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**DSBA GUIDE
 TO CHANGES TO PRACTICE & PROCEDURE IN FAMILY LAW IN DUBLIN
 ARISING FROM the Covid- 19 emergency**

24th May 2020

Foreword from Tony O’Sullivan, DSBA President

During these unprecedented times, the pace of change in all areas of practice has increased exponentially creating many more challenges for solicitors and their clients. It is important for DSBA members to keep up with these changing times. I am delighted to introduce the DSBA GUIDE TO CHANGES TO PRACTICE & PROCEDURE IN FAMILY LAW IN DUBLIN ARISING FROM the Covid- 19 emergency which is designed to assist DSBA members who practice in the area of family law and thank Keith Walsh solicitor for his assistance to the DSBA in compiling this guide.

Introduction

The Covid 19 emergency has led to considerable restrictions to the liberty of the population based on the public interest which has resulted in significant changes for all aspects of Irish public and private life and in particular for families, the practice of family law and the Family Law Courts. This DSBA Guide is intended to assist family law solicitors by providing them in one place with the latest information from the Courts Service on current family law practice in the family law courts and with the latest guidance and resources available from the Law Society, Family Lawyers Association and the Family Law Clinic, UCC School of Law. It should be read in conjunction with the DSBA Guide to Virtual Hearings in the Circuit Family Court in Dublin.

This DSBA Guide sets out

The current situation in the District, Circuit and High Court for family law cases.

Practices common to all 3 jurisdictions

The Family High Court
 The Circuit Family Court
 The District Family Court

Guidelines and Resources available to family law practitioners specific to Covid 19 issues

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1. The current situation in the District, Circuit and High Court for family law cases.

1.1. Practices common to all 3 jurisdictions

a. Delivery of judgments – notice Tuesday 24th March

<https://beta.courts.ie/news/covid-19-delivery-judgments>

The Chief Justice and President of each court jurisdiction stated that the default position until further notice is that all written judgments of courts will be delivered by means of a copy of the judgment being sent electronically to the parties and a copy, subject to such redactions as would ordinarily apply, being posted as soon as possible on the Courts Service website. The parties will be invited to communicate electronically with the Court on issues arising (if any) out of the judgment such as the precise form of order which requires to be made or questions concerning costs. If there are such issues and the parties do not agree in this regard concise written submissions should be filed electronically with the Office of the Court within 14 days of delivery subject to any other direction given in the judgment. Unless the interests of justice require an oral hearing to resolve such matters then any issues thereby arising will be dealt with remotely and any ruling which the Court is required to make will also be published on the website and will include a synopsis of the relevant submissions made, where appropriate.

b. Attendance at Public Offices – notice Thursday 26th March

<https://beta.courts.ie/news/attendance-public-offices-notice>

Courts Service public offices remain open and are operational. However, practitioners and members of the public are reminded that attendance at public counters is for urgent business only and must be in strict compliance with social distancing rules. In light of Covid - 19, communication with the public offices should be by phone or email and documentation should be sent by post or through drop box facilities provided.

c. Overall policy as stated by the Chief Justice on 8th May 2020

“The overall policy of the presidents and of the Courts Service is to ensure that the inevitable reduction in the throughput of the courts will be reduced to the greatest extent possible. Both physical and remote hearings must form part of that strategy. The detailed application of measures designed to enhance that strategy will be kept under constant review and the presidents will, from time to time, issue further statements indicating how the business of their courts will be conducted. “

Based on the statement of the Chief Justice and Presidents of the Courts on 8 May 2020 entitled ‘Gradual and careful planning for creating a pathway to opening some courts - Courts Statements’ there is a gradual plan to reopen some courts. This will be based on the use of virtual remote court hearings

and the organisation of more physical hearings in the coming weeks. Prior to any significant increase in the output of the courts taking place, the necessary safety measures must be in place. Link to statements: <https://beta.courts.ie/news/gradual-and-careful-planning-creating-pathway-opening-some-courts-courts-statements-friday-may>

Covid-19 emergency- current practice in the Family High Court, Family Circuit Court and Family District Court

- the statements and practice directions issued by the Presidents of the High Court, Circuit Court and District Court relevant to family law with a link to each statement/practice direction.

1.2 The Family High Court

a. The Operation of the Family Law High Court List during the Covid-19 Measures Thursday 14th May, Statement issued by President Peter Kelly:

1. “Practitioners are reminded of Practice Direction HC89. During the current Covid-19 emergency, consent orders may be made in the High Court without the necessity of parties attending in court. Where the court requires to be satisfied in relation to “proper provision”, then such consent rulings will be dealt with in court with essential attendees only. Otherwise, Practice Direction HC89 must be availed of.
2. Contentious motions, rulings and applications in special care, surrogacy and adoption matters can easily and properly be dealt with by less attendees than hitherto was routine. For example, it is rarely necessary to have senior counsel and junior counsel and a solicitor attend for each party. It is recommended that senior counsel or junior counsel or the solicitor attend on behalf of the party whom they are representing and on the basis that the other members of the legal team are available/present remotely as required. In that regard, the court will facilitate any necessary contact to clarify matters or to seek additional instructions during the hearing of any such matter.
3. It is not necessary for the litigants to attend in person at the hearing of the matters referred to above – save in very exceptional circumstances which ought to be flagged at least 2 days in advance to the court. For example, it is rarely necessary for the applicant or applicants in a surrogacy matter to attend the hearing of the application. The evidence will be available on affidavit and they can be available remotely if required. Likewise, in adoption matters. In this regard, it will be possible for the judge to speak to the child in question remotely using one of the platforms available – by prior arrangement.

4. Insofar as the Special Care List is concerned, the respective representatives should make every effort to minimise the number of attendees. It is not necessary to have senior counsel and junior counsel and the solicitor present as one of the team of representation is ordinarily sufficient. Remote access should be possible with other members of the legal team so that it can be availed of if necessary. Parents, social workers and guardians ad litem ought not to attend the hearing save in exceptional circumstances which ought to be flagged at least 2 days in advance to the court. All necessary evidence will be available from the respective parties on affidavit or by way of reports. Remote access will be possible when required.
5. The Central Office does require hard copies of paperwork to be lodged as previously. While this continues to be so, practitioners must ensure that a core booklet of the pleadings and necessary related documentation is filed in the Central Office by 4:00pm on the Wednesday preceding the hearing of the matter. Duplicates and copies of irrelevant correspondence and documentation should be extracted before filing. Each booklet ought to contain a summary or position paper with the relevant dates and details and issues set out in a chronological format at the front of the booklet – on one or two pages.
6. In contentious applications, the parties have in the past frequently requested the court to allow time for negotiation when the matter is first called in the List. While settlement and time for negotiation is encouraged by the court, it is no longer possible to facilitate such negotiation in the manner in which it has frequently occurred in the past (i.e. at the doors of the court). This is because of the pressure on courtroom availability and the need to limit footfall and the congregation of litigants and their advisors and witnesses in the precincts of the courtroom. For this reason, the parties are requested to discuss matters by phone or using some VMR facility in the period immediately preceding the listing of the matter – so that all avenues can be explored and exhausted before the matter is called in court. Put simply, the courtroom facility ought to be used for matters which require to be dealt with in court once it has proved impossible to resolve them away from court.
7. Practitioners, their witnesses, their clients and all those who need to attend for hearings in court are at this stage aware of the Covid-19 regulations. Social distancing is essential. The use of hand sanitisers is essential. Unnecessary attendees and archive box type clutter in court is undesirable. Everyone involved is requested to cooperate in this regard to assist the system operating.”

“Following the piloting of remote hearings of a number of applications and the adaptation of courtrooms to enable their use in conformity with Covid 19 health requirements, it will be possible to expand both the type and number of cases to be heard from Monday 18 May 2020.

Three courts will be available for remote hearings daily and seven other courts in the Four Courts complex will be available for physical hearings daily.

Until further notice it will not be possible to hear cases which involve oral testimony.

In addition to the urgent cases which have been heard since the emergency began, I am authorising the following matters to be heard

1. Insolvency matters both corporate and personal.
2. Judicial review applications including Strategic Infrastructure challenges.
3. Probate non contentious business.
4. All Family Law applications including adoption matters.
5. Commercial list cases.
6. Chancery list cases.
7. Non Jury list cases.
8. Criminal Asset Bureau cases.

Priority will be given to cases which were listed for hearing and had to be adjourned because of the emergency. Parties will be contacted by court staff to ascertain their readiness for hearings.

The Whit vacation will not be observed this year and the High Court will sit throughout it because of the emergency situation.

Judgments will continue to be delivered electronically and since commencement of this practice the Court has delivered 71 Judgments.

I want to remind Practitioners of Practice Direction HC89 - which provides that during the current Covid 19 emergency, consent orders may be made in the High Court without the necessity of parties attending in court.”

c. Previous statements of President Peter Kelly

- o High Court Central Office remains open and is operational. However, practitioners and members of the public are reminded that attendance at public counter is for urgent business only by appointment and in strict compliance with social distancing rules. Communication with the office should be by phone or email and documentation for non urgent business can be filed by the other alternative methods for filing documents.

- o Master’s Court -with immediate effect all motions and applications listed for hearing before the Master of the High Court between now and the end of Hilary term 2020 are adjourned generally with liberty to enter. Thursday 19th March

<https://beta.courts.ie/news/motions-and-applications-listed-master-high-court>, continued to 5th May 2020 as per practice direction of President of the High Court 17th April 2020.
- Consent Orders High Court Practice Direction HC89 23rd March 2020 <https://beta.courts.ie/content/consent-orders> During the Covid 19 emergency consent orders will be made in the High Court without the necessity of the parties attending in court. Such orders will be made on foot of an email exhibiting the consent of all of the parties to the litigation. The orders will date from the date when the email containing the consent is received and the email and a copy of the consent will be placed on the court file. This procedure will apply in all civil lists in the High Court but it is imperative that the email seeking the consent order must include the consent of all of the parties to the litigation.
- High Court - Statement of the President - Friday 08th May <https://beta.courts.ie/node/2910>
- Update on conduct of court business in the High Court Friday 17th April

<https://beta.courts.ie/news/update-conduct-court-business-high-court>

1.3 The Circuit Family Court

- a. **Whit Vacation - Discretionary Sittings - 29 May to 9th June 2020**, Statement of President Patricia Ryan Monday 18th May

Judges of the Circuit Court may sit, from 29th May 2020 to 9th June 2020 inclusive, at their own discretion, at such place or places and on such date or dates as they decide, to deal with such business as is necessary.

- b. **Statement of the President 8th May**

<https://beta.courts.ie/news/circuit-court-statement-president-08052020>

“1. Measures to be taken for Court hearings in the Circuit Court during the Covid 19 emergency will include the following:

The Courts Service will endeavour to introduce measures in all courthouses and courtrooms to ensure the safety of court users, jury members, practitioners, staff and Judges. These measures include:

Social distancing will be actively monitored by personnel in the courtroom and courthouses.

The provision of hand sanitisers in courtrooms and courthouses at all court entrances.

Courtrooms, common areas and any other rooms used are to be cleaned and disinfected on a regular basis.

The number of persons present in each courthouse at any given time will be monitored and regulated. This will include liaising with other jurisdictions sharing the courthouse and local management. The number of cases that can be heard in the courthouse will be dictated by the overall capacity of the building and the safety of staff and users.

Screens will be provided in all courtrooms.

The introduction of staggered hearing lists by the allocation of times and directions to practitioners and lay litigants to include instructions regarding what time to attend court and directions to leave the courthouse immediately after the hearing.

Liaising with all relevant stakeholders as to how best to implement these measures and ensure safety and efficiency will take place both nationally and locally.

Such further measures and public health guidelines that might be announced by the Government and NPHEt.

Further measures to ensure same will be announced in due course.

2. Criminal Cases...

3. Family Law Cases & Motions

Family law matters adjourned since March 2020 will be given a hearing date by the Court Office as soon as possible. Consideration will be given to dealing with matters remotely where possible and appropriate. The Presiding Judge will decide which cases should be dealt with remotely.

All trials and motions lists will be on a staggered/time slot basis. Parties are requested to attend no earlier than 5 minutes before their allocated time to ensure social distancing is adhered to. No ex-parte applications will be permitted. Urgent applications can be e-mailed to the appropriate Court Office, the office will ensure these matters are brought to the attention of the Judge. Trial dates will be allocated time slots based on the information furnished on the case management questionnaire lodged in the Court Office. Consideration will be given to dealing with matters remotely where possible and appropriate. The Presiding Judge will decide which cases should be dealt with remotely.

A Judge will be available to hear all urgent applications.

4. Civil Cases & Motions

Contested matters whether previously adjourned or newly issued will be allocated dates by the office which will be published on the Courts Service website.

The court will, on a temporary basis, accept consent adjournment applications by e-mail provided the court is satisfied that all parties are consenting and are in agreement.

In all cases consideration will be given to dealing with matters remotely where possible and appropriate. The Presiding Judge will decide which cases should be dealt with remotely.

A Judge will be available to hear all urgent applications.

[comment: 'urgent' is not defined but application by post or email should be made to the Circuit Court office to ascertain if case will be listed as urgent or not]

Further measures to allow the maximum number of cases to progress will be implemented in consultation with all relevant stakeholders subject ultimately to safety considerations."

c. **Relevant extract from previous statement of the President of the Circuit Court 6th April 2020** <https://beta.courts.ie/news/circuit-court-notice-dublin-circuit-06042020>

- Family Law matters listed during the Easter Term [term ends 28th May and Trinity term commences 10th June following the Whit vacation] were adjourned to a date to be fixed in the Circuit Court Office.
- County Registrars motion courts, case progression hearings taxations and callovers will be adjourned to a date to be fixed by the Circuit Court Office, otherwise than where case progression hearings and taxations can be arranged by agreement with the parties and be dealt with without the necessity of the parties being present.
- **Dealing with applications by email**
 - Dublin Circuit Court - Dedicated Email Account Information - regarding Dublin Circuit Court and particularly Dublin County Registrar matters, the following dedicated mailboxes have been set up to deal with consent applications Dublin Circuit Court Family Law Office E:Mail: **dublincircuitfamilyconsents@courts.ie**
 - Where cases are settled and require to be struck out, or consents and requests for adjournments need to be ruled, these can be dealt with by email requests from both parties and will be ruled by the County Registrar without the necessity of parties being present. Similarly, applications for the appointment of Care

Representatives, or applications for marriage exemptions, subject to the paperwork being in order, will be ruled without the necessity of parties being present.

- Any urgent matters on consent can be dealt with similarly by email and the County Registrar will rule on them without the necessity of the parties being present. Where urgent contested matters arise, by appointment the County Registrar will sit and parties may have to attend. All other contested matters will be adjourned to a date to be fixed by the Circuit Court Office.
 - Parties will be notified by email to the email address provided to the Circuit Court Office.
 - Practices for hearing of Circuit and County Registrar cases appear to vary across individual Circuits and enquiries should be made to ascertain the particular situation in each particular Circuit.
- d. See DSBA Guide to Virtual Hearings in the Circuit Family Court in Dublin**
- Consideration will be given to dealing with matters remotely where possible and appropriate. The Presiding Judge will decide which cases should be dealt with remotely.
- e. Dublin - County Registrar - Easter Term Arrangements Friday 17th April TERMS & SITTINGS**

In accordance with the Order of the President of the Circuit Court dated 6th April, 2020 and published on that date, all matters listed before the Dublin County Registrar for the Easter Term are adjourned for a date to be fixed by the Circuit Court Office. Notices concerning the hearing date for all adjourned Dublin County Registrar matters will be published on www.courts.ie and/or the legal diary.

<https://beta.courts.ie/news/dublin-county-registrar-easter-term-arrangements-17042020>

1.4 The District Family Court

- a. Practice Direction - Use of Live Television Link in Civil Proceedings in the District Court 20th May 2020 [Remote hearings]**

<https://beta.courts.ie/news/practice-direction-use-live-television-link-civil-proceedings-district-court>

See also DC 17 Use of Live Television Link in Civil Proceedings in the District Court;

Practice Direction for the use of Live Television Link in Civil Proceedings in the Dublin Metropolitan District Court

This Practice Direction came into effect on 19th May 2020 in respect of child care and family law proceedings as specified herein.

“This Practice Direction deals with live television link (“LTL”) only and is therefore without prejudice to any existing practice direction(s) providing for the conduct of childcare or family law proceedings generally.

This Practice Direction must be read in conjunction with section 25 of the Domestic Violence Act 2018, section 26 of the Civil Law (Miscellaneous Provisions) Act 2008 (“the 2008 Act”), section 21 of the Children Act 1997, and the District Court Rules 2005 as amended.

Objective

To utilise LTL technology within the modern court environment to expand efficiency and effectiveness in specified civil proceedings by improving access to the court system, obviating the need for unnecessary travel and saving costs, but without compromising the constitutional and legal rights of the parties to the proceedings or the best interests and welfare of children or young persons the subject of such proceedings.

Proceedings to which this direction applies

This direction applies to childcare and family law proceedings in which the parties are legally represented (and in childcare proceedings where a guardian ad litem is appointed) and the court is of the opinion that the use of LTL technology would not give rise to unfairness to the parties or would otherwise be contrary to the interests of justice.

This direction does not prohibit unrepresented parties in family law or childcare matters or other parties in other civil matters from applying to have evidence heard LTL. Such applications will be heard and determined by the court in accordance with the law.

Initiating the LTL procedure

The court may, of its own motion or on the application of any of the parties, and having heard the parties, direct that a party may participate in any hearing in the proceedings, or that a witness may give evidence in any such hearing, from a location other than the court itself, whether from within or outside the State, by means of a LTL.

Applications for liberty to hear evidence by way of LTL should be made to the court not less than 21 days prior to the date on which it is intended to hear evidence in the proceedings.

The court will not grant such direction unless facilities are available that enable the party or witness:

to see and hear the proceedings at the hearing, and

to be seen and heard by those present in the courtroom in which the hearing is taking place.

Notwithstanding that the LTL technology is available the court will not direct its use if:

It would be unfair to any of the parties to do so, or

It would otherwise be contrary to the interests of justice to do so.

Undertaking by solicitor

Before a direction is granted the solicitor for the party seeking to call the witness(es) by LTL is required undertake (in writing or orally) to the court to do the following:

Participate fully in any required test calls to the remote location;

Provide the registrar with any necessary technical information in relation to the remote location;

Ensure that the witness at the remote location is provided with all necessary documents; and

Ensure that the appropriate sacred text for taking the oath prior to giving testimony is available to the witness at the remote location.

Transfer of proceedings

Practitioners should note that a successful application to hear evidence using LTL may give rise to a need to transfer proceedings to a courtroom containing the required equipment in at a court having jurisdiction to hear and dispose of the proceedings.

If a direction for the use of LTL is granted the party or witness concerned shall be deemed to be present at the hearing concerned.

Proceedings pursuant to the 2018 Act

In civil proceedings pursuant to the 2018 Act, a person (other than the respondent) may give evidence through a LTL where they have not attained the age of 18 years (unless the court sees good reason to the contrary) and in any other case, with the leave of the court.

All evidence given by LTL in civil proceedings pursuant to the provisions of the 2018 Act shall be audio and video recorded.

Where LTL facilities are not in operation in a district court district and in the opinion of the court concerned it is desirable that the evidence in the proceedings be given through LTL, the court may order the transfer of the proceedings to a district where the facilities are in operation. The proceedings may be heard by a judge for the time being assigned to the district to which the proceedings have been transferred.

Hearings

Notwithstanding the use of LTL at a location(s) remote from the courtroom, the proceedings shall be heard in private and only officers of the court, the parties and their legal representatives, witnesses and such other persons as the judge may allow, shall be permitted to be present in the courtroom or at the remote location(s). The judge may order any witness who is not a party to leave the courtroom or the remote location(s) until their evidence is required or after their evidence is complete.

Direct participation and/or representation of the child

Where a request is made by a child to be present during the hearing, or a particular part of the hearing of the proceedings, such request must be brought to the attention of the court. The court will grant the request unless it appears to the court that, having regard to the age of the child or the nature of the proceedings, it would not be in the child's best interests to accede to the request.

Pursuant to section 26(1) of the 2008 Act, the court may direct that the child may be present by means of LTL.

Listing of case for hearing by LTL

At least 14 days prior to the hearing it must be confirmed to the court that:

there has been full compliance with any or all case management directions,

the LTL is available and in good working order,

the undertakings given by the solicitor have been complied with.

In order to ensure efficiency, the court recommends that all parties electronically file all reports and relevant documentation and that the parties must advise the court of the names of witnesses and their professional qualifications and the number and availability of witnesses required for cross-examination.

Each party must inform the court of any matter which might delay or prolong the hearing and provide the court with a realistic schedule for the hearing of the proceedings so that the court can allocate the requisite time necessary to endeavour to ensure that the hearing is concluded within the specified period."

Guidelines & Confirmation Form for Remote Hearings link:
<https://beta.courts.ie/acc/alfresco/80a0b37a-95e2-403d-b1f2-39b1609aecdb/Child%20Care%20Remote%20Hearings%20Guidelines%20and%20Form.docx/file>

b. Breach of access or maintenance during the emergency period

Dublin Metropolitan District - Family Law Notice – 12th May 2020

<https://beta.courts.ie/news/dublin-metropolitan-district-family-law-notice-12052020>

“From Monday the 18th May the DMD Family Law Office in Dolphin House will be giving appointments to persons wishing to lodge an application for breach of maintenance or access that have occurred during the emergency period.

Intended applicants should email districtfamilylaw@courts.ie to make an appointment to issue a summons for a court date.”

c. District Court - Statement of The President Colin Daly- 8th May 2020

The President of the District Court in consultation with the Chief Justice and other Court Presidents has decided that the following additional measures concerning the business of the Court will be implemented from the 18th May 2020. These measures are a necessary response to the developing COVID-19 situation and the continued need to focus on prevention of community spread of COVID-19 while ensuring access to justice in a manner fully respecting public safety and considering Government public health advice

1. Parties with non-urgent cases are not required to attend court at this time.
2. The District Court will continue to hear urgent matters in all District Court Districts throughout the country and will resume hearings of certain urgent matters.
3. Urgent matters are now extended to include:

(i) Criminal Law ...

(ii) Family Law

New applications for protection orders or interim barring orders and return hearings of interim barring order cases. If safety order hearings are being adjourned interim protection orders will be extended to the new date.

Applications and hearings for breach of maintenance or access that have occurred during the emergency period or applications and hearings for temporary guardianship orders.

Remote call-overs and hearings may be conducted in some courts.

Consent orders that do not require the hearing of evidence may be applied for by email by the applicant’s solicitor exhibiting consent in writing from the respondent’s solicitor. Following consideration by an assigned Judge orders will issue from the Court Office as appropriate without the need for the parties or their legal representatives to attend court.

(iii) Child Care Law

Extension of care orders and interim care orders and emergency care orders and interim care orders.

Applications to regulate access, After-Care Reviews, part-heard Care Order Hearings and certain Care Order Hearings.

Remote call-overs and hearings may be conducted in some courts.

Consent orders that do not require the hearing of evidence may be applied for by email by the applicant's solicitor exhibiting consent in writing from the respondents' solicitors and the support of other participants on notice. Following consideration by an assigned Judge orders will issue from the Court Office as appropriate without the need for the parties or their legal representatives to attend court.

4. If your case is not included in the description of urgent matters above, then it is a non-urgent matter and parties do not need to attend court.

5. Solicitors are to inform clients that they do not need to attend where their case is a non-urgent matter.

6. Non-urgent cases will be adjourned, and parties will be informed of their new court dates by the Court Service by ordinary post or by their solicitor.

Civil Matters

7. All District Court Civil matters are at present considered to be non-urgent and will be adjourned generally with liberty to re-enter either on consent or on notice to the other party.

Exceptions

8. A case which does not come within the defined urgent category can be treated as urgent if a good case can be made. A party can email the relevant court office setting out the reasons why the case should be considered urgent. This should be on notice to the other side who must be given an opportunity to set out their position. An assigned Judge will assess if the matter may be treated as urgent.

Public Safety Measures

9. Matters will be scheduled where the presiding judge is satisfied that there are proper measures in place in court rooms and at courthouses to ensure that social distances can be maintained and that the court environment is safe for witnesses and all court users to attend.

10. The Health Act Temporary Restrictions COVID 19 Regulations at Regulation 4 (l) permits members of the public to leave their homes to fulfil a legal obligation such as attending a court office or court. Schedule 2 of the Regulations at parts 10 and 14 recognises legal services and courts as essential services.

11. Scheduling may be conducted by call-over of lists requiring legal representatives and prosecutors only to attend, and may in some courts include remote call-over of lists,. Indications of pleas/consent at call-

over and the avoidance of requiring witnessed to attend will be given the appropriate credit.

12. Cases will be managed to ensure that numbers coming to courts will be minimised wherever possible. This may include staggered lists, where smaller numbers of cases are required to be in courts at allocated times, or scheduled lists/hearings, where cases are scheduled according to time slots. Practitioners and Court users are expected to exercise social distancing and other public health guidelines.

13. These measures will be constantly reviewed to ensure that the business of the District Court is being conducted safely. It is hoped that we will be able to incrementally increase the amount of work that can be safely carried out in the District Court in accordance with Government guidelines and the roadmap for reopening society and business.

14. This statement replaces in full the updated statement published on 16th March 2020. Practice Directions DC14 and DC16 are not affected.

d. President of the District Court - Family Law Statement Thursday 26th March 2020

<https://beta.courts.ie/news/president-district-court-family-law-statement>

Statement from His Honour Judge Colin Daly, President of the District Court

Family Law Matters Court Information and Supports Available

The Judiciary and the Courts Service are working together during this difficult period, to ensure services to the public continue to be provided in so far as possible. Your health and safety and the health and safety of the Judiciary and our staff are our priority. While Court Offices remain open we have had to put in place measures to help reduce the risk of spreading the Coronavirus COVID-19.

Where possible drop-boxes have been provided along with date stamped envelopes that you can place your papers in. The papers will be processed by the office and returned to you by post. Please enclose a contact number so the office can contact you if a query arises.

We are asking everyone to take personal responsibility for social distancing. To further support this we have reduced the matters being heard in court. Specific arrangements for each court are posted on <https://beta.courts.ie/>

Family law matters

Domestic violence applications will continue to be given priority, so if you need a protection or interim barring order you can still come to court. Information on support services available nationwide can be found at www.safeireland.ie

www.womensaid.ie and www.mensaid.ie are just some of the support services available.

This public health emergency is a difficult time for everyone. Concerns about health have left people confused and uncertain about the steps to take in relation to court orders for private family law matters such as access, maintenance and guardianship.

If you have a solicitor representing you please contact them to discuss your situation. A list of solicitors is available at www.lawsociety.ie

The best outcome for children is for parents to contact each other to set out their concerns and suggest ideas for practical solutions that can be put in place. The health concerns of parents, their children and the extended family need to be considered when sorting out arrangements.

As parents, if you agree that the arrangements set out in a court order should be temporarily varied you are free to do so. Make a note of this agreement by way of email or text message. Where a child, by agreement, does not get to spend their usual time with their parent, the court will expect that contact is established and maintained regularly. Using video technologies such as Skype, Zoom, What's App or Face-Time might help, and if that is not possible telephone conversations should be arranged. These current restrictions mean that the detail of every access order may not be full implementable, but as parents you should make every effort to allow your child to continue access in a safe, alternative way.

It is not always possible for people to make these changes without help. The Family Mediation Service of the Legal Aid Board is offering free telephone mediation and conflict coaching. More details about this service can be found at www.legalaidboard.ie

Some other free parent support services that may be able to help and advise you are www.onefamily.ie and www.treoir.ie

The Courts are still dealing with urgent cases involving domestic violence. Applications for breach of access or maintenance are not generally considered to be urgent.

However, according to the Practice Direction of the President of the District Court dated 16th March, 2020 which says that a case which does not come into the defined urgent category can be treated as urgent if a good case can be made. You can email your court office setting out the reasons why the case should be considered urgent. You should email the other side to let them know you have applied and they must be given a chance to set out their position. You will be notified of the Court's decision by email. Contact details for offices are available on <https://beta.courts.ie/content/find-us>

Other supports and services

Contact information for some other supports and services that you may find useful are set out below:

www.mabs.ie

www.samaritans.ie

www.tusla.ie

www.barnardos.ie

end statement

e. Other Statements of the President of the District Court re Family Law

- Dublin District Court – Childcare Section 18 Orders – Hearing Dates vacated Thursday 19th March

<https://beta.courts.ie/news/dublin-district-court-%E2%80%93-childcare-section-18-orders-%E2%80%93-hearing-dates-vacated>

- childcare-section-18-orders-%E2%80%93-hearing-dates-vacated

In light of the recent developments with the Covid-19 pandemic, all currently allocated Section 18 care order hearing dates will be vacated.

Matters will be listed For Mention for allocation of resumed hearing dates on the 3rd of June 2020 at 10.30am.

- District Court Practice Direction -DC16 Consent Adjournments and Consent Orders [Private family law cases] Friday 27th March

<https://beta.courts.ie/content/consent-adjournments-and-consent-orders>

The President of the District Court has decided that given the developing COVID-19 situation and the need to focus on prevention of community spread of COVID-19 the following additional measures shall apply concerning the business of the Court regarding consent adjournments in private family law cases.

Applications for adjournments or court orders with all parties consent can be applied for by email to the relevant court office and will not require solicitors or their clients to attend courts. The applicant will be notified of the adjourned date by the court office or the parties provided with the perfected order in due course.

2. Resources for family law practitioners during Covid 19

- 2.1 Statement by the Minister for Justice and Equality, Charlie Flanagan TD, in relation to access arrangements 4 April 2020
- 2.2 Guidelines for Access during Covid-19 [Family Lawyers Association, Child and Family Committee of the Law Society, Bar Council]
- 2.3 Law Society of Ireland Family & Child Law Committee Guidelines during Covid-19
- 2.4 The Family Law Clinic, UCC School of Law

2.1 Statement by the Minister for Justice and Equality, Charlie Flanagan TD, in relation to access arrangements 4 April 2020

‘I appreciate the concerns that the public health emergency is causing for many families in relation to court orders for matters such as access, maintenance and guardianship.

However I think it’s important to point out that court orders in relation to access remain in place. The restrictions brought in to tackle Covid-19 do not stop them being implemented, and should not be used as an excuse by either party.

Obviously, during this time, there may be instances where it is impossible for couples to adhere strictly to the terms of an Order, and the President of the District Court, last week, clarified that parents could come to mutually agreed arrangements for alternative contact, which could involve phone calls, or skype etc. Such agreement should be noted by email or text message.

If parties cannot agree on an alternative arrangement, mediation services are still available and should be used. I would simply appeal to everyone to remember that at all times, the welfare of the child is paramount.’

2.2 Guidelines for Access during Covid-19 [Family Lawyers Association, Child and Family Committee of the Law Society, Bar Council]

The following guidelines are to assist parents and practitioners in relation to access, in light of the restrictions brought in to tackle Covid-19.

These guidelines reflect the position of the Department of Justice and Equality, issued by Minister Charlie Flanagan yesterday, and endorse the practice direction of the President of the District Court, last week.

1. Court Orders in relation to access remain in place and should be complied with to the greatest degree possible in the circumstances. Children are allowed to move between parents’ homes for access. Covid-19 cannot be used as an excuse to ignore a court order. Parents are advised to have a copy of the court order with them when travelling for access.
2. If there is no Court Order in place and an arrangement has been working between parents, this should continue, save in exceptional circumstances.
3. It is important that common sense prevails in relation to access, in the current climate. The best outcome for children is for parents to contact each other to set out their concerns and suggest ideas for practical solutions that can be put in place. The health concerns of parents, their children and the extended family need to be considered when sorting out arrangements.

4. Even if there is a Court Order in place, parents can come to their own arrangements for additional or alternative remote contact, such as telephone/Skype/Facetime/WhatsApp, to allow children to have extensive contact with the other parent. Parents should make a note of this temporary agreement by text or email. These current restrictions mean that the detail of every access order may not be fully implementable, but the responsibility and expectation of parents is to make every effort to allow children to continue to have access to the other parent in a safe, alternative way.
5. The health and safety of children and family members (especially the elderly, grandparents and those with an underlying medical condition) must be a priority. If one parent is living with his/her parents every effort should be made to ensure the grandparents are not put at risk.
6. Access with parents working in frontline services should continue as normal, except in exceptional circumstances. These parents will, of course, have received advice from their places of work in relation to contact with their families. This advice should be shared with the other parent and respected by all.
7. 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.
8. Parents should both engage in social distancing, abide by the rules concerning non-interaction with third parties, and the stay at home direction, and be able to give clear assurances in this regard.
9. Parents should engage in mediation to resolve difficulties if they are unable to agree access during this time. If mediation is unavailable or unsuccessful, the assistance of solicitors may help in achieving a temporary agreement.
10. The Courts are still dealing with urgent cases involving domestic violence and vulnerable people. Applications for breach of access are not generally considered to be urgent, but there may be exceptional cases and your solicitor will advise you in this regard.
11. Additionally, the Practice Direction of the President of the District Court of 16 March, 2020, states that a case which does not come into the defined urgent category can be treated as urgent if a good case can be made. If you have a solicitor, you should contact him/her. If not, or if you cannot contact your solicitor, you can email your court office setting out the reasons why the case should be considered urgent. You, or your solicitor, should email the other side to let them know you have applied and they must be given a chance to set out their position. You will be notified of the Court's decision by email.
12. Contact details for offices are available on <https://beta.courts.ie/content/find-us>

This guidance has been prepared by family law practitioners and endorsed by the Family Lawyers Association, the Child and Family Law Committee of the Law Society and the Bar Council.

Practitioners will appreciate the guidelines are intended to constitute best practice guidelines rather than specific client advice.

Sunday 5 April 2020

FOR REGULAR UPDATED INFORMATION SEE <https://www.familylawyers.ie/>

2.3 Law Society of Ireland Family & 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 & 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 ways 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 or order, giving the reason for same. 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 or 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:

1. Ring An Garda Síochána immediately; and/or
2. Seek legal advice from your solicitor; and/or
3. 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: 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.

The following documents will be required:

- Ex-Parte docket
- A grounding Affidavit setting out the urgency and confirming the Order 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.”

FOR REGULAR UPDATED INFORMATION SEE <https://www.lawsociety.ie>

2.4

The Family Law Clinic, UCC School of Law, under the supervision of Director Dr Louise Crowley with students of the LLM (Children’s Rights and Family Law) Jo O’Halloran, Laura Lanigan, Laura McManus, Sandra Murphy, Emma Devlin and Joan Cronin. produced a very useful set of Family Law Resources during Covid-19 <https://www.ucc.ie/en/covid19familylaw/> which is a comprehensive public resource of information and guidance to support people across Ireland experiencing family law issues during the Covid-19 pandemic.

It provides details of local and national resources regarding access to justice, courts and state support services, domestic violence, children in care, financial support and other related family law matters. The Family Law Clinic have also produced www.familylawinformation.ie which operates as an information portal, providing a central source of information related to family relationships and a comprehensive online source of all aspects of Irish family law.

End

This Guide was compiled by Keith Walsh solicitor who practises mainly in the area of family law. He is a member of Family Lawyers Association Covid 19 Response Steering Group, a member of the Circuit Court Rules Committee, author of Divorce and Judicial Separation Proceedings in the Circuit Court: A Guide to Order 59, Bloomsbury Professional, 2019. keith@kwsols.ie