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Convener, Justice Committee  
The Scottish Parliament  
Edinburgh  
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23 April 2020

Dear Margaret

### **Arrangements for child contact during Covid19 crisis**

Thank you for your letter to the Cabinet Secretary for Justice regarding arrangements for child contact during Covid19. I am responding as family law falls within my remit.

I appreciate that it can be difficult for a child to maintain contact with both parents if they do not live in the same household during the current situation and I am grateful to organisations such as Shared Parenting Scotland (SPS) who are continuing to provide support to individuals at this time. My officials are engaging regularly with SPS and other organisations to understand the key areas of concern for parents and children.

In relation to child contact during the Covid19 crisis it may be helpful if I set out the current situation:

- SSI 2020/103 (The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020) lists continuing existing arrangements for contact between parents and children as one of the reasonable excuses for people being outside their home. A parent includes a person who is not a parent of the child but who has parental responsibilities for, or who has care of, the child.
- As referred to by SPS the Lord President has issued guidance on compliance with contact orders at the current time. The guidance says that if possible orders should be complied with but recognised that there may be situations where this is not possible. The guidance states that parties can agree between themselves to vary a contact order. The guidance also says that where parents do not both agree to vary the arrangements, but one parent is sufficiently concerned that complying with the court order would be against current Government advice, then that parent may exercise their parental responsibility and vary the arrangement to one that they consider to be safe.

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- The ParentClub website contains information about more informal arrangements where parents do not live in the same household as well as where court orders are in place. The ParentClub website also includes links to relevant support organisations. Parent Club offers up-to-date guidance from the Scottish Government on children's health and education.

The Scottish Government maintains the view that both parents should be fully involved in their child's upbringing as long as it is in the best interests of the child. If face to face contact cannot be maintained then I would expect parents to encourage contact through technology such as skype, face time, whatsapp or as a last resort by phone. The Scottish Government expects parents to work together to decide what is best for the child and the parents concerned.

It would not be appropriate for Scottish Ministers to make a statement providing more specific details on child contact during Covid19 as there is already guidance available from the Lord President. The Guidance is at the link below:

<https://www.scotcourts.gov.uk/docs/default-source/default-document-library/guidance-on-compliance-with-family-court-orders-27-03-20.docx?sfvrsn=0>

We have also published information on the ParentClub website. This is available at the link below:

<https://www.parentclub.scot/articles/coronavirus-and-your-family>

In addition, every family is different and it would therefore not be possible to provide more definitive guidance.

I appreciate the concerns raised by SPS in relation to family courts. Civil court business is a matter for the Lord President and the Sheriffs Principal. However, Scottish Government officials and I have been engaging with SCTS on the impact of Covid19 on civil business. I am grateful for the SCTS having published a list of urgent and necessary civil business. This is available on their website at the link below:

<https://www.scotcourts.gov.uk/>

SCTS have been working on how to reopen the civil courts. Scottish Government will continue to engage with SCTS over the coming weeks on this matter and prioritisation of court business.



**ASH DENHAM**

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