

Shared parenting arrangements

We have received a query about the operation of the shared parenting rules where there were potentially a number of overlapping households in a shared parenting situation. We can only refer you to the guidance already provided by the [COVID-19 Public Health Response \(Alert Level Requirements\) Order \(No 9\) 2021](#), the [MOJ shared parenting guidelines](#) and the [guidelines](#) issued by the Principal Family Court Judge in March 2020.

We suggest that these rules need to be interpreted in light of common sense and the purpose of the Order which is “*to prevent, and limit the risk of, the outbreak or spread of COVID-19 ...*”. There is no absolute answer to the difficult issues arising from shared parenting arrangements, and each solution will depend on the factual situation in each household and the risk of exposure of multiple persons with any overlapping bubbles.

The COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) 2021 recognises shared parenting as *essential personal movement* in section 16 which states:

“A person is permitted to do any of the following as ***essential personal movement***:...

(g) leave their home or place of residence to visit or stay at another home or place of residence (and then visit or stay) under a shared bubble arrangement if—

- (i) one person lives alone in one, or both, of those residences; or
- (ii) all persons in one of those residences are vulnerable persons:

(h) if the person is a child, leave the home or place of residence of one shared caregiver to visit or stay at the home or place of residence of another shared caregiver if there is a shared bubble arrangement:...”

These guidelines seem to suggest shared parenting may safely continue where there are two discrete households. We hope that these rules will be interpreted in a way to maximise the safety of all, while recognising that some shared care arrangements may be impractical at the present time and put safety at risk. Compromises might need to be made by parents and caregivers to ensure the safety of multiple persons, and alternative remote contact by video messaging app rather than face to face contact may be all that is safe in some cases.

If arrangements are not able to be agreed by the parties, we suggest that parties' lawyers meet briefly by Zoom, Teams or telephone in order to sort out a safe compromise arrangement.

We hope this further guidance is of some assistance.

Remote signing and witnessing of documents during covid

As well as the option to file unsworn affidavits, remote signing of affidavits is permitted under a variation to the Oaths and Declarations Act 1957 which came into force last year under an [Immediate Modification Order](#) and which will remain in force for the duration of the [Epidemic notice](#). The modifications "expressly allow an oath, an affirmation, or a declaration to be administered or taken using an audio visual or audio link instead of in the presence of the person swearing the oath or making the affirmation or declaration". Guidance about how to do this can be found [here](#).

If it is not possible to undertake remote signing as clients do not have ready access to printers or digital signing and unsworn affidavits are being filed instead, it is important that the accompanying memorandum explains what steps have been taken to try to have the affidavit remotely sworn, as well as any measures taken in order to both verify that the person providing the affidavit is who they say they are, and that they have read or had the affidavit read to them. The more information that can be added as to why the affidavit is being filed unsworn and what steps have been taken, the more likely there will be no impediments at filing.

Please contact us if you need any assistance and we hope you are managing to weather the difficulties that continue to arise under these trying circumstances.

Noho ora mai

Caroline Hickman

FLS Chair