



27 March 2020

Family and Child Law Committee Guidelines during Covid-19

Family law, by its very nature, is stressful for couples whose relationship has broken down. This stress is exacerbated exponentially in the current climate of Covid-19.

A number of issues have arisen and the Family and Child Law Committee wishes to provide some guidelines to practitioners and parents who are encountering difficulties at the moment. Practitioners will appreciate the following guidelines are intended to constitute best practice guidelines rather than specific client advice:

Access

1. It is important that common sense prevails in relation to access, in the current climate.
2. Parents must be vigilant to ensure they communicate positively with each other and make sure that they keep each other updated regarding the health of the child/children and their own health.
3. If there is a Court Order in place, this should be complied with to the greatest degree possible in the circumstances.
4. If there is no Court Order in place and an arrangement has been working between the parents, this should continue, if possible.
5. The health and safety of children and family (especially the elderly, grandparents and those with an underlying medical condition) must be a priority. There should be no contact with grandparents and any person with an underlying medical condition. If one parent is living with his/her parents every effort should be made to ensure the grandparents are not put at risk, even if it means access has to be varied or suspended for the duration of the current health crisis.
6. If a child has a compromised immune system, the health and safety of the child has to take precedence and all measures must be taken to protect the child. The best interests of the child must be the paramount consideration.
7. Parents should both engage in social distancing and abide by the rules concerning non-interaction with third parties and be able to give assurances in this regard.
8. If access cannot take place (for any of the reasons set out above) parents should set up a system of liberal contact – Telephone/Skype/Facetime/WhatsApp – and allow the children to have extensive contact with the other parent.
9. Innovative ways of keeping up regular contact using technology and other imaginative way of communicating with children should be suggested by both parents and practitioners.

Maintenance

1. It is important that clients and practitioners take action in a timely manner if a client's financial circumstances change.
2. The paying party should notify the receiving party in the event that he/she is unable to pay maintenance as per an agreement/Order, giving the reason for same and this should be done before the payment is due, if at all possible.
3. If there are solicitors on record, a letter setting out the position should also be sent, perhaps with some vouching evidencing the change of financial circumstances, if readily available.
4. The paying party should consult their solicitor for advice, if possible, as to what might be an appropriate payment to make in the changed circumstances.
5. This suggested payment should be communicated to the payment receiver as soon as possible, and agreement reached, if possible.
6. If agreement cannot be reached then the paying party should pay what they are advised or believe is the appropriate amount in the circumstances.
7. An Application for Breach of a Maintenance Order, (or a Summons for Attendance of a Maintenance Debtor), should not be made/issued if there is good reason why the Debtor has varied the amount in the Order.
8. Applications to Vary Maintenance should be lodged as soon as possible, for whatever return date is given so as applications can be made to backdate Orders in due course.
9. In circumstances where the receiving party is in difficulty, similar rules should apply in reverse, considering the paying party's current circumstances and vice versa.
10. Solicitors should advise clients and clients should communicate with each other or via their solicitors should they have difficulties with discharging Mortgage payments and other joint bills and should again encourage each other to be jointly proactive in notifying third parties of an inability to pay them or sorting out an interim compromise during this crisis.

Domestic Violence

If a domestic violence issue emerges during the current health crisis, consider the following options:

- a. Ring *An Garda Síochána* immediately; and/or
- b. Seek legal advice from your solicitor; and/or
- c. Contact your local District Family Court as they remain open for domestic violence applications (see below).

Child Protection

If a child protection issue emerges during the current health crisis, contact should be made with the appropriate state agencies i.e. Tusla or *An Garda Síochána*.

Pension Adjustment Orders

1. In the event that a Pension Adjustment Order needs to be made that is time sensitive, an application should be made to have it listed urgently, but only when all paperwork is in order and filed.
2. Please note that Dublin Family Circuit Court will rule "time sensitive" pension adjustment orders without the need for the parties to attend. Documents can be posted into Dublin Circuit Family Law Office and will be dealt with by the Judge in chambers on the next sitting.
 - a. The following documents will be required:
 - Ex-Parte docket

- A grounding Affidavit setting out the urgency and confirming the PAO is being made on consent.
- Notice to Trustees
- Affidavit of service
- Original letter from Trustees confirming Order is workable.
- x 4 copies of the Draft Pension Order

If you have any queries email dublincircuitfamilylaw@courts.ie or telephone 01 - 8886807

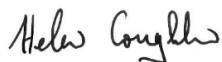
Guidelines for Practitioners

1. As solicitors we represent our clients, however, we are also officers of the Court and have a special responsibility in that regard.
2. Care should be taken with written correspondence. All communication should be constructive, informative and effective. At all times, but especially now, correspondence should not contain emotive or inflammatory language.
3. Pick up the phone and speak to your colleague.
4. Do not take your colleagues short.
5. Even greater care is required when dealing with a person who is not represented by a solicitor.
6. Encourage clients to co-operate with the other parent.
7. Practitioners should, as far as possible, keep in touch with clients on a regular basis so as to allay fears and tensions of clients at this stressful time.

Practitioners should check the Courts Service website www.courts.ie on a regular basis to see updates regarding court sittings and adjournments.

Should you require any further information please contact me, or any of the committee members listed below.

Keep safe and healthy.



Chair: Helen Coughlan

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