

FAQS

What is parental responsibility, and do I have it?

Parental responsibility was created by the Children Act 1989, and it is defined as all the rights, duties, powers, responsibilities and authority which a parent has in relation to the child and their property. It automatically includes mothers, although fathers obtain this if they were married to the mother, if they have been registered on the birth certificate, or if they have a parental responsibility agreement.

The court may also grant parental responsibility. Other individuals may possess this if they are a guardian, or have been granted parental responsibility by the court.

For further guidance on parental responsibility see:

[Parental rights and responsibilities - GOV.UK](#)

Someone in my house is showing symptoms, should my children continue to visit?

Based on Government advice, it is not appropriate to move your child if someone in either of the homes are showing symptoms of COVID-19. This would be considered a reasonable excuse to breach a Child Arrangement Order.

Conversely, if your child is showing symptoms of COVID-19, they should not be expected to travel to another parent's household, and potentially spread the virus further. The health of individuals is the primary focus in this pandemic.

For more information see: [Stay at home: guidance for households with possible or confirmed coronavirus \(COVID-19\) infection](#)

Our child/ someone in my household is considered to be at high risk due to their age/ underlying health condition, what should I do?

If this is the case, your child must stay in one household. Parents must act sensibly and flexibly, even if this means you cannot see your child for the time being. Parents can arrange alternative methods of contact either by phone or video call to maintain interaction between you and your child.

My child is staying with my ex-partner who has a very different parenting style, and is not happy for the child to stick to the current arrangements, can anything be done about this?

It must be understood that children can move between the two households, but they do not have to. Therefore, it is up to the individual your child is currently with, in exercising their parental responsibility, to decide whether or not to keep your child at home. The parent whom your child is with at the time can make day-to-day decisions without the consultation of the other parent.

If that other parent is dissatisfied with the actions of that party, they must apply to court for a prohibited steps order or a specific issue order (see below). Although, it should be ensured that children are shielded from this conflict.

What if one parent is a key worker?

The Government has opened schools with a skeleton staff in place for key workers such as NHS staff, supermarket staff and police etc.

If one parent is a key worker and is unable to comply with social distancing rules, it may be in the best interests of the child to stay with the non-key worker parent whilst the social distancing rules are in force to avoid risk of infection.

If both parents are key workers?

Careful consideration is required when approaching this situation. When deriving a solution, you should place the child's welfare at the forefront of any decision. What is in the best interest of your child in reducing the risk of contracting the virus?

Parents can approach this situation by making a temporary arrangement for the child to live with another family member such as grandparent (if it is safe to do so), aunt or uncle.

Parents must communicate between themselves and agree on what is in your child's best interests. Some nurseries are remaining open and have spaces specifically for the children of key workers, and schools are open for children of key workers.

I am being denied contact with my child because of my key worker status; what do I do?

COVID-19 is not a licence to breach an existing child arrangement order. Parents must 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.

The government has explicitly confirmed that children are permitted to travel between parents' homes under the stay at home measures currently in place. If a parent stops a child seeing the other parent face to face, the court in the future will look at 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 your 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.

Communication is key here, parents should be communicating their concerns to one another first, and considering remote mediation services if needed. If parents are unable to reach an agreement among themselves or with mediation, they may use the courts as a last resort.

For further guidance see: [Coronavirus Crisis: Guidance on Compliance with Family Court Child Arrangement Orders](#)

I have multiple children moving in and out of homes.

When there are multiple children moving between households, parents must take into account the safety of their children. Factors such as: shielding family members, vulnerable members and individuals who may have high exposure to the virus, should be taken into consideration.

How should I make arrangements with my co-parent in light of evolving social distancing rules?

Where your usual arrangements are disrupted by COVID-19, communication and compromising with your co-parent are key to finding a solution. Co-parents should prioritise discussing matters constructively with the aim of devising a solution that works for everyone. The child's welfare is the priority here and should be the first consideration for any arrangement the co-parents wish to implement, alongside considering current social distancing rules.

If it is difficult for you to communicate with the other co-parent, consider finding a trusted person to mediate. In these situations, it would be advisable for you to record such an agreement in a note, email or text message sent to each other to avoid future disputes over the agreement.

There is no standard arrangement that parents have to adhere to, particularly as parents have differing views as to the appropriate steps that should be taken in light of the pandemic. The solutions devised by parents need to be catered to the different needs of your own family.

What should these new arrangements look like?

Government advises that children should maintain their usual routine of spending time with each of their parents unless it is justified to break that routine such as medical or self-isolation issues. This is because a sudden change in the child's usual routine would be a difficult change for children, in addition to the pandemic.

If a change in routine is necessary, parents are advised to keep to the spirit of an existing Child Arrangement Order by making safe alternative arrangements for the child. These alternative arrangements could include measures such as organising Skype calls, emails or FaceTime calls.

Whatever alternative arrangements parents organise, it has to be reasonable, bearing in mind the child's age. If a co-parent has problems with the proposed arrangement, courts will consider the reasonableness of the actions in light of the breakdown rules.

What should I consider when proposing alternative arrangements?

The things you should consider include:

1. What your child wants:
 - The law takes into account the child's own wishes and views in making decisions concerning their welfare. The older the child the greater the weight that will be attached to their own wishes.
 - Parents should inform and help the child understand the full situation so they can make an informed decision.

2. What your child needs:
 - Consider how each parent can provide the physical, emotional and educational support that your child needs.
 - Education is an important aspect of a child's development. If your child is unable to attend school due to Covid-19 restrictions parents should consider which household can best provide the child with home-based education.

3. Assess all risk factors, including the child's present health, the risk of infection and the presence of any recognised vulnerable individuals in the households.
 - Is it safe for the child to move between households?
 - Immunocompromised family members with increased risk of catching COVID-19, senior citizens, young children etc. may be exposed to higher risk of infection if the child is frequently travelling between households.
 - Consider the occupations of the occupiers of households and whether it increases the risk of transmission.
 - Consider whether there are other occupiers frequently travelling between households such as other children.
 - If you child or someone in their household has contracted COVID-19 or they are displaying symptoms recognised by the Government, they should be self-isolating and not moving between households

- Bear in mind that decisions you make can also affect society as a whole as they may increase the reproductive rate of the virus.

What should I do if I am unsure of the current government guidelines or what it means?

Keep updated with government guidelines and where you are unsure, look into CAFCASS (Children and Family Court Advisory and Support Service) or seek advice from your solicitor.

CAFCASS is a non-departmental public body independent of the courts and social services whose duty is to safeguard and promote the welfare of children. They have a list of helpful resources available on their website for parents and carers whose child arrangements have been affected by COVID-19.

[CAFCASS Resources for parents and carers](#)

What alternative options of communication with my child are there if face-to-face contact is not possible?

If there is a Child Arrangements Order in place, the court can regulate the contact between yourself and your child. This means that if face-to-face meetings are unavailable, the order can provide for indirect contact through letters, e-mails, Skyping and telephone calls. It is highly unlikely that the court would consider some form of indirect contact to be inappropriate.

Skype and FaceTime can be great ways to catch up and can be used to read stories, sing and play together. With older children you could also consider a watch party – where you gather online to watch a movie or video, commenting and ‘reacting’ in real time.

- The age of the child should be considered regarding interactions of this nature. Making contact in this way may be detrimental to younger children who will see you but be unable to have some form of physical contact with you e.g. hugs.

If communication is impossible, you might also want to consider contacting a friend or family member trusted by both parents, who could act as an informal mediator and put the child into contact with the parent, where and when this is possible.

For advice on indirect contact and how to best communicate with your child this way, visit <https://www.cafcass.gov.uk/download/4886/>

What can I do if my co-parent is refusing to allow me to have contact with my child because of COVID-19?

- Firstly, mediation is the best way forward and the first step that parents should take on this matter.
- If the terms of a Child Arrangement Order are breached, an application can be made to the court to enforce the order, this entails an initial hearing where the courts will consider reasons for non-compliance and determine whether they are **reasonable excuses**. This hearing will most likely be virtual in the current times.
- Disingenuously using COVID-19 as a means of prohibiting contact will likely not constitute a reasonable reason for breaching the conditions of a child arrangement order
- Evidence for reasonability would normally be provided through risk assessments by social services. Obtaining this evidence depends on whether the specific policies of the social services authority in the region you are living in.
- This in turn further depends on the number of cases in the region and the relative level of risk to your child. The likelihood of a home visit/risk assessment will also involve other factors such as the risk to the workforce and family.
- Other virtual means of assessing risks have also been implemented – this is specific to the services in place within your region.

What options do I have if I have serious concerns that my child is at risk of/ being subjected to harm or neglect?

Consider applying for a Prohibited Steps Order (further information below) which is an order to control/restrict the exercise of parental responsibility by the other parent.

More details on how to apply to court can be found here:

[Form C100: Apply for a court order to make arrangements for a child or resolve a dispute about their upbringing](#)

Who can apply for a court order?

The child's mother, father or anyone with parental responsibility can apply for a court order. Other people, like grandparents or step-parents, can apply for these court orders, but they will need to get permission from the courts first.

What do I need to consider before applying to court?

Before you begin court proceedings you are required to attend a mediation information assessment meeting (MIAM). In mediation, an impartial, trained mediator, not connected with your case, helps you and your partner to sort out your dispute.

- To find your nearest family mediation service, visit the Government's website GOV.UK and search using the words 'family mediation'.
- For more information on mediation and to find a local mediator visit: [Family Mediation](#).

You will then need to fill in a form, depending on the type of order you wish to apply for. Due to COVID-19, forms sent online will be processed faster than by post.

Child Arrangements Order: A child arrangements order decides the arrangements for where and whom a child is to live with, spend time with or otherwise have contact with.

- (Form C100- [C100 Application under section 8 of the Children Act 1989 for a child arrangements, prohibited steps, specific issue order or to](#)).

Specific Issue Order: These orders give instructions about a specific issue that has arisen about an action normally done by a parent.

- (Form C100- [C100 Application under section 8 of the Children Act 1989 for a child arrangements, prohibited steps, specific issue order or to](#))

Prohibited Steps Order: These orders mean a person must have the court's permission before doing something set out in the order that would normally be done by a parent.

- (Form C100 [C100 Application under section 8 of the Children Act 1989 for a child arrangements, prohibited steps, specific issue order or to](#))

Parental Responsibility Order: These orders are granted to confer parental responsibility upon an individual. For the definition of 'parental responsibility,' please see above.

- (Form C1- [C1 - Application for an order](#))

Financial provision: There is a helpful free service called Child Maintenance Options which can tell you more about child maintenance and help you set up an arrangement.

- Call Child Maintenance Options on **80800 988 098**, visit **www.cmoptions.org** or text **OPTIONS** to **66644** for a free call back.

Can I get legal aid to help me with legal representation?

You might be able to get legal aid if you have evidence that you or your children have been victims of domestic abuse or violence and you cannot afford to pay legal costs.

You or your children must have been victims of either: domestic abuse or violence or financial control, for example being stopped from accessing a joint bank account. You will usually need to show that you or your children were at risk of harm from an ex-partner. You can ask for evidence from: the courts, the police, a multi-agency risk assessment conference (MARAC), social services, a health professional, for example a doctor, nurse, midwife, psychologist or health visitor, a refuge manager, a domestic violence support service, your bank, for example credit card accounts, loan documents and statements.

To check if you are entitled to legal aid visit: <https://www.gov.uk/check-legal-aid>

How has Covid-19 changed the process?

Remote hearings conducted online or over the telephone are the default position until further direction. It is necessary to both ensure safety from infection whilst facilitating a hearing that allows parties to fully participate. The objective should be to make the remote hearing as close as possible to the usual practice in court.

Where can I find help for dealing with issues not considered in the child arrangement order?

CAFCASS Co-Parent Hub: The Co-Parent Hub was created by partners in the Family Justice System in order to provide parents with online tools to help them with child

arrangements post-separation. There are a list of resources including videos and articles which help parents understand the options available to them and gives parents the opportunities to learn new skills to help them adapt.

For further information visit: <https://cafcass.clickrelationships.org/>

For further information visit:

Child Arrangements Orders, see Sir Andrew McFarlane's guidance: [Coronavirus Crisis: Guidance on Compliance with Family Court Child Arrangement Orders](#)

For COVID-19 specific information for parents and carers: [COVID-19 guidance for children and families](#)

CAFCASS for parents and carers: [Resources for parents and carers](#)

CAFCASS guidance on helpful tips on co-parenting see: [COVID-19 guidance for children and families](#)