.

### Impact of Covid-19

As more and more jobs and businesses are impacted by the Coronavirus/Covid-19 pandemic, those paying and receiving child maintenance will undoubtedly be worried about how they will manage to meet their financial commitments if they have been affected.

If the paying party's income has reduced there may be a perfectly reasonable argument as to why there needs to be an adjustment to the child maintenance payments (for how long will depend on the circumstances). If they have stopped paying because they are not working or have been furloughed bear in mind that they may still be receiving 80% or more of their income (which may mean maintenance is still

affordable without any adjustment). If the paying party is self employed they may be entitled to assistance under one of the schemes set up by the Government to combat the financial impact on those self-employed people affected by coronavirus (this would not apply if they had a limited company from which they took dividends and would also be subject to the limits set under the scheme).

If the parents have previously come to a voluntary agreement they should contact one another as soon as possible if there has been a change which will impact on the arrangements (it may be the paying party's income has reduced but don't forget the receiving party may be the one affected and may be in need of further short term assistance to meet their and the children's needs). Mediation (which can be conducted online) is an ideal forum to discuss the options but ultimately if parents aren't able to reach an agreement they can contact the CMS and ask them to carry out an assessment.

If child maintenance is being paid via the CSA or CMS it will be essential to contact them as soon as possible if the paying party's income reduces and they can no longer afford the assessment or if payments stop/reduce. The CSA/CMS will be able to assist in ensuring those payments are reinstated or the paying party's liability is reassessed in light of any change in their circumstances.

Please bear in mind any changes should – if at all possible – be

discussed and the receiving party should have as much time as possible to plan. Parents who have used the health crisis to unilaterally change arrangements and/or who refuse to explain why changes have happened will need to ask themselves how they think that has helped their children.

If the child maintenance is paid in accordance with a court order that was made less than 12 months ago then there will be a breach if the paying party does not continue to pay. If the payments stop without agreement enforcement action can be taken through the Family Court for the payments to be reinstated and any arrears repaid. A paying party could also apply to the court to reduce the payments if they are unaffordable.

Bear in mind that Covid-19 has been a time of unprecedented change, concern and worry. The way we deal with issues now may impact on relationships for years to come. Communication, explanation, understanding, co-operation and kindness will serve your children very well.

### Resources

There are some useful resources in the **Advice & Support** section at the back of this book.

# Can I attend a Separated Parents Information Programme (SPIP) during the Covid-19 lockdown?



## About the author

### Denise Ingamells

Denise is a FMC (Family Mediation Council) accredited family mediator. She is a qualified Legal Aid Agency Accredited Family Mediator. Denise authored the Separated Parents Information Programme (SPIP) and accompanying handbook on behalf of Relate for Cafcass. She has also delivered training on delivering the SPIP (Separated Parents Information Programme) to approximately three hundred SPIP Practitioners around England.

**M**any parents are wondering how to attend the SPIP now that we are in lockdown and it's no longer possible to attend a face to face meeting..

Due to the risk posed by Covid-19, SPIP delivery has been

moved to a safer online environment.

The courts now expect that people will attend SPIPs virtually which means that if you are ordered to attend and don't, SPIP providers have to let the court know the reason you've not been able to attend.

Exceptions might include people who don't have the technology or those who are living with small children alone.

The good news is that attending is easier than you might think, and you definitely don't need to be a technology whiz-kid.

SPIP providers across the country have arranged video slots that are really easy to access; you'll need a PC or a laptop with a webcam (or possibly a smartphone if you don't have access to a PC). The sessions are confidential, and no recording is allowed.

If you're on a PC it usually involves no more than clicking on a link; if you're using an iPad or smartphone, you might have to download an App first. Your provider will let you have instructions and if you have any problems they'll talk it through with you before

"Most of this information I am aware of and do practice though it's good to be reminded and have these discussions with others in a similar situation or different. Thanks for doing this online – meant I didn't have to travel."

your SPIP.

You will also need to be alone in a room with no children present during the session.

Attending a virtual SPIP actually has some real advantages as it means that you can attend the programme from the comfort of your own home.

Also, face to face SPIPs are generally delivered in groups of six to twelve people whereas virtual SPIPs are delivered to smaller groups of four or five. Although the programme content remains the same it does mean that there is more time to offer more tailored

"Many thanks once again for reaching out with the invite to the course."

support.

You will be offered daytime and weekend slots where you usually only have to attend once or shorter evening slots where you attend twice. Parents are finding it much easier to fit in as they don't have to travel.

This is a difficult time for everyone and the stresses and strains of looking after children while working from home without support or being stopped from seeing your children due to the fears of their other parent can be particularly difficult to manage.

"I enjoyed it and I'd never done video conferencing before."

Reports from parents who have attended the SPIP virtually have been really positive; some have felt very isolated and said how good it felt to share their concerns and fears, others have said how they've found it incredibly supportive to talk to

"I have participated in your online SPIP course today and found it helpful & informative and really easy to use."

other parents in a similar situation to theirs.

I've delivered the SPIP since it started eleven years ago. I am constantly touched by the love that the parents that attend have for their children. I also know that this experience is echoed by other SPIP providers.

At the heart of the SPIP is the idea that wherever safe, children thrive when they are able to love and feel loved by both parents. We are currently living in particularly challenging times and it can be really hard to separate out what is appropriate fear from irrational fear, particularly when trust has broken down. Attending a SPIP will provide you with an opportunity to share your experiences and to hear other experiences in a structured way. You will also get tips on how to

communicate more effectively in the best interests of your children.

Participants are telling us this really works for them.

"Many thanks. I have just completed the course which I would like to say was absolutely fantastic. Denise was a great tutor/host and I learned many elements which will hopefully help in terms of co-parenting. Using zoom was just as good as being in an actual classroom, as there were times to listen, and times to discuss the points."

"It was helpful for me in identifying issues surrounding my current child contact issues. I have also picked up information on problem solving & mostly important, putting my child/children first regardless of the situation."



**When mediation fails do try again and if that fails, try again.**

# What impact is Covid-19 having on family law in Scotland?



## About the author

**Rachael Noble, Brodies Solicitors**

Rachael has gained exposure to a wide range of family law issues and runs her own caseload. She became a fully qualified solicitor in April 2015.



The ongoing restrictions in light of the Covid-19 pandemic are having an impact on all aspects of our lives. They raise a number of questions in terms of family law in Scotland. Some of these are considered below.

## Can a non-resident parent continue to exercise contact with his or her children?

There continues to be some confusion over the movement of children from one house to another. An exception to the basic guidance explains that "if you and your partner live in separate homes but take turns

to look after your children, you can continue to do this". This means that contact can continue to take place, although it is not the case that children MUST be moved between homes.

The Lord President in Scotland has issued further guidance in relation to this issue (similar to that issued by the President of the Family Division and Head of Family Justice in England and Wales) making clear that there is an expectation that those caring for children should act sensibly, safely, and in line with Scottish Government and UK Government guidance. Parental rights and responsibilities continue to lie with parents or carers and not with the court.

He indicates that if a court order is in place or parties have entered into a formal agreement regulating contact, then these arrangements should be adhered to as far as possible, unless there is agreement between the two parents or carer that this should be varied. If there is an informal arrangement with the other parent or carer, there should be a discussion as to how best to approach the situation and a decision can be made as to 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.

It may be, for instance, that if someone in one household has become unwell, parents or carers will agree that the most sensible approach is to suspend the child moving from one household to the other until everyone has self-isolated in line with the government guidance.

The Lord President suggests that if there is an agreement to vary temporarily the arrangements set out within a court order or agreement, then it would be sensible to record this in a note, email or text message.

Matters will become more difficult where parents do not agree to vary the arrangements set out in a court order or agreement. If one parent is sufficiently concerned that complying with the court order or terms of the agreement would be against current government advice, then the Lord President makes clear that that parent may exercise their parental responsibility and vary the arrangement to one that they consider to be safe. He notes, however, that "if, after the event, the actions of a parent acting on their own in this way are questioned by the other parent in court, the court is

likely to look to see whether each parent acted reasonably and sensibly in the light of the government guidance in place at that time, together with any specific evidence relating to the child or family.”

The Lord President indicates where face to face contact does not take place, there is an expectation by the court that the non-resident parent will continue to have contact with the child by way of FaceTime, Skype, Zoom or equivalent.

The courts in Scotland are, at present, only dealing with urgent matters. The Lord President makes clear that if there is an urgent case, the court will consider an application for a hearing to be fixed but will have to be satisfied that it is essential. If there is a disagreement about the operation of contact there is therefore no guarantee that a hearing will be convened to determine this. If a hearing is to take place parties will not be required to be present and the matter may be dealt with by way of written submissions or

appearance by video-link. It is therefore more important than ever that parents deal with matters cooperatively and family lawyers can assist that dialogue through many channels.

### What about the arrangements for spousal maintenance?

Many people will have a concern about finances during this uncertain period. Husbands, wives and civil partners, whether separated or living together, continue to have a duty to support one another financially. When separated, their obligation is to provide such support as is reasonable in the circumstances with regard to their respective needs, resources and earning capacities.

If one party's income has been unexpectedly reduced and that individual is obliged to pay aliment to a separated partner by court order, or by formal or informal agreement, then a variation of the sum payable may be required. It may be that

a spouse of civil partner will require financial support from their former partner for the first time. In either of these cases, advice should be obtained from a specialist family lawyer.

As courts are now only dealing with urgent matters, only in rare cases would an application for immediate financial support be regarded as an emergency. It is therefore important that the focus is upon trying to resolve matters away from the courts.

### What about payment of child maintenance?

Many employees have been put on furlough leave or have been made redundant, and both paying and receiving parents will be wondering what this means for payments of child maintenance or child aliment.

If child maintenance is calculated through the Child Maintenance Service (CMS) and the income of the paying parent has changed by 25% as a result of Covid-19, the CMS will adjust any calculation if that change is reported to them. If that is the



**If you are off-loading with friends, make sure they are the friends that don't agree with everything you say!**

case or if one party considers that child maintenance should no longer be paid, contact should be made with the Child Maintenance Service.

If the amount of child maintenance to be paid is dealt with within a Minute of Agreement or a court order, the terms of the agreement and order will require to be considered in determining what, if any, changes need to be made to the sum payable. If the payment is to be varied, then it

would be beneficial to put in place an agreement regulating this which can be revisited should there be a change in circumstances. Individuals should obtain specialist legal advice in relation to this.

It is hoped that parents can work together constructively in relation to this matter and dialogue at an early stage is encouraged.

### What if I am concerned for my safety during this period of lockdown?

Although the courts in Scotland are now only dealing with urgent matters this will include orders necessary to protect victims of domestic abuse. These can include exclusion orders suspending the right of their spouse, civil partner or (in certain circumstances) cohabitant from the family home, interdicts and non-harassment orders (with powers of arrest). You should speak to a specialist family lawyer in relation to these matters and ensure that you obtain the necessary help should you experience domestic abuse.



**Whilst adapting & adjusting to new contact arrangements, many children have difficulties navigating their 'handover' journey to the other parent – especially when surrounded by troubled waters. Please be mindful of the emotional 'mileage' they are travelling and remember, it's your job as a parent to pave and smooth the path that helps them transition between you both.**

**Nicola Withycombe**  
**KidsComeFirst**



# How will the Covid-19 crisis affect international relocation of children?



## About the author

**Fiona Forsyth, Senior Associate at Russell-Cooke**

Fiona has exclusively practised family law for the last 15 years. She advises on all aspects of private family law with expertise on resolving financial and children issues following relationship breakdown. She has a particular interest in international child relocation cases. Fiona is a member of Resolution. She is a Collaborative Lawyer and has trained as a Resolution Mediator.



vaccine which, even with sustained global efforts, is unlikely to be before the end of 2021.

Times of crisis bring out the best and the worst in us. Family relationships are no exception. Some will feel unified but, for others, the prevailing uncertainty will mean separating and separated families are under increased strain, particularly when dealing with arrangements for their children.

For many the current crisis is a wake-up call: people are taking stock. Priorities and plans are changing for “when this is all over”. Thoughts turn to what that “new” future may look like, where it will be and with whom.

For international separating families there has always been the potential additional issue of one parent wishing to relocate with the children overseas when the other does not. Is living through a global pandemic going to focus minds and cause international parents now more than ever actively to consider (or indeed reconsider) a relocation overseas?

The law says that if a parent wishes to move abroad with their child, then the other parent must agree to the relocation, failing which the court’s permission must be sought. At

the best of times these are difficult and emotionally charged cases as by their nature there is usually a stark binary outcome: One parent goes with the child; the other stays behind.

In reaching a decision, the court must ask itself if the proposed relocation would be in the best interests of the child, (the welfare of the child being the court’s ‘paramount consideration’). In practice, this is a delicate balancing exercise, a holistic approach, looking at and exploring all the competing options and alternatives presented which need to be based on thorough research involving all aspects of a child’s upbringing. The court will also normally scrutinise the motives of both parents in making (or opposing) the application, as well as the impact of the application being granted (or not granted) on both parents but the child’s welfare is the determining factor.

This balancing exercise is going to become even more delicate now as fundamentally no one can say with any degree of certainty “when this will be over”.

Remote contact is no substitute for spending time together; this is going to mean international travel. At the time of writing, there is an exceptional travel advisory in place against all but

**T**he Coronavirus pandemic has affected daily life for us all. At the time of writing, the UK has been in lockdown for some 11 weeks. Even with some relaxation of these measures coming into play, news reports abound that there will be “significant” social distancing until there is a



essential international travel. Whilst it is accepted that what is 'essential' will differ for each person, travellers will nevertheless be faced with other complications, most countries having closed their borders or implemented mandatory quarantines on arrival. Whichever way you look at it – it's a de facto international travel ban.

Even when the international travel ban is lifted, travel is likely to be more complicated and more expensive. Airlines are already planning to "de-intensify" aircraft by reducing passenger numbers to reduce cross contamination. There is also speculation that air fares will go up by 50% as a result. There may be fewer routes or less frequency on existing routes. Health checks at borders may become the norm and many countries may expect the production of a Covid testing certificate and, in due course, a vaccination record before allowing entry. Clearly, whether it is safe or advisable to travel will need to be considered on a case by case basis but parents will need to show that the means of transport is as safe as possible and that they have taken all possible precautions in line with then prevailing health advice.

Against this backdrop, applicants' proposals for contact direct and indirect will need to be creative, flexible and sufficiently robust and involve short-term and longer-term arrangements.

For those already in proceedings or those wishing to press ahead

with their application now, some family courts are open for business, but where possible hearings are taking place remotely by way of video conference or telephone call whilst the government self-isolation restrictions remain in place.

However, the suitability of remote final hearings in highly contested hearings when considerable oral evidence is needed from experts or parents is being reviewed on an on-going basis. It is likely that where possible these will be adjourned rather than held remotely.

A consultation on various matters including remote hearings was carried out in April 2020 and concluded in the report published on 6 May 2020 by the Nuffield Family Justice Observatory.

Sir Andrew McFarlane, head of the English and Welsh Family Court, is now discussing this

report with judges, the legal profession and others to consider whether there is a need for any further national guidance on remote family hearings in the Family Court at this time.

Pending the outcome of those discussions, at the time of writing, whether or not a remote hearing can proceed will be up to the individual judge to decide on a case by case basis taking account of the length of hearing, the issue before the court, whether there is to be oral evidence or "some other characteristic".

It is fair to say that despite very best efforts it has not been possible for the court to operate with business as usual but nevertheless HMCTS is doing its utmost to assist by issuing weekly operational summaries to update professionals and the public on access to the Family Court and work prioritisation.

See the guide on remote hearings on page 50.

“

**If parents don't co-parent well it is essential that the non-resident parent who is refused contact tries to stay positive for both themselves and their child/children.**

**Scott, Dad**

”

# How are contact centres operating during the Covid-19 crisis?



## About the author

**Philip Coleman, National Association of Child Contact Centres (NACCC)**

Phil is the Service Development Manager at NACCC following a career with the NSPCC, Local Authority Social Work, Looked After Children & Child Contact Centres. NACCC has been supporting children, families and child contact centres in terms of safe and effective child contact since 1991 and support in excess of 17,000 children a year.

**T**imes are difficult for families across the nation, and this is not being helped by the restrictions in place. It seems likely that there will be an increase in child protection concerns and divorce rates will raise as a result of the current 'lockdown' measures.

In the article on the NACCC website, based around the statement provided by Sir Andrew McFarlane (President of the Family Division) it is suggested that where it is safe and appropriate parents should work together to make arrangements for children and that children should be enabled to move between parents' homes for the purpose of being able to see each other.

However, we know for some families that this will just not be possible and that now more than ever children are likely to need the support of services in order to be able to spend time with the people that are important in their lives.

In order to meet the needs of children and families whilst also complying with government advice NACCC has worked with our members to develop a range of technology enabled solutions to child contact.

Different centres are able to provide this service and you are welcome to contact NACCC to locate these services. We have highlighted the practice of some of these centres on the NACCC website at <https://naccc.org.uk/coronavirus-update/innovative-practice-in-child-contact-spotlight-feature>.

## So how does online contact work?

Basically, this is an app or piece of web software allowing three-way video calling. The three parties will include the child, parent & contact supervisor. Contact will then take place using this app. The centre will support you to consider activities to make this contact as positive as possible. This type of contact works best with children aged 5 and older because of the need for them to be able to sit with a computer, iPad or phone.

The physical process isn't much different, and the centre will have guidelines about downloading the relevant app and making it work.

The centre will still follow its referral and risk assessment process so any service offered will be as safe and appropriate as possible.

There will also still be a pre-visit. Whilst this won't be the usual visit to the centre, it will involve a virtual meeting with the person who will be supervising the session, prior to the first session. This person will help you and your child(ren) to prepare and answer any questions you may have.

The centre will set up a 'contact agreement' for the adults. This

will help you to know what will be expected of you and what you can expect in return.

### What if the contact session doesn't go to plan?

The contact supervisor (only) will have the administrator controls for the app, which may include functions to turn off microphones, pause sessions or remove all parties from sessions. This will allow them to bring sessions to an end efficiently reducing the likelihood of children being distressed by the actions of adults.

Any actions not in line with the 'contact agreement' could lead to sessions being suspended or terminated.

### What if I can't share contact details with the other parent?

You will be sent an invite to the app being used for contact. Normally this will be enough and there will be no need to enter phone numbers or email addresses.

All centres using apps that do require limited personal data have measures in place to help you to protect your personal details, if this is needed.

### What if there has been domestic abuse?

It might be possible for the contact centre to be able to support you to facilitate this contact in a safe and effective way. However, this service is not for everyone and if the service cannot be delivered safely, it should not be delivered at all.

If you are concerned about risks that might be posed as a result of this contact please raise these with the centre at the first opportunity.

### What if it has been a while since I last saw my child?

The centre will work with your child to make an assessment about what is in their best interests. This might include some preparatory work taking place with the child for example.

There may be some situations that make this type of contact session inappropriate. The centre will work with you in this situation to explore whether other options might be available.

### Practical considerations for online contact

There are a number of practical issues to consider, these include:

- **Working with your children.** As with any type of contact, it is important that parents enter into this on the basis that they will do all they can to help this to work and to make it as positive an experience as possible for children. Parents will achieve this by:
  - Making it OK to talk about the other parent at home.
  - Being positive about the service and other parent.
  - Allowing the child to ask questions and answering these in a way that is honest, but in line with the

development and emotional needs of your child.

- By making physical arrangements that will allow for the session to be undisturbed when it does happen.
- **Preparation.** On the day of the contact session it is a good idea to make sure that your home is calm and quiet, where possible, limiting possible distractions.
- **Software, devices and internet connection.** Make sure that you have the right software loaded and have tested out the app prior to the session. Also make sure that your internet connection is reliable.

### The future of using tech to enabled contact

We don't know what the future holds, but it is increasingly likely that the future of child contact will change. NACCC are working with a variety of other organisations to understand experiences of having contact in this way. If you have experience of this type of contact and would like to anonymously provide feedback, we would really appreciate this.

# Should I write a Will?



## About the author

**Chloë Rodway, Southgate Solicitors**

Chloë is a solicitor and deals with a range of private family law matters including divorce, separation, financial disputes and children matters. She also advises clients on Wills and Power of Attorney.



**M**any of us never get round to making a Will and some people find the process rather daunting. Not having a valid Will in place can cause problems and financial worry for your loved ones. Making a Will is the only way for you to have control of your assets after you die – it outlines your wishes clearly and avoids additional stress and costly, time-consuming disagreements as well as giving you peace of mind. It is therefore extremely important that you take the time to write a Will to make future provisions.

Whether you are single, cohabiting, married or divorced, you need a Will to ensure that

your assets will be distributed in accordance with your wishes. It is important to note that marriage cancels out a Will (unless it is clearly stated in the Will that it is made in anticipation of marriage). If you have a valid Will and you have subsequently divorced then the Will is read as if your spouse has died. This could mean that the Will does not reflect your true wishes or even that some or all of it is no longer effective.

## What happens if you do not prepare a Will?

If you die without having a valid Will in place (intestate), this means that the law would dictate how your estate is to be distributed following the Rules of Intestacy – more often than not, this is not in line with your actual wishes. These rules determine who inherits what which depends on what surviving family you have and the size of your estate.

Only married or civil partners and some other close relatives can inherit under the Rules of Intestacy. This could result in important people, such as unmarried partners and step-children, being ignored when the estate is distributed. Assets will not be inherited by a partner (unmarried or not in a civil partnership) unless clearly expressed in a Will.

If somebody is married or in a civil partnership at the time of death and they do not have any

surviving children, grandchildren or great-grandchildren, then their partner will inherit their whole estate.

If somebody is married or in a civil partnership and they die leaving a partner and children, then their estate will be split. The partner will inherit all personal belongings and the first £250,000 of the estate. Anything over £250,000 is divided in two. The first half goes to the surviving spouse/civil partner, and the other half goes to the deceased's children in equal shares when they reach the age of 18. This could potentially create a situation whereby the surviving partner does not automatically inherit the family home.

People who are married or registered civil partners do not have to pay any Inheritance Tax on money or property they inherit from their deceased partner's estate. This does not apply to children, so it is possible that Inheritance Tax could be payable, if the estate is over the threshold.

Cohabiting couples have no right to inherit their late partner's estate if they die without leaving a Will. In this circumstance, biological children would take the whole of the deceased's estate in equal shares when they reach 18 years old. If there are no children, then potential people to inherit would be blood relatives,

starting with parents and then siblings. If there are no surviving blood relatives who can inherit under the Rules of Intestacy, then the estate passes to the Crown – this is known as *bona vacantia*.

Writing a Will can safeguard the future of those you care most about and avoids the potential tricky situations mentioned above. Preparing a Will provides you with peace of mind and will ensure that your loved ones are looked after.

### What preparation can be done to save time and costs?

If you decide to prepare a Will, then the first thing to do is value your whole estate. It is a good idea to start by jotting down a list of all your assets (property, savings and investments, pension funds, vehicles, jewellery, art and antiques, furniture and any other personal belongings) and alongside each item estimate their value. Make a separate note of any debts and/or liabilities you have. You can now calculate how much your whole estate is worth.

Once you have a clear list of what makes up your estate, you have the opportunity to decide how you want to divide your estate between your loved ones. It is sensible to start with any specific gifts you would like particular people to inherit using your list you have prepared. Clearly make a note of what you would like people to inherit by detailing their full name and address. You may also want particular people to inherit a lump sum of money (for

example, all grandchildren to inherit £500).

If you plan to leave a gift to charity, then make sure you include the charity's full name, address and registered charity number.

The next thing to think about is where the residue of your estate is to go. This is any property or money left over after paying administrative and funeral expenses, legacies and any tax. You can choose to leave your residue estate to more than one person in equal or even unequal shares – this is a decision for you to make.

If any of the beneficiaries (people who will inherit from your estate) are under 18, carefully think about at what age you would like them to inherit. Of course, this is matter for you to decide, but sometimes people increase the age of inheritance to 21 or 25 years old.

You need to make sure you have made it abundantly clear as to what you want to happen to your estate. Not only this, but you should also outline what you want to happen if any of your listed beneficiaries should predecease you.

Last but not least, you need to choose Executors. Not only does a Will dictate who inherits from your estate, it also appoints Executors to manage your estate. Executors are the people who deal with distributing your estate and their role comes into force as soon as you die. Being an Executor can involve a lot of work and responsibility, so

consider the people you appoint carefully. It is always recommended that you appoint more than one Executor, in case one is unable or unwilling to act.

If you have children under 18, it is even more crucial to prepare a Will and you should appoint a testamentary guardian (this is a guardian appointed by a Will of the natural guardian of the child on the event of their death). This is particularly important if you are a single parent. Appointing a testamentary guardian will ensure that your children are looked after by a person of your choice in the event that you die whilst they are a minor. This is one of the hardest decisions parents have when preparing a Will. You must discuss the appointment with the testamentary guardian prior to choosing them.

The above preparation will save costs and time in the long run. The information can then be directly passed on to a solicitor who can provide you with legal advice and prepare a draft Will for your consideration.

### Next steps

Once the Will has been drafted in accordance with your instructions and you are happy with the contents, it must be executed promptly as it will not be valid until this has been done. You must sign your Will in the presence of two independent witnesses and they must also sign the Will.

Beneficiaries of the Will, their spouses or civil partners should not act as witnesses, or they lose their right to the inheritance. It

is extremely important that the witnesses are independent and over 18 years old.

After the Will has been signed correctly by you (testator/testatrix) and two independent witnesses, it must be dated. The

Will is then valid and ready to be stored in a safe place. Let your Executors know where your Will is being kept, so that they know where it is if/when they need to refer to it.

A Will should be reviewed on a

regular basis, especially if life circumstances have changed, for example, in the event of the birth of a child, new relationship, death of a relative or loved one or if you acquire further assets since preparing your Will.

## Some final words

Whether you are recently separated or been apart for a while, the threat and the restrictions imposed due to Covid-19 will create feelings of anxiety, frustration and stress. As humans we are not particularly well designed for change. While we can all adapt over time, there is a transition phase during which the uncertainty and instability of life can lead to significant tension and fatigue.

While your children look to you for comfort and reassurance, you may find yourself with no one to lean on, making it harder for you to be the kind of parent you want to be. That's when information and advice from trusted, knowledgeable professionals is even more important for our continued well-being. At times of uncertainty, we look for certainty. The articles in this book, written by leading

professionals are a series of helping hands, supporting you through this uncertain time.

We are all going to emerge out of this period a little bit changed. We may have had time to review our priorities. If we're lucky we will have had an opportunity to reconnect with one another; if we're less lucky we will have felt imprisoned in an already very difficult family situation. The importance of working together to create the best kind of childhood for our children is a parent's number one priority. Sometimes we can all lose sight of this fact, especially at times like this. By using the shared wisdom of the experts in this book, you will find your way back to what is important – your children.

*Dr Angharad Rudkin*



# Guide to remote court hearings



## Transparency Project

To avoid people getting ill from the coronavirus infection, most court hearings are currently being held remotely. This could be either by video link or by telephone. Even after the coronavirus crisis has ended, it is likely that some hearings will still be held this way, at least for the time being.

This document explains what a remote hearing is and how it works. It applies to hearings in the Family Courts. It does not apply to other sorts of courts.

This document answers the following questions :

- What is a remote hearing?
- What is a hybrid hearing?
- What will happen at the remote hearing?
- How do I join a remote hearing?
- Will it cost me anything to join?
- What devices, apps or software do I need?
- What if I am worried I won't be able to work the technology
- Can I have someone with me during the remote hearing?

- What if I need to speak privately with my lawyer or supporter during the hearing?
- What if I want a face to face hearing?
- What if something goes wrong?
- What happens after the hearing?
- Where can I find out more?

### 1. What is a remote hearing?

A remote hearing is one which is held without the people involved coming to court in person. Instead they join the hearing by telephone or by video link using their phone or another device (laptop or tablet). Sometimes even the judge will be at home rather than in the court building.

Apart from the fact that people are not in the same building, a remote hearing is exactly the same as a hearing where the parties come to court in person and the process is broadly the same. The court has all the same powers and will expect people to treat it just as seriously as a 'normal' hearing.

### 2. What is a hybrid hearing?

A hybrid hearing is a mixture of a remote hearing and a 'normal' hearing. This means that some of the people involved attend the court in person, and some of them join the hearing remotely by video link or phone. A hybrid hearing might happen if one person can't physically get to court or if the courtroom isn't big enough for everybody to fit in whilst keeping a safe social distance.

This can happen in some family cases where there are several parties involved. In some cases, one party might attend the courtroom (or another building) so they can be in the same room as their lawyer, but still join the actual hearing by video link. There are lots of different combinations depending on the type of case and the particular circumstances.

### 3. What will happen at the remote hearing?

When court hearings take place in person in a court building, they do not always start on time because judges often allow parties and their lawyers some flexibility to discuss things before coming into the courtroom. **Remote hearings almost always start on time.** It's really important that any discussions you or your lawyer want to have with the others involved in the case take place before the start time for the hearing, and that you are ready and waiting at the time the hearing is listed.

It often takes a few minutes for everyone to join the hearing. At the start of the hearing the judge will probably explain that the hearing is being recorded, which also happens for hearings that take place in a courtroom. **It is a criminal offence and a contempt of court for you to record the hearing without permission.** The judge might also explain that the fact that the hearing is being carried out remotely does not change the serious nature or the importance of the hearing. If the hearing is heard in private, meaning that members of the public cannot attend (this is the case for most family court hearings) the judge might check with everybody to make sure that they are on their own and somewhere private.

It can be easy to talk over other people accidentally in a remote hearing, and that can mean that people can get a bit lost. The judge will probably be quite strict in making sure people take turns in speaking, and will ask you not to interrupt. It is a good idea to put yourself on 'mute' (turning off the microphone on your device) except when you are actually talking, so that background noise does not stop people hearing what is being said. It will help to look for the mute function on your device before the hearing, or at the start, so you know how to switch yourself on to mute and back again when you need to speak.

The judge will have a digital copy of all the papers on their device (this is called the 'bundle'). You should make sure that, if possible, you have the bundle or the most important documents accessible to you so that if somebody refers to a particular page or document you know what they are talking about. This can be a bit tricky if you

only have one device, so think about how you might best manage that, before the hearing. It's a good idea to have a pen and paper to make notes on, or to have a blank document open on your device to make notes on as you go.

On some video platforms, it is possible for the people involved to share documents on their screens. This can make it easier to follow what is happening, and is useful if someone is finding it hard to find the page or document that somebody else is talking about.

Judges can and do hear evidence from witnesses at remote hearings, and can make final orders. It will be up to the judge in your case to decide whether it is fair and suitable for a particular hearing to be dealt with remotely and, if not, what the alternative arrangements might be. You should tell the court about any difficulties that affect you which they might not otherwise know about.

### 4. How do I join a remote hearing?

You will be sent joining instructions before the hearing, either by the court or by the lawyer who is organising the connection.

If the hearing is a telephone hearing, this will usually be arranged by the court and they will call you so that you can take part. It is important that you make sure the court has your up-to-date phone number and that you are ready to answer the call when it comes. The court might call from a withheld number (the caller might appear, for example, as 'No Caller ID'). **If you have your phone set to 'Withhold reject', make sure that this is turned off so you do not miss the call.**

Make sure your phone or device is charged or connected to power so that it does not run out of battery during the hearing – video calls can use up battery quickly. If the court is unable to reconnect to you during the hearing, it might carry on without you.

If the hearing is a video hearing, it could be run through one of several different platforms. Whichever platform is used, you will be sent easy-to-follow instructions.



## 5. Will it cost me anything to join?

It will not usually cost you anything to join a remote hearing. You will need to have a good phone connection for a phone hearing, and a good WiFi internet connection for a video hearing. If you live somewhere with poor phone signal but have WiFi, check if you can switch your phone to 'WiFi calling' so you can connect by phone through your WiFi. If you are relying on 3G or 4G data to take part in a video hearing, it might use up your data very quickly, which can be expensive and doesn't always provide a good enough connection. It is better to find somewhere with WiFi, if at all possible. If your hearing is a telephone hearing, the court will usually call out to you, which means it doesn't use up your phone credit.

## 6. What devices, apps or software do I need?

The basic requirement is a functioning phone with a reliable connection. Even if your hearing is a video hearing, you can still join by phone, but you will find it much easier to follow if you are able to connect by video. Ideally, you would have one or more internet-enabled devices, so that you can join a hearing by video / internet connection on one, and you can view your documents on another, but many people manage just fine with one device.

If you only have one device, or difficulty accessing the documents yourself, you could ask whether the documents can be shared on screen by someone else as they are being discussed. This may or may not be possible, depending on the platform your hearing is happening on.

There are a number of different video platforms that can be used to run a remote hearing, but most of them work in a very similar way. You might be used to making video calls on Facetime, Skype or Facebook Messenger. The platforms that are used for hearings are very similar to those, but have the ability to join multiple people at the same time.

With some video platforms, you might be invited to download an app, but if you prefer, most platforms allow you to join through your internet browser. CVP is the Court Service's own video platform. It works through a browser and can be

used without you needing to download an app (although there is an app if you prefer). Most platforms work best on Google Chrome. If you don't already have it, it is easy to download the Google Chrome browser, just in case.

## 7. What if I am worried I won't be able to work the technology?

You will be sent instructions before the hearing. If you are worried about getting connected to a video hearing on the day, you could try a test run. You could ask your lawyer to set this up or, if you do not have a lawyer, you could ask the lawyer who has set up the link. CVP is set up by the court and the instructions explain how you can test things out before the hearing. Although lots of people are unfamiliar with the technology, it is pretty easy once you get the hang of it, and the judge and lawyers will be used to helping people sort any glitches out.

If you are going to download an app, it is a good idea to download it in advance and try a test call with a friend beforehand. This will help you in case there are any problems with the app, or it takes longer than you expected.

## 8. Can I have someone with me during the remote hearing?

If your hearing is public (most civil cases) there is no restriction on who can be present with you. However, most family cases are not heard in public. They are heard in private.

If your hearing is private (most family cases) **you should be on your own unless the judge gives you permission for someone else to be with you.**

A supporter could be your carer, your IDVA (Independent Domestic Violence Advocate), your social worker or other support / key worker, a family member or friend or a 'McKenzie friend'. A McKenzie friend is a name for someone the court allows to support you in a private hearing, and their role is to sit quietly and take notes, and to give you moral support. McKenzie friends and supporters are generally not allowed to speak on your behalf and must not interrupt the hearing.

Your supporter might be in the same location as

you during the hearing or they might join the hearing from somewhere else. If the hearing is private the judge might want your supporter to confirm that they understand that they must keep things private, before the hearing goes ahead.

Anyone who does attend a hearing to support you should remain silent throughout.

If possible, any children should be safely occupied, out of earshot and supervised in another room during the hearing. This is particularly important if it is a family matter about them.

If you would like someone to support you at your remote court hearing you should let the court know about this in advance. You should tell the court:

- the case number of your case,
- who your supporter is,
- what their role is or their relationship to you,
- how they can be contacted (email and phone).

This will allow the court to make arrangements for them to join the hearing, even if they are in a different location from you, and the judge can decide if they are allowed.

You can still ask the judge about a supporter at the start of the hearing if you haven't been able to do it before, but it's better to do it in advance.

## 9. What if I need to speak privately with my lawyer or supporter during the hearing?

If you have a lawyer or supporter, you could discuss with them the best way of communicating during a remote hearing. Normally you could whisper to your lawyer in the courtroom, but in a remote hearing you could use WhatsApp, or email, or a separate video link or phone call to communicate privately as things happen. The best solution will depend on your particular circumstances. On some platforms, it is possible to set up a private 'room' where a party can have private discussions with their lawyer or supporter (sometimes called a breakout room). The judge or

the person organising the hearing might be able to set that up for you.

## 10. What if I want a face to face hearing?

If you think your case needs to be held face to face for any reason you should raise this with the court. The judge has to make a decision on a case by case basis depending on:

- the nature of the case and the specific hearing
- the particular needs of the people involved
- what is safe and practical.

If you have a disability that makes a remote hearing impractical or unsuitable, or if you need an adjustment to be made so that you can participate, you should contact the court, explaining the difficulty and what you think might help to make things work better for you.

## 11. What if something goes wrong?

It is important that you understand what is happening during the hearing, so if you are struggling to see, hear or follow, you should let the judge know at the time. You can do this by speaking, putting your hand up or (on some platforms) pressing a button to raise a 'virtual' hand. Remember that, on some platforms, the judge might not be able to see everyone's face at the same time so if your hand does not attract their attention you may need to interrupt. You could say 'I'm sorry to interrupt but I can't hear'. If there is background noise, the judge may ask everyone who is not speaking to mute their microphones.

Sometimes people get cut off from a hearing part way through. Usually the people left behind will get a notification telling them you have gone, so they will either try and rejoin you or wait for you to dial back in. It is a good idea to keep your joining instructions to hand throughout the hearing so that you know where to find them if this happens. If your internet connection goes down, it might be possible for you to join by telephone, so if possible you should alert someone in the case of what the problem is so that they can tell the judge and try and sort it out. You should

not worry that you will be in trouble because of connection problems.

## 12. What happens after the hearing?

The court will produce an order which records the outcome of the hearing, and will send everyone involved a copy of the order. If there are lawyers involved they will often prepare the order for the judge, and your lawyer will send you the order once it has been approved. The order might not reach you straight away, so it's a good idea to make a note of things the court has asked you to do, the date you have to do them by and the date of the next hearing, especially if you don't have a lawyer to remind you.

## 13. Where can I find out more?

The Courts and Tribunals Service (HMCTS) have produced a **Guide on Joining Court Hearings by Video Call or Phone**, which you can read at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/876566/Guide\\_on\\_joining\\_court\\_hearings\\_by\\_video\\_call\\_or\\_phone\\_27\\_March\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876566/Guide_on_joining_court_hearings_by_video_call_or_phone_27_March_2020.pdf)

HMCTS have also produced a **Guide to How to join Cloud Video Platform (CVP) for a video hearing**:

<https://www.gov.uk/government/publications/how-to-join-a-cloud-video-platform-cvphearing/how-to-join-cloud-video-platform-cvp-for-a-video-hearing>

**McKenzie Friend Guidance** – this explains what a McKenzie Friend is and what they can do:

<https://www.judiciary.uk/publications/mckenzie-friends/>

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The Transparency Project is a registered charity. They explain and discuss family law and family courts in England & Wales, and signpost to useful resources to help people understand the system and the law better. They work towards improving the quality, range and accessibility of information available to the public both in the press and elsewhere.

[www.transparencyproject.org.uk/](http://www.transparencyproject.org.uk/)

# Advice & support

## Adfam

Information and support for the families of drug and alcohol users.

[www.adfam.org.uk](http://www.adfam.org.uk)

## Advice Now

Plain English information on a website run by a group of organisations including the Citizens Advice Bureau.

[www.advicenow.org.uk](http://www.advicenow.org.uk)

## Advocate

A Charity which finds free legal help from barristers.

[www.weareadvocate.org.uk](http://www.weareadvocate.org.uk)

## Alcoholics Anonymous

[www.alcoholics-anonymous.org.uk](http://www.alcoholics-anonymous.org.uk)

## AMIS

Amis is Scotland's leading male domestic abuse charity that supports victims. It operates a dedicated helpline, digital information services and in-person support for male victims.

<https://abusedmeninscotland.org/>

## Australian CSA

Information about payments and services for separated parents providing financial support to children.

[www.servicesaustralia.gov.au/individuals/separated-parents](http://www.servicesaustralia.gov.au/individuals/separated-parents)

## Barnardos

Charity supporting vulnerable children and young people in the UK.

[www.barnardos.org.uk](http://www.barnardos.org.uk)

## Child Maintenance Calculator

Free child maintenance calculator is for use in the UK.

[www.familylawpartners.co.uk/what-we-do/child-maintenance-calculator](http://www.familylawpartners.co.uk/what-we-do/child-maintenance-calculator)

## Child Maintenance Service

The Child Maintenance Service is for parents who have not been able to make a private arrangement about how their child's living costs will be paid.

[www.gov.uk/making-child-maintenance-arrangement](http://www.gov.uk/making-child-maintenance-arrangement)

## Childline

Confidential help and advice for children.

[www.childline.org.uk](http://www.childline.org.uk)

## Child Poverty Action Group (CPAG)

Information about welfare benefits and tax credits.

[www.cpag.org.uk](http://www.cpag.org.uk)

## Child Protection Resource

Help for anyone involved in the Child Protection (or Child In Need) process.

[www.childprotectionresource.org.uk](http://www.childprotectionresource.org.uk)

## Children's Legal Centre

Experts in all areas of children's rights.

[www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

## Citizen's Advice Bureau

Public access to advice at branches throughout the country.

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

## Civil Legal Advice

Get free and confidential legal advice in England and Wales if you're eligible for legal aid.

[www.gov.uk/civil-legal-advice](http://www.gov.uk/civil-legal-advice)

## Countries where you can enforce child maintenance decisions

List of countries where parents can apply to enforce or change a child maintenance decision made in UK courts.

[www.gov.uk/government/publications/countries-where-you-can-enforce-child-maintenance-decisions](http://www.gov.uk/government/publications/countries-where-you-can-enforce-child-maintenance-decisions)

## Dad Info

Service providing separated parents with suggestions about the most successful way to communicate, negotiate and solve problems after family breakdown.

<http://dadinfo.splittingup-putkidsfirst.org.uk/home>

## Dads Unlimited

Charity offering unbiased and independent advice.

[www.dadsunltd.org.uk](http://www.dadsunltd.org.uk)

## Family Lives

A national family support charity providing help and support in all aspects of family life.

[www.familylives.org.uk](http://www.familylives.org.uk)

## Family Mediation Council (FMC)

The Family Mediation Council is made up of 5 national family mediation organisations in England and Wales.

[www.familymediationcouncil.org.uk](http://www.familymediationcouncil.org.uk)

**Families Need Fathers**

Charity concerned with maintaining a child's relationship with both parents during and after family breakdown.

[www.fnf.org.uk](http://www.fnf.org.uk)

**Family Rights Group**

Advises parents and other family members whose children are involved with or require children's social care services because of welfare needs or concerns.

[www.frg.org.uk](http://www.frg.org.uk)

**FLAG DV**

Flag DV is based in Newbury, but covering the whole Thames Valley area. It provides weekly legal advice clinics to those suffering Domestic Abuse.

[www.flagdv.org.uk](http://www.flagdv.org.uk)

**First Light**

First Light is a charity supporting people in Cornwall, Devon and Wiltshire who have been affected by domestic abuse and sexual violence.

[www.fristlight.org.uk](http://www.fristlight.org.uk)

**Flows**

Flows is a legal support service for women survivors of domestic abuse. It can help women access injunctions from the court.

[www.flows.org.uk](http://www.flows.org.uk)

**Galop**

LGBT & anti-violence charity.

[www.galop.org.uk](http://www.galop.org.uk)

**Gamblers Anonymous**

[www.gamblersanonymous.org.uk/](http://www.gamblersanonymous.org.uk/)

**Gingerbread**

National charity supporting single parent families to live secure, happy and fulfilling lives.

[www.gingerbread.org.uk](http://www.gingerbread.org.uk)

**Grandparents Plus**

National charity working for grandparents and kinship carers.

[www.grandparentsplus.org.uk](http://www.grandparentsplus.org.uk)

**Kids Come First**

Kids Come First offers specialist support for parents seeing to help their children through the separation process.

[www.kidscomefirstuk.co.uk](http://www.kidscomefirstuk.co.uk)

**LawWorks**

Solicitors Pro Bono Group.

[www.lawworks.org.uk](http://www.lawworks.org.uk)

**Legal Aid Finder**

Directory of legal advisers and family mediators who do legal aid work.

<https://find-legal-advice.justice.gov.uk>

**ManKind**

Confidential helpline for men suffering from domestic abuse.

[www.mankind.org.uk](http://www.mankind.org.uk)

**Match**

Charity offering support and information to mothers apart from their children.

[www.matchmothers.org/](http://www.matchmothers.org/)

**Men's Advice Line**

Help and support for men experience domestic violence and abuse.

[www.mensadvice.org.uk](http://www.mensadvice.org.uk)

**MIND**

For better mental health.

[www.mind.org.uk](http://www.mind.org.uk)

**Money Advice Service**

Information about financial issues, including sections on divorce and separation.

[www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)

**National Association For Child Support Action (NACSA)**

Nacsa provides expert advice and guidance to parents who encounter problems with Child Maintenance Service decisions

[www.nacasa.co.uk](http://www.nacasa.co.uk)

**Narcotics Anonymous**

[hppt://ukna.org](http://hppt://ukna.org)

**National Association of Child Contact Centres (NACCC)**

Search facility for contact centres by location and type of service. Range of information for families. Helpline: 0800 4500 280 (9.00 - 1.00 Mon-Fri).

[www.naccc.org.uk](http://www.naccc.org.uk)

**National Debtline**

A national debt advice charity.

[www.nationaldebtline.org](http://www.nationaldebtline.org)

**National Domestic Abuse Helpline**

The 24 hour National Domestic Abuse Helpline, run by Refuge is for women experiencing domestic abuse, their family, friends and others calling on their behalf.

[www.nationaldahelpline.org.uk](http://www.nationaldahelpline.org.uk)

**National Family Mediation**

NFM is a network of LSC contracted and accredited family mediation services countrywide that offer practical and emotional support to those affected by separation or divorce.

[www.nfm.org.uk](http://www.nfm.org.uk)

**National Youth Advocacy Service (NYAS)**

Provide information and advice to children. Act as children's guardians in difficult contact or residence cases.

[www.nyas.net/](http://www.nyas.net/)

### NHS Choices

Advice to help you make the best choices about your health and wellbeing.

[www.nhs.uk](http://www.nhs.uk)

### No Family Lawyer

Website supporting Lucy Reed's book 'The Family Court Without A Lawyer'.

[www.nofamilylawyer.co.uk](http://www.nofamilylawyer.co.uk)

### NSPCC

UK's leading children charity preventing abuse.

[www.nspcc.org.uk](http://www.nspcc.org.uk)

### OnePlusOne

Supports parents through separation and co-parenting difficulties. It can also be used by parents who are just worried about their relationship.

[www.oneplusone.space/the-parent-connection/](http://www.oneplusone.space/the-parent-connection/)

### Our Family Wizard

The Our Family Wizard website and mobile apps offer divorced or separated parents an array of tools to easily track child arrangements, share important family information, manage expenses, and create an accurate, clear log of co-parenting communication.

[www.ourfamilywizard.co.uk](http://www.ourfamilywizard.co.uk)

### Parenting Apart Programme

This organisation specialises in providing supervision of contact in a safe welcoming environment where children and families can be brought together. During Covid-19 it is offering a range of free support services for parents separating during this time.

[www.parentingapartprogramme.co.uk](http://www.parentingapartprogramme.co.uk)

### Pink Tape

Lucy Reed's family law blog.

[www.pinktape.co.uk/](http://www.pinktape.co.uk/)

### Refuge

Support and information about domestic violence.

[www.refuge.org.uk](http://www.refuge.org.uk)

### Relate

Counselling services and relationship advice.

[www.relate.org.uk](http://www.relate.org.uk)

### REMO Unit

Government advice relating to child maintenance if a parent lives abroad.

[www.gov.uk/child-maintenance-if-one-parent-lives-abroad/other-partner-lives-abroad](http://www.gov.uk/child-maintenance-if-one-parent-lives-abroad/other-partner-lives-abroad)

### Respect

Domestic Violence Perpetrator Programmes.

[www.respect.uk.net](http://www.respect.uk.net)

### Rethink

Advice and helplines for people with issues relating to mental illness.

[www.rethink.org](http://www.rethink.org)

### Reunite International

UK charity specialising in international parental child abduction (click on "resources" for a list of signatories to the Hague Convention).

[www.reunite.org/](http://www.reunite.org/)

### Rights of Women

A women's charity working in a number of ways to help women through the law. Their site has some really useful free guides to the law.

<http://rightsofwomen.org.uk/get-information/legal-information/>

### Royal Courts of Justice Advice Bureau

Citizen's Advice Bureau providing free advice to litigants in person, including family law. Able to refer to Bar Pro Bono Unit where appropriate. Appointments line: 0844 856 3534 (or 0300 456 8341 from mobiles).

[www.rcjadvise.org.uk](http://www.rcjadvise.org.uk)

### Safe Lives

Safe Lives are the UK-wide charity dedicated to ending domestic abuse, for everyone and for good. You will find a range of information including a practical guide about staying safe during Covid-19 which talks about general safety planning and self-care.

[www.safelives.org.uk](http://www.safelives.org.uk)

### Samaritans

Confidential non-judgemental emotional support for people experiencing feelings of distress or despair.

[www.samaritans.org](http://www.samaritans.org)

### Shared Parenting Scotland

Shared Parenting Scotland (formerly FNF Scotland) supports individuals who are struggling to achieve meaningful parenting time with their children after separation or divorce, including grandparents and extended family members.

[www.sharedparenting.scot](http://www.sharedparenting.scot)

### Shelter

The housing and homelessness charity.

[www.shelter.org.uk](http://www.shelter.org.uk)

**SingleParents**

Connecting, supporting and empowering single parents across the UK.

[www.singleparents.org.uk](http://www.singleparents.org.uk)

**Southall Black Sisters**

Empowering BME women to escape domestic violence.

[www.southallblacksisters.org.uk](http://www.southallblacksisters.org.uk)

**SPLITZ Support Service (South West)**

Splitz Support Service is a registered charity delivering support services to adults and young people experiencing the trauma of domestic abuse and sexual violence. Splitz delivers services across South-West England. The Devon Helpdesk for Splitz can be contacted on: 0345 1551074.

[www.splitz.org](http://www.splitz.org)

**StepChange**

National debt advice charity.

[www.stepchange.org](http://www.stepchange.org)

**Stonewall**

Campaigns for the equality of lesbian, gay, bi and trans people across the UK.

[www.stonewall.org.uk](http://www.stonewall.org.uk)

**Support Through Court (previously Personal Support Unit)**

Voluntary service helping litigants in person.

[www.supportthroughcourt.org](http://www.supportthroughcourt.org)

**Talk To Frank**

Confidential drugs advice.

[www.talktofrank.com](http://www.talktofrank.com)

**The Counselling Directory**

Help finding counsellors/therapists and useful information on website.

[www.counselling-directory.org.uk](http://www.counselling-directory.org.uk)

**The Transparency Project**

Explains and discusses family law and family courts in England & Wales, and signposts to useful resources to help people understand the system and the law better.

[www.transparencyproject.org.uk/](http://www.transparencyproject.org.uk/)

**Victim Support**

Specialist practical and emotional support to victims and witnesses of crime.

[www.victimsupport.org.uk](http://www.victimsupport.org.uk)

**Voices In The Middle**

A dedicated place for young people to find help and support.

[www.voicesinthemiddle.com](http://www.voicesinthemiddle.com)

**Wikivorce**

Advice and support on divorce.

[www.wikivorce.com](http://www.wikivorce.com)

**Women's Aid**

Support and information about domestic violence.

[www.womensaid.org.uk](http://www.womensaid.org.uk)

**Your Rights**

Liberty guide to human rights. Tells you how a conviction becomes spent.

[www.yourrights.org.uk/](http://www.yourrights.org.uk/)

Notes



# Glossary

## Access

This is now called contact. Arrangements for contact form part of a “child arrangements order”.

## Acknowledgment of service

A standard form (sent by the court with the divorce petition/matrimonial order application) that the respondent (and any co-respondent) must sign and return to the court to confirm that they have received the petition/matrimonial order application and saying whether or not they agree to the divorce.

## Adjournment

In a family law context, this generally means a hearing is postponed to a later date.

## Adultery

Sexual intercourse that takes place during the marriage between a spouse and someone of the opposite sex who is not their husband or wife. This is one of the five facts or bases for getting a divorce.

## Alimony

See maintenance.

## Appeal

The process of asking a higher court to change the decision of a lower one.

## Applicant

The person applying to court for an order.

## Ancillary relief

This is now called financial proceedings or financial remedy application.

## Answer

This is the formal defence to a divorce petition/matrimonial order application, rebutting the evidence. This may be necessary if there are allegations that are unnecessarily offensive, or if those allegations might prejudice discussions about parenting or finances if unchallenged. It is very rare for divorces to be defended.

## Arbitration

An alternative to a judge deciding the case introduced in early 2012. The parties can choose an arbitrator to rule on all or just some of the issues in dispute. The arbitrator’s decision (called an award) is then made into a binding court order.

## Arbitration service

A provider of arbitration services. We have a team of expert arbitrators. You can find out more information about them here.

## Arbitrator

An arbitrator is a third party who reviews the evidence in the case (or a discrete issue within the case) and provides a decision that is legally binding on both sides and enforceable in the courts.

## Barrister

This is a lawyer who spends the majority of his or her time arguing cases in court. Barristers also use that advocacy experience to work with solicitors in advising on possible outcomes. Also referred to as counsel.

## Cafcass

This is the Children and Family Court Advisory and Support Service. A Cafcass officer assists the court with matters relating to children and, in disputed cases of contact or residence for example, may be asked to prepare a report for the court on what orders or action would be in the children’s best interests.

## Child abduction

The wrongful removal or wrongful retention of a child from his or her place of normal, day-to-day residence in breach of one parent’s rights of custody.

## Child maintenance

An amount that the parent not living with their child pays to the other parent in order to support the child.

## CEV

A cash equivalent value (CEV) is the value of the rights accrued within a pension scheme (previously called cash equivalent transfer value).

## Charge on property

This is sometimes used as a means of security if one spouse is awaiting payment of a cash lump sum on a delayed sale of a home. It works like an additional mortgage, but without interest being paid, and is usually expressed as a percentage of the value of the property. It gives the holder of the charge security because they know that they will be paid out of the proceeds of the eventual sale.

## Chattels

Legal term for personal effects, usually house contents or personal possessions.



### Child arrangements order

This order regulates arrangements relating to with whom a child is to live, spend time or otherwise have contact. It also relates to when a child is to live, spend time or otherwise have a contact with any person. It replaces contact and residence orders and brings together arrangements for both in one order. If you already have a contact or residence order, from April 2014, you will be treated as having a child arrangements order.

### Circuit judge

In the family law context, this is a senior judge who deals with the more complicated cases in the Family Court. Appeals from magistrate's or a district judge's decision are heard by a circuit judge.

### Civil partnership

The Civil Partnership Act 2004 came into operation on 5 December 2005 and enables a same sex couple to register as civil partners. Being civil partners enables the couple to have equal treatment to a heterosexual married couple in a wide range of legal matters, including on the breakdown of the relationship.

### Clean break

An order of the court barring any further financial claims between the divorcing couple. A clean break settlement cannot include spousal periodical payments/maintenance (it can include child maintenance though). A clean break is only effective if the financial agreement is confirmed within a court order. The court has a duty in all financial proceedings to consider whether a clean break is possible.

### Cohabiting/cohabitation

An arrangement in which an unmarried couple lives together in a committed personal relationship.

### Collaborative law

An approach to dealing with family law issues such as finances on divorce and children arrangements built on mutual problem solving where the couple and their lawyers pledge to work together to negotiate an agreement without going to court.

### Committal to prison

Sending a person to prison for breaching a court order.

### Common law husband and wife

This is a common misconception; there is no such thing as a common law marriage. The rights and responsibilities of a couple who live together but are not married differ greatly to those of a married couple.

### Consent order

A court order made by a court giving effect to the settlement terms that have been agreed between a husband and wife.

### Contact

This was previously known as access. It usually refers to the arrangement for a child to visit or stay with the parent with whom they no longer have their main home. This can be by an order of the court in a child arrangements order or by agreement between the parents. Indirect contact means the exchange of letters, telephone calls or presents. Contact arrangements within a child arrangements order can also be made in favour of others, such as grandparents.

### Contact orders

As from April 2014, contact orders no longer exist. They have been replaced with "child arrangements orders" which deal with contact and residence. When a child arrangements order deal with contact, it often orders the person with whom a child mainly lives to allow the child to visit or stay with the person named in the order. See also contact.

### Co-respondent

A person with whom the respondent is alleged to have committed adultery. A person should not be named in a matrimonial application unless the applicant believes that the respondent is likely to object to the making of an order.

### Counsel

Another name for a barrister.

### **Counselling**

Specialist counsellors, with the right background, are able to help adults or children who are going through a separation. Other help can be provided by psychologists, therapists and family mediators with specialised training in working with adults or children within the family context. These professionals can be referred to as family consultants.

Family consultants can be brought into the collaborative law process to help spouses work out and articulate what they want, and to help and advise on ways to improve communication. Further support can help reduce conflict, help develop coping strategies for dealing with the emotional issues that may affect the family now and in the future and help everyone to move on with their lives following the divorce. Family consultants may also work with children, seeing them separately in appropriate cases, helping them to voice their thoughts, feelings, needs and concerns.

### **Court**

The courts handle all types of family law disputes. From April 2014, there are only two types of court that deal with family law disputes. The Family Court will hear most cases and, depending upon the complexity of the case, the judge might be a magistrate (also called a lay justice), district judge, circuit judge or a High Court judge. Mostly, you will find your local Family Court based at your local County Court. A very few specific types of family disputes will be heard in the High Court.

### **Court fees**

These are the fixed administrative costs paid to the court when making an application. Fees vary depending upon the type of application. If you are in receipt of public funding (legal aid), then the court fees are generally exempt.

### **Cost order**

The court can order one spouse to pay the legal costs of the other. During a divorce, it is quite common for the respondent to contribute towards the applicant's costs. In most financial proceedings, there is a general presumption that each person will pay their own legal fees although costs orders can be made where there is "litigation misconduct", for example a person is dishonest about his or her financial position or ignores court orders.

### **Child Maintenance Service (CMS)**

Replaced the Child Support Agency in November 2013. Its role is to make sure that parents living apart from their children contribute financially to their upkeep by paying child maintenance. It is intended to be used by only those parents who cannot come to an agreement themselves over child maintenance. All new applications for child maintenance made after November 2013 are dealt with by the CMS. There is a child support calculator on the Child Maintenance Options website.

### **Child Support Agency (CSA)**

Replaced by the Child Maintenance Service in November 2013. It continues to administer all applications made before November 2013.

### **Custody**

This is now called residence and forms part of the child arrangements order.

### **Decree absolute**

The final order of the court, which terminates the marriage.

### **Decree nisi**

The interim decree or order of divorce indicating that the court is satisfied that the marriage has broken down irretrievably. Six weeks and one day after decree nisi has been made, the applicant/petitioner can apply to the court to make decree nisi absolute (decree absolute) and the marriage is then terminated.

### **Directions order**

A court order directing how the case will proceed (eg what evidence needs to be filed and what the timetable to trial is going to be).

### **Disclosure**

This is the process of providing complete financial details about a person's capital, income, assets and liabilities. This is either done voluntarily or the court can order it. It is a necessary first step in any discussions about finance, even in mediation or in collaborative law. This is usually done by filling in a Form E.

**District judge**

A judge who sits in the Family Court. Most family disputes that end up in court are dealt with by a district judge.

**Divorce**

This is now called matrimonial order proceedings. This is the process which leads to the termination of a marriage. There are two orders: decree nisi and decree absolute.

**Domestic violence/abuse**

This has many forms including threats of and actual physical aggression, sexual abuse, emotional abuse, controlling or domineering behaviour, intimidation, stalking or passive/covert abuse such as neglect.

**Divorce.co.uk**

The most comprehensive free resource on the web, provided by the family lawyers at top 50 UK law firm Mills & Reeve. The information provided on the site aims to help families manage their way through relationship breakdown. Find out more at [www.divorce.co.uk](http://www.divorce.co.uk).

**Duxbury calculation**

Duxbury calculations are made to assist the decision as to whether or not a clean break is possible. The calculation produces a figure of what level of lump sum payment the recipient needs in order to spend the rest of their life at a certain amount of expenditure each year.

**Equity**

Refers to the net value of a property after mortgages or other charges are paid off.

**Ex parte**

This is now called without notice. It most commonly refers to emergency hearings that are conducted with only the applicant present at court. If the court makes an order at the without notice hearing, the judge will ensure that another hearing can be held quickly afterwards in order to hear the respondent's case and then make a final order. Often without notice hearings are used to deal with injunctions.

**Family proceedings court**

The name given to the division of the magistrates' court that dealt with family law matters. It was abolished on 22 April 2014.

**FDA**

First directions appointment: this is the first court appointment in financial cases and tends to be mainly administrative (family lawyers sometimes refer to it as a "housekeeping" hearing). The judge will consider what information is needed from both sides in order to progress the case. If the couple is able to agree the directions prior to the FDA then it may be possible to treat it as a financial dispute resolution (FDR).

**FDR**

Financial dispute resolution appointment/hearing: the second court appointment under the standard procedure in financial proceedings. This is an opportunity for the parties to negotiate on a without prejudice basis and with the assistance and guidance of a judge. Importantly, the judge who deals with the FDR cannot take any further part in the case if it does not settle at that hearing, other than to give directions for progressing the case to a final hearing. The FDR can, in more simple cases, sometimes be combined with the first appointment (FDA) to save costs and speed up progress.

**FHDRA**

A first hearing dispute resolution appointment: the first court appointment in a private law children application.

**Final hearing**

The trial and the final court appearance in all proceedings. A judge will hear the parties and any experts give evidence and will make a binding court order as a result. In limited situations there are grounds for appeal.

**Financial proceedings**

See financial remedy application. These are generally the court proceedings following a divorce to reallocate the income and capital of a family.

### **Financial remedy application**

This used to be called ancillary relief. This is the application to the court for financial orders following a divorce. The court can make a variety of orders about the finances of a divorcing couple. These are lump sum orders, property adjustment orders, property transfer orders, variation of trusts orders, periodical payments/maintenance and pension sharing orders.

### **Five-year separation**

One of the five “facts” or bases for getting a divorce, ie, the couple has lived apart for five years (no consent needed).

### **Form A**

The application form sent to the court that begins the process of dealing with the financial claims on a divorce. It puts in place a court led timetable for financial disclosure and also sets a court date, which will either be an FDA or an FDR depending upon how much can be done beforehand.

### **Form E**

This is the court form setting out a person’s financial circumstances (called financial disclosure) as well as details about what orders are sought. It is about the same size - and as much fun - as a tax return. It is obligatory to complete and confirm the truth of this form in court led proceedings. It is often also used as a checklist for voluntary financial disclosure and in those cases where the parties are able to come to a financial agreement without needing the help of the court, directly or through mediation or collaborative law.

### **Form G**

This is a simple form sent to the court before the FDA confirming whether or not it is possible to combine the FDA and the FDR hearing.

### **Forms H and H1**

These are forms filed before each court hearing, which provide details of each party’s costs and what has been paid towards them.

### **Former matrimonial home**

The house in which the divorcing couple were living together before they separated. If it is owner occupied, it is often one of the biggest assets that has to be dealt with on divorce.

### **Get**

A document made in a Beth Din (a court of Jewish law) dissolving a Jewish marriage following proceedings under Jewish law. It is handed over by a husband to a wife.

### **Injunction**

An order of the court preventing or requiring action, usually made in an emergency.

### **Interim maintenance**

See maintenance pending suit.

### **Joint tenancy**

A form of joint ownership of land in which both parties share the whole title to the property. If one party dies, the survivor will own the entire property (the “right of survivorship”).

### **Judicial separation**

A formal separation sanctioned by the court, which enables the court to make orders about money and property but does not actually terminate the marriage.

### **Leave to remove**

An application to the court for permission to remove a child permanently from England and Wales. This is now called permission to remove.

### **Legal Aid Agency (LAA)**

Provides both civil and criminal legal aid and advice to those people who qualify for it. Due to government cuts in the legal aid budget, there are very few family cases which benefit from legal aid. However, you may be able to get legal aid if you have been the victim of domestic violence or if you are using mediation to resolve your dispute.

### **Legal Services Commission (LSC)**

Now called the Legal Aid Agency.

### **Litigant in person**

A person acting on their own behalf without assistance from a solicitor.

**Lump sum order**

A fixed sum of money paid by one person to another. It may be payable in one go or in instalments. This is one of the financial orders open to the court to make when deciding a financial settlement on divorce.

**McKenzie friend**

An individual who assists a litigant in person in the courtroom.

**Maintenance**

A regular payment of money by one spouse to another under a court order or following an agreement. Spousal maintenance refers to maintenance paid from one spouse to another. It is possible to capitalise spousal maintenance by the payment of a lump sum to achieve a clean break. Maintenance can be secured on the assets of the paying party if there is a risk that the order may be breached. Those assets can then be sold to ensure the recipient's claim is satisfied. Those orders are rare. See also child maintenance.

**Maintenance pending suit**

In financial proceedings, a person can apply for interim periodical payments/maintenance, which is payable on a temporary basis while the proceedings are ongoing and before they are concluded. It is sometimes called interim maintenance or MPS. This is particularly useful if the financial proceedings are going to take some time to conclude.

**Matrimonial order application**

This used to be called a divorce petition. This is the document that starts the divorce proceedings. It sets out the basis for the divorce, i.e., whether it is based on unreasonable behaviour or adultery or a period of living apart.

**MPS**

See maintenance pending suit.

**Mediation**

The process through which independent mediators try to help a couple reach agreement about the arrangements to be made for children and/or finances following their decision to divorce or separate. It is sometimes wrongly thought to be a discussion about the relationship and whether a reconciliation is possible.

**Mediation information & assessment meeting (MIAM)**

Before court proceedings can be issued - either about children or about finance - you will usually be required to attend a meeting about mediation to ensure you have information about the process. This is called a mediation information and assessment meeting (MIAM). This meeting can be a useful way of finding out more about mediation, although it is better to have explored the option of mediation before you decide that you want to start court proceedings.

**Mediation service/s**

A provider of mediation services. We have a team of expert mediators and you can find out more about them here.

**Mediator**

A third party who assists the parties to reach a negotiated settlement.

**MIAM**

See mediation information assessment meeting.

**Mid-nup**

A mid-nuptial agreement: an agreement made during the marriage. See post-nup.

**Mirror order**

A court order obtained in a foreign court, which reflects exactly the terms of an English court order. Mirror orders are generally obtained to enforce the terms of an English order outside England and Wales.

**Mortgagee**

This is usually a bank or building society, but it can be anyone who lends you money to buy a property on the security of the property.

**Mortgagor**

This is the borrower who obtains a mortgage.

**Non-molestation order**

An order prohibiting a person from molesting another person. The order usually prohibits one person from using or threatening violence or intimidating, harassing or pestering another person. The order can include the protection of children. Once a respondent is aware of a non-molestation order, breaching it is a criminal offence that is punishable by either a fine or a term of imprisonment. This often goes hand-in-hand with an occupation order or orders relating to the children.

### Occupation order

An order regulating the occupation of the family home. A person can be excluded from the family home or from a certain part of it for a set period of time. If the respondent breaches an occupation order, if a power of arrest has been attached to the order, the police can arrest the respondent and bring them back to court.

### Offer to settle

Offers to settle may be “open”. This means they can be referred to, openly, in court and especially at any final hearing. Offers to settle may also be without prejudice, which means it is not possible to refer to them openly in court except at the FDR and especially not in any final hearing.

### Order

A direction by the court that is legally binding and enforceable.

### Parental responsibility

If the parents are married, or if the child was born after 1 December 2003 and the father is named on the birth certificate, both parents of a child have joint parental responsibility for that child before, during and after divorce or separation. This term describes all of the rights, duties and responsibilities which, by law, a parent of a child has in relation to that child. Aspects of parental responsibility include decisions about a child’s religion, education, name and medical treatment.

### Particulars

If a matrimonial order application for divorce is based on unreasonable behaviour or adultery, it has to set out details. This can be upsetting and, in some cases, offensive. It is best to try and agree the particulars before the matrimonial order application is sent to the court.

### Pension

Cash and/or an income paid by the Government or a private company or arrangement on a person’s retirement. Pension funds can be extremely valuable and may be an important part of any financial settlement, especially after longer marriages. There are three ways of resolving issues around pensions and provision on retirement.

#### *Pension earmarking* is

arranging that, when a pension comes to be paid, a proportion of it is paid to the other party

*Pension offsetting* is offsetting the value of the pension against some other asset such as the marital home

*Pension sharing* is the splitting of the pension at the time of divorce, giving both parties their own pension fund

### Periodical payments

The technical phrase for maintenance or alimony.

### Permission to remove

An application to the court for permission to remove a child permanently from England and Wales. This used to be called leave to remove.

### Petition

See matrimonial order application.

### Petitioner

Now called an applicant. This is the person applying for the divorce in the petition/matrimonial order application.

### Post-nup

The aim of a pre-marital agreement is usually to protect the wealth of one or both spouses and, if prepared properly, should be binding. If you are considering a pre-nup you should seek specialist advice immediately. You can also take steps to protect your position after the wedding, which may involve a post-nup/mid-nup. These are the same as a pre-nup, but made at any time after the marriage ceremony.

### Power of arrest

This allows the police to arrest a person who ignores or breaks an order of the court. If your partner breaks the order and you call the police, they will ask to see a copy of the order to see if it has a power of arrest. Once the police have arrested that person they must bring them back to court within 24 hours. A power of arrest can only be attached to an occupation order and not a non-molestation order because a breach of a non-molestation order is automatically considered to be a criminal offence.

### Prayer

The section of the petition that asks the court to make orders in favour of the petitioner.



**Pre-nup**

A pre-nuptial agreement (also known as a pre-marital agreement or contract) is made in contemplation of marriage, most commonly setting out the terms which are to apply between the spouses in the event of separation or divorce. Sometimes they can deal with arrangements during the marriage, upon separation/divorce and upon death.

**Parent with care**

A term that used to be used by the Child Support Agency for the parent with whom the child had his or her main home. The Child Maintenance Service now refer to the parent with care as the “receiving parent” (i.e. they receive the maintenance on behalf of the child).

**Privilege**

The right of a person to refuse to disclose a document or to refuse to answer questions on the ground of some special interest recognised by law.

**Process server**

This is someone employed to serve court papers. To prove that the papers have been served, the process server will normally swear an affidavit, which will be sent to the court.

**Prohibited steps order**

An order used to prohibit something being done to a child, for example, changing a child's surname or taking the child out of England and Wales.

**Property adjustment order/ property transfer order**

The court's power to change the ownership of an asset. Usually, but not always, this will be in relation to property.

**Questionnaire**

A list of questions asking for further details about a person's financial circumstances. This is usually made in response to any gaps or omissions in someone's Form E in financial proceedings.

**Relevant child**

A child of the marriage, either aged under 16 at the time of decree nisi or aged between 16 and 18 and in full time education or training. A disabled and dependent child of any age will always be considered a relevant child.

**Residence**

This describes where and with whom a child lives on a day to day basis, or has their primary home. Previously termed custody although the legal consequences are different.

**Residence order**

As from April 2014, residence orders no longer exist. They have been replaced with “child arrangements orders” which deal with contact and residence.

**Request for directions for trial**

A specific application to the court which asks for the decree nisi to be made.

**Respondent**

The person who receives the divorce petition/matrimonial order application or some other application to court, such as in financial proceedings.

**Sale of property order**

Where a court makes an order for secured periodical payments (see maintenance), lump sum or property adjustment, it may make a further order for the sale of property to satisfy the earlier order.

**Seal**

A mark or stamp that the court puts on documents to indicate that they have been issued by the court.

**Separation agreement**

A contractual document that deals with the arrangements between a couple after their separation. Sometimes this is used when a divorcing couple are waiting for the two years' separation to elapse.

**Service**

The process by which court documents are formally sent to, and received by, the party to whom they are addressed.

**Set aside**

Cancelling a judgment or order.

**Solicitor**

A lawyer who advises a client and prepares a case for court. Specialist family law solicitors may also be trained as mediators, collaborative lawyers or arbitrators.

### Special procedure

When divorce/matrimonial proceedings are undefended, the decree nisi and decree absolute can be issued without either spouse having to appear at court. Although called “special”, in fact this is the normal procedure for most divorces. This is sometimes called a “quickie divorce” by the tabloids.

### Specific issue order

An order determining a specific issue relating to a child, for example, which school a child is to attend.

### Section 8 order

An order under section 8 of the Children Act 1989: namely a child arrangements order, a prohibited steps order and a specific issue order.

### Section 25 factors

The checklist of criteria upon which financial remedy applications are decided.

### Statement in support of divorce

This statement poses a number of questions aimed at ensuring that the contents of your petition remain true and correct and that there have been no changes in circumstances that may affect your ability to rely on the fact of (adultery/ unreasonable behaviour/ desertion/ two years’ separation with consent or five years’ separation) to support the irretrievable breakdown of your marriage. This statement has to be filed at court when you apply for Decree Nisi.

### Statement in support of petition

A formal statement sworn on oath to be true by the person making it, usually in support of an application to the court. See also swear.

### Statement of arrangements

The document that used to be sent to the court with the petition/matrimonial order application if the divorcing couple had children. As of 22 April 2014, it is no longer necessary to submit this document with your petition.

### Statement of truth

A statement or other document containing facts verified as being true by the person making the statement. If the document is false, proceedings for contempt of court may be brought against the person who made the false statement.

### Stay

To place a stop or a halt on court proceedings.

### Strike out

The court ordering that written material or evidence may no longer be relied upon.

### Swear

To declare on oath that what is being said or what is contained in a document is true. This is usually administered by a solicitor, notary public or a member of court staff. It sometimes incurs a small fee.

### Talaq

Dissolves an Islamic marriage under Islamic law. It is a unilateral process whereby a husband rejects his wife by saying words to the effect “I divorce you”.

### Term order

Maintenance/periodical payments for a specified period of time. The term (or length) of the order can either be capable of being extended to cater for something unexpected happening or, alternatively, the court can order that the term cannot be extended.

### Tenancy-in-common

This is one way of owning property jointly. The separate shares are agreed (usually when the property is purchased). If one of the owners dies, their share will form part of their estate and will not automatically belong to the survivor, unlike joint tenancy.

### Two-years separation

The divorcing couple has lived apart for two years and the other spouse consents to divorce. This is one of the five facts on which a divorce can be based.

### Undertaking

An undertaking is a promise given to the court or to the other party. Once an undertaking has been given to the court, it has the same effect as a court order. This means that, if it is broken, it will be seen as contempt of court and (in extreme cases) an application can be made for the person who has broken the undertaking to be committed to prison.

### Unreasonable behaviour

This is one of the five facts on which a divorce can be based. Particulars of the behaviour have to be set out in the petition/matrimonial order application.



## GL

**Without prejudice**

Correspondence or documents that are marked “without prejudice” cannot be shown to the court. The purpose of allowing this is to encourage discussions about settlement. The only time a court can see without prejudice proposals is in the FDR hearing because this is a without prejudice hearing.

# Separation And Parenting Through The Pandemic: Key Questions Answered

Editors

Rebecca Giraud and Bob Greig

Consulting editor

Dr Angharad Rudkin

This book answers some of the questions being asked of *OnlyMums & Only Dads*, a national not-for-profit support and signposting service for parents going through divorce and separation. Each question has been answered by an expert in their field.

Separating with children is a challenging enough process. Add a global pandemic into the mix and the realities of day-to-day life as a parent trying to prioritise your children's needs become an intimidating prospect.

The restrictions imposed by the Covid-19 pandemic have made an already stressful process even more so and as a result has put families who are trying to do what's best for their children under enormous pressure.

This book covers many of the questions we are being asked on a daily basis. There is information on family courts, how they are functioning and what happens to existing court Orders at a time of social distancing and other restrictions. There is also a chapter on domestic abuse with input from legal experts and the police and information on where to go for support.

The book also includes a useful glossary of legal terms and a comprehensive list of support organisations with links on how to contact them.

***"It is both remarkable, and entirely in keeping with their organisational goals, that in such a short space of time OnlyMums & Dads have rallied their Resolution family law panel and others to provide sound, cogent and considered advice to help parents as they are now doing in this Covid-19 specific edition. I do not doubt that there will be more to feed upon for parents within these pages."***

From the foreword by Margaret Heathcote, Chair of Resolution.