Child Arrangements During the Coronavirus COVID-19 Crisis

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It is currently difficult to address issues caused by the COVID-19 crisis without worrying that it will have become overtaken by events by the time anyone gets to read it. At the time of writing (25th March) the UK is one day into stricter self-isolating measures in an effort to slow down the spread of the virus.

Given the scope and pace of change, it is easy for individual situations and problems to go unnoticed, with one such example being the range of issues facing couples whose relationship has ended, but they have child arrangements to consider. Dal Heran, Family Lawyer, with Midlands based law firm Wright Hassall explores how the lockdown may affect family life.

When the new, stricter 'lockdown' measures were introduced, parents with shared care of a child feared they would no longer be able to operate as before, with a child who, for example, spends the weekends with its father and weekdays with its mother, unable to move between the homes.

The situation was clarified somewhat, when the government relented and allowed children under the age of 18 to travel between the houses of parents who live separately.

Given the somewhat confused nature of messaging from the government, and the speed with which the situation is developing this – like everything else – is something which could alter in the near future and should be closely monitored by anyone upon whom it impacts.

No change in court orders

When dealing with matters like child arrangements, any court orders or agreements between parents remain in force during the COVID-19 crisis.

The best way to comply with these arrangements is to focus on the health of the child first, then their long term well-being – something which could be impacted by not having contact with a particular parent for a prolonged period – and then the health of any other people in the households involved.

The safety and health of the child will take precedence in the eyes of the court, over simply maintaining the usual routine. If this cannot be done in a safe way, then alternatives should be considered, and it may not be possible to adhere to the court order which is place.

Where possible, parents acting in agreement, can exercise their parental responsibility and agree to temporarily vary the court order which is in place and it would be sensible for this to be recorded between them both by an email to each other.

Sharing care between different households safely, for example, could involve meeting in a public place such as a car park and exchanging the child between cars without any personal interaction between the parents, which allows you to maintain social distancing.

Alternatively, one parent could do the dropping off and collecting and should do so by staying outside the property in question, dropping the child off and watching them enter safely.

If the status of separated parents changes under the rules – i.e., if one household is forced by illness to self-isolate completely - or the kind of exchange detailed above proves to be problematic, all possible channels like phone and video calls should be used to maintain contact between parent and child.

It's also advisable that any 'negotiations' between parents should be conducted via channels such as these, as face to face visual contact makes it easier for people to 'read' each other, thus avoiding potential misunderstandings that might cause arguments.

In the real world, many separations are less than amicable of course and what can't be ruled out is that one parent may try to manipulate the situation in order to 'steal' some more time with the child, but this is far from advisable.

Not only would it lead to conflict which would cause distress to the child in question, it would also not be looked on kindly by any court considering the case at a future date and having to decide whether a

parent acted out of genuine concern or was instead manipulating the situation for their own ends.

It's also the case that any change in arrangements forced on parents by a situation such as self-isolation won't be used as the basis for a permanent change in those arrangements in the longer term.

Breakdown in lockdown

The stress of the general COVID-19 situation, allied to the extra pressure of forced close habitation, is likely to result in relationships of a not insignificant number of couples breaking down whilst the lockdown remains in force.

In the majority of cases it would be hoped that the individuals involved, particularly if they have children, would be able to reach amicable agreements on the living arrangements during this temporary disruption, since the rules state that people shouldn't be moving from household to household.

Another issue which separated parents may be concerned about is an upcoming court hearing which now falls within the period of enforced isolation.

The reaction of the legal sector to the issue of COVID-19 has been a gradual move away, where possible, from meeting in person in court, something which took concrete form recently when the Lord Chief Justice announced that all jury trials in England and Wales were to be temporarily suspended.

He also stated that arrangements were being put in place to conduct as many hearings as possible using telephone, video calls and other technology, whilst HM Courts and Tribunals Service (HMCTS) was "working round the clock" to introduce the new measures.

In the case of civil and family courts, hearings via Skype are already beginning to be held, and in future, physical hearings will only take place if a remote solution is not available and all safety measures can be implemented.

With regard to any individual case the best advice is to contact the court to find out what the status of any hearing is and work as diligently as possible with all other parties to try to ensure that a remote hearing is possible.

In virtually all of the situations detailed above there is a delicate balance to be struck between meeting any current care requirements and arrangements, whilst complying with self-isolation or lockdown stipulations.

In all cases, the best advice would be for both parents to keep the welfare and health of their child at the forefront of any arrangements. They must remember the current situation is temporary and should keep abreast of news and government statements in order to monitor any changes in the measures being applied which might impact on them and their children.

Whilst coronavirus undoubtedly presents us all with unique challenges, families perhaps face the toughest time and it is important you seek legal advice when confronted with any issue likely to cause disruption to your normal way of life.

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