

**Information on shared parenting and child contact during the Coronavirus closedown including how to start or re-open court action. See our web site at** [**www.sharedparenting.scot**](http://www.sharedparenting.scot/) **for updates as the situation is changing quite fast.**

**CORONAVIRUS AND CONTACT GUIDANCE**

We know that many separated families are currently having to make difficult decisions between ensuring that parents and children see each other but not increasing the health risks for those concerned.

Our normal advice is based on the advantages of children having full involvement of both parents after separation and there is a lot of research evidence supporting this.

You can see the guidance from the Family Courts in England and Scotland on our website at [www.sharedparenting.scot](http://www.sharedparenting.scot/) This spells out that travel for contact is an exception to current restrictions, recognising that at a time when children are anxious it is important that they see both of their parents. They need to know that both parents are well, and parents also will benefit from sharing the care while school is closed and going outside restricted for weeks or maybe months to come.

Of course, common sense has to apply. The households at both ends need to be clear of symptoms or contact with anyone identified as having contracted COVID-19. That is, the children are travelling from one clear household observing isolation to another.

Our current advice is to continue the movement of children between their parents if you can. We are also encouraging parents to try and have reasoned discussion of these issues and not to make any unilateral decisions. Good communication between parents is really important.

Where communication has been poor in the past we suggest that the discussion be opened with a letter or e mail recognising that this is a genuine emergency and everyone is likely to be anxious or afraid or under pressure. An e mail or letter is preferable to a phone call which can often go wrong quite quickly. We have drafted some template letters to this effect – [see appendix 4 below](#_APPENDIX_4).

If you can't agree or it is decided to not to have direct contact at this point then the guidance says contact should be replaced or even enhanced by phone calls and online links as much as possible so that the children can stay in touch with their other parent.

**RESOLVING DISPUTES IN AND OUT OF COURT**

The Scottish official guidance states: *“If there is a court order or formal agreement in place, you should try to stick to the arrangements it sets out unless you and the other person with parental responsibilities and rights agree to vary these. If you have a more informal arrangement with the other parent or carer, you should discuss how best to approach the situation and make a decision on whether a child is to move between homes after a sensible assessment of the circumstances, including the child’s present health, the risk of infection and the presence of any recognised vulnerable individuals in one household or the other.”*

*“Where parents do not agree to vary the arrangements set out in a court order, 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.* ***If, after the event, the actions of a parent acting on their own in this way are questioned by the other parent in court, the court is likely to look to see whether each parent acted reasonably and sensibly in the light of the Government guidance in place at that time, together with any specific evidence relating to the child or family.”*** [Our emphasis]

Although normal family court business has been suspended, urgent issues such as removal of children from their normal family home without agreement of the other parent or repeated refusal to make children available for court-ordered contact may be considered urgent enough for the court to act. Other matters which might be considered urgent relate to the immediate welfare and safety of children.

The Scottish Courts and Tribunal Service (SCTS) are issuing guidance updates on how the court will operate during the lockdown – see [www.scotcourts.gov.uk](http://www.scotcourts.gov.uk/) for the latest news.

On 28/4/2020 SCTS issued information on civil courts including the following notes, which we have summarised as follows (see the original for full details[[1]](#footnote-1)):

Part 2. Civil Business

*2.1 This is not a return to business as usual. Whilst courts are currently dealing with business identified as urgent and necessary, the purpose of this Part is to set out a basis upon which the court will determine if an action should be restarted. Only actions that can be progressed remotely will be restarted. This includes applications in relation to parental responsibilities and rights, for example in relation to contact or residence.*

*2.2 If a party to an action (“the applicant”) is of the opinion that it can be progressed remotely an application may be made in accordance with the procedure set out below. Prior to making an application, the applicant shall explore with the other parties to the action whether a position on restarting the action and further procedure can be agreed or if not the extent to which there are disputed matters.*

*An application to restart a court action should be emailed to the other side with the following information plus copies of relevant documents.*

* *the court reference number (e.g. PER-A1-20) and the names of the parties;*
* *the stage the action was at before it was sisted or adjourned administratively;*
* *the reasons why it is considered that the action should be restarted and why it is*
* *suitable to be progressed remotely;*
* *the means the applicant has available to deal with the case remotely (phone or online);*
* *where the applicant is legally represented the name of the solicitor dealing with the action for the applicant and his or her e-mail address and telephone number;*
* *the order sought by the applicant (what you want the court to do).*

***See Appendix 1 below for the suggested layout for this document.***

*2.10 Upon receipt of confirmation of the respondent’s consent to the application or a response to the application, the applicant shall send by e-mail to the dedicated e-mail address for the court in which the action ordinarily proceeds* ***(see Appendix 2 below for the court emails)*** *the information set out in paragraph 2.11 below. The applicant’s e-mail shall be headed “APPLICATION TO RESTART” and the heading shall include both the court reference number and the names of the parties. No fee shall be payable in relation to an application to restart.*

*2.11 The applicant shall send the following to the court:*

* *the application;*
* *the documents accompanying the application;*
* *either (i) the respondent’s consent to the application; (ii) the response and the documents accompanying the response; or (iii) in the event that the respondent has failed to provide either consent to the application or a response to the application, the information set out in paragraph 2.12 below.*

*2.12 If, within two working days, the respondent fails to provide to the applicant either consent to the application or a response to the application the applicant shall (no earlier than 3 working days after intimation of the application in accordance with paragraph 2.3 above) send to the court:*

* *a copy of the e-mail sending to the respondent a copy of the application and the accompanying documentation;*
* *either (i) any correspondence between the parties in relation to restarting the action;*
* *or (ii) confirmation that the respondent has failed to reply to the application;*

*2.13 Once received the application will be considered by a sheriff as soon as is*

*reasonably practicable.*

*2.14 Prior to determining the application the sheriff may request further*

*submissions in writing or fix a hearing at which parties shall participate by electronic*

*means.*

*2.15 Upon determining the application, the sheriff will pronounce an*

*interlocutor either:*

* (i) recalling the sist, re-enrolling the action or discharging the adjourned diet; and*

*(ii) making such order as to the court seems proper; or*

* refusing the application.*

*2.16 Where the application is refused the sheriff shall give reasons.*

If your lawyer is still at work you should ask them to raise the issue with the court covering your area. They can also attempt to resolve these issues with the lawyer representing the other parent.

Although family mediation would normally be another route to try and resolve these problems, we understand that family mediation services are not undertaking online mediation at present, and face-to-face mediation cannot take place at present. There may be some solicitors offering remote mediation services and names can be found at <http://www.calmscotland.co.uk/>

If you can't get a response from your solicitor then you can raise an action yourself, explaining to the court you have been left without representation.

If you are raising the case in court yourself (called being a party litigant) you need to argue why this matter is important enough to be considered immediately, and also email a copy of your submission to the opposing solicitor. See the notes above which indicate what should be sent to the other side and then to the court, but if you do not have access to any of this information send what you can. [Appendix 1 gives the form that should be sent to the court.](#_APPENDIX_ONE)

[Appendix 2 gives court email addresses](#_APPENDIX_TWO)

If you have a child welfare or other family court hearing due to take place in the near future it is very likely that the case has been frozen (sisted) by the court and will need to be restarted either now if there is an urgent issue or after the lockdown.

If you have a proof hearing underway or already scheduled to start soon, you or your lawyer should contact the court urgently to explore whether some or all of the issues could be resolved now. If you can’t reach agreement then ask the court for the proof hearing to be started as soon as possible in order to provide the children and parents concerned with resolution of the issues at question. Hearings that require witnesses to give evidence are very unlikely to restart before the end of the lockdown.

See [**Appendix 3 below**](#_APPENDIX_THREE) for more details of what is happening in each court (and check the Scotcourts web site for further updates).

**CONTACT CENTRES**

We understand that all face-to-face contact at centres throughout Scotland has been stopped during the closedown. Some centres are offering message box contact sharing messages, pictures and videos, sometimes daily. Others are offering a regular email update about, from or to your child. Frequency of messaging will be agreed in advance between both parents and the service. They are also passing on photographs or scanned drawings or videos of child (via WhatsApp). If you are using this service to keep in contact with your child make sure that you are following the guidelines and try and keep messages positive and supportive of the other parent – remember that everyone is under stress at the moment.

Further details of what each contact centre is offering can be obtained from their web sites or by email as listed below or from Relationships Scotland <https://www.relationships-scotland.org.uk/> (member organisations). Please note that some services may be limited in what response they can make at present due to closed premises or other factors. [See Appendix 4 below for a template letter](#_APPENDIX_4)

* Relationships Scotland – Borders: info@rsborders.org.uk
* Relationships Scotland – Dumfries & Galloway:info@rsdg.org.uk
* Relationships Scotland – Family Mediation South Lanarkshire:fmsouthlanark@btconnect.com
* Relationships Scotland – Family Mediation Tayside & Fife:info@familymediationonline.co.uk

[http://www.familymediationonline.co.uk](http://www.familymediationonline.co.uk/)

* Relationships Scotland – Family Mediation Highland:info@fmhighland.org
* Relationships Scotland – Family Mediation West of Scotland: <http://www.fmwest.org.uk/>

**Glasgow** fmwest@btconnect.com **Kilmarnock** fmayr@btconnect.com

* Relationships Scotland – Orkney:enquiries@rsorkney.org.uk
* AVENUE (Aberdeen, Aberdeenshire, Moray)peterhead@avenue-info.com[www.avenue-info.com](http://www.avenue-info.com/)
* Family Mediation Argyll & Bute:fms.argyll-bute@btconnect.com
* Family Mediation Central:fm.central@btconnect.com
* Family Mediation Lothian:info@familymediationlothian.org
* Hamilton Child Contact Centre:contactcentrestmarys@gmail.com<http://www.stmarysepiscopalhamilton.co.uk/Child-Contact-Centre.html>
* Helensburgh Child Contact Centre: coordinator@helensburghcontactcentre.org.uk
* Promoting Positive Contact (Glasgow): <http://renfieldcontactcentre.co.uk/>
* VSA Contact Centre (Aberdeen): [www.vsa.org.uk/children-and-families/contact-centre](http://www.vsa.org.uk/children-and-families/contact-centre)

# APPENDIX ONE

This is the layout of the form that you will need to use to restart an existing court action.

**Court ref.no …………**

**SHERIFFDOM OF** *(insert name of sheriffdom)*

**AT** *(insert place of sheriffdom)*

**APPLICATION FOR THE PURSUER [or DEFENDER / THIRD PARTY etc.]**

**in the cause**

**[A.B.]** *(insert designation and address)*

**Pursuer**

**Against**

**[C.D.]** *(insert designation and address)*

**Defender**

**The** *(insert description of party, i.e. Pursuer, Defender etc)* **moves the court to restart the action.**

*(the application should include the following in separate numbered paragraphs)*

*(the stage the action was at before it was sisted or adjourned administratively)*

*(the reasons why it is considered that the action should be restarted and why it is suitable to be progressed remotely)*

*(the steps taken by the parties to agree a position in relation to restarting the action or whether the application is made with the consent of all parties)*

*(the means the applicant has available to deal with the case remotely i.e. phone, online etc)*

*(the name of the solicitor dealing with the action for the applicant and his or her e-mail address and telephone number)*

*(the order sought by the applicant)*

**List the documents lodged with the application:**

*(insert description of document)*

**Date** *(insert date)*

**(Signed electronically) …………….**

**Party**

*(insert name and description of party)*

**Or**

**Solicitor for Pursuer (or Defender /Third Party etc.)**

*(insert designation and business address)*

**The above gives the layout for the document to be submitted to court. We suggest that your explanation could run along these lines (using your own situation):**

*I require to bring this matter back to the attention of the court on an urgent basis for the following reasons:-*

* *I texted Mary Smith on 18 March about the arrangements for Anne to stay with me that evening. I received a reply saying that my daughter Anne would not be staying with me because of the coronavirus outbreak.*
* *According to official guidelines there is no reason why she could not come to me.*
* *I contacted Mary Smith again by text on 18, 19 and 20 March and received no replies. Copies of these messages are attached to this email.*
* *I attempted to call Mary Smith on 25 March and was unable to get through to her number.*
* *The court ordered calls between Anne and myself have not taken place. I have tried to call at the same day and time each week and again have not been able to get through.*
* *I contacted Mary Smith’s solicitors by email on 30 March and again on 6 April. I have not received a response. Copies of these emails are attached to this email.*
* *I am concerned I have not heard further and I am concerned for Anne’s welfare. She is used to seeing me every week and she has now not seen me for over a month. The current court order is not being followed and I have not received a response to my attempts to sort this out by text or email.*

*What I would like the court to do:-*

*I would like to have a hearing where Anne Smith should explain her failure to follow the court order to the court, or otherwise to order alternative temporary arrangements.*

# APPENDIX TWO

**These are the emails to use when contacting sheriff courts**

|  |  |
| --- | --- |
| Sheriffdom | Email address |
| G&S | RESTARTGlasgow@scotcourts.gov.uk |
|  | glasgowcommercialcou@scotcourts.gov.uk -commercial related businessonly |
| TC&F | RESTARTAlloa@scotcourts.gov.uk |
|  | RESTARTStirling@scotcourts.gov.uk |
|  | RESTARTFalkirk@scotcourts.gov.uk |
|  | RESTARTDundee@scotcourts.gov.uk |
|  | RESTARTPerth@scotcourts.gov.uk |
|  | RESTARTForfar@scotcourts.gov.uk |
|  | RESTARTKirkcaldy@scotcourts.gov.uk |
|  | RESTARTDunfermline@scotcourts.gov.uk |
|  | taysidecommercial@scotcourts.gov.uk –commercial (incl corporateinsolvency) related business only |
| L&B | RESTARTEdinburgh@scotcourts.gov.uk |
|  | RESTARTLivingston@scotcourts.gov.uk |
|  | RESTARTJedburgh@scotcourts.gov.uk |
|  | RESTARTSelkirk@scotcourts.gov.uk |
| GH&I | RESTARTAberdeen@scotcourts.gov.uk |
|  | RESTARTPeterhead@scotcourts.gov.uk |
|  | RESTARTBanff@scotcourts.gov.uk |
|  | RESTARTElgin@scotcourts.gov.uk |
|  | RESTARTLerwick@scotcourts.gov.uk |
|  | RESTARTInverness@scotcourts.gov.uk for Inverness, Wick, Tain, FortWilliam, Stornoway, Kirkwall, Portree and Lochmaddy |
|  | commercialinv@scotcourts.gov.uk –commercial related business for Inverness only |
| SSD&G | RESTARTHamilton@scotcourts.gov.uk |
|  | RESTARTAyr@scotcourts.gov.uk |
|  | RESTARTAirdrie@scotcourts.gov.uk |
|  | RESTARTLanark@scotcourts.gov.uk |
|  | RESTARTDumfries@scotcourts.gov.uk |
|  | RESTARTStranraer@scotcourts.gov.uk |
| NS | RESTARTPaisley@scotcourts.gov.uk |
|  | RESTARTKilmarnock@scotcourts.gov.uk |
|  | RESTARTDumbarton@scotcourts.gov.uk |
|  | RESTARTGreenock@scotcourts.gov.uk |
|  | RESTARTDunoon@scotcourts.gov.uk |
|  | RESTARTOban@scotcourts.gov.uk |
|  | RESTARTCampbeltown@scotcourts.gov.uk |

# APPENDIX THREE

*The following information about courts across Scotland has been extracted from local links on the SCTS web site at* [*https://www.scotcourts.gov.uk/coronavirus--sheriffdom-hub-courts*](https://www.scotcourts.gov.uk/coronavirus--sheriffdom-hub-courts)

**GLASGOW and Strathkelvin**

One court open: Glasgow

General

• Unless otherwise provided for in this guidance, the court will make the orders set out below without the necessity of appearance.

• Where parties agree, a hearing may proceed on written submissions.

• The attention of practitioners is drawn to Practice Note No 1 of 20061[[2]](#footnote-2), the provisions of which should be utilised wherever possible.

• Any documents lodged electronically which would normally attract a fee must be accompanied by the account number to which the fee is to be charged.

Family Proofs

• All family proofs will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020.

Other Family Cases

• In all family cases in which a proof has not been assigned, any and all existing hearings will be discharged administratively and the case sisted until further order of court.

Family Motions

• Motions will be accepted by email and should be sent to GlasgowFamilyActions@scotcourts.gov.uk

• Should a motion be opposed a hearing will not automatically be assigned. In the first instance, parties will be invited to consider whether the motion could be disposed of by way of written submissions.

• Where a motion is to proceed by way of written submissions it will be allocated to a family sheriff who will make appropriate orders.

• If a motion is not to proceed by way of written submissions a hearing will be assigned. Parties should appreciate that the waiting time for an opposed motion hearing may be considerably longer than normal

Email: GlasgowFamilyActions@scotcourts.gov.uk

**LOTHIAN AND BORDERS**

One court open: Edinburgh (transfer from Livingston, Selkirk and Jedburgh)

The family court sheriffs met on Friday 20 March to discuss how best to progress family business during the current pandemic & thought that it would be helpful to provide guidance with the Sheriff Principal’s approval. We have agreed on some general principles & three specific areas which will require to be targeted as follows:

In respect of proof weeks between now & the end of May 2020, agents are asked to review the proof allocation. Individual sheriffs will also review the cases due to call in his or her sitting. In line with wider guidance, the norm will be that proofs will be discharged unless agents contact the court by 4pm on Wednesday 25 March to set out exceptional circumstances.

Any such submission should be mindful that the court may not be able to allow the proof to proceed having regard to considerably reduced staffing, reduced shrieval availability, availability of witnesses & technology & wider public health concerns. In addition to setting out exceptional circumstances, agents must address how it is proposed that evidence will be led and the practicality of such arrangements. Agents are encouraged to discuss matters in detail with the other party’s agent before making such a submission. Once the court has the submission, a telephone conference can be arranged with the sheriff to consider the submission. Please be mindful of the unprecedented nature of the current public health concerns when seeking to argue exceptional circumstances.

From 23 March, a duty sheriff will triage cases. This will include consideration of all child welfare hearings from 30 March to 31 May inclusive, with a view to discharging them ex proprio motu or contacting parties in cases which appear urgent to explore whether the hearing should still take place (for example, cases where the purpose of the hearing is to monitor contact which appears to be working well, may be discharged). Clearly, if urgent issues arise in those or any other actions, such issues can be brought to the court’s attention by motion. Any such motion should set out fully & carefully the urgency.

Discussion with the other party’s agent should take place in advance to seek resolution failing which the duty sheriff will consider the most appropriate way in which to hear representations which is likely to be by written submissions & telephone conference. In relation to the discharge of proof diets, please be mindful that the discharge of a proof does not preclude continuing negotiations & any joint minutes will be processed.

Every effort should be made to settle actions where possible, especially in light of the pressure on future diets post-pandemic. Finally, please be aware that the sheriff clerk’s office is under considerable pressure. This is exacerbated by repeated telephone calls & emails asking about individual cases. We do appreciate that there has been uncertainty about how business will be managed but hope that this provides clarity.

Contact email: edinburghfamily@scotcourts.gov.uk

**TAYSIDE, CENTRAL and FIFE**

Two courts open: Dundee (transfer from Forfar and Perth) and Falkirk (transfer from Stirling, Alloa, Dunfermline and Kirkcaldy)

This guidance sets out the arrangements for the management of civil business in the Sheriffdom of Tayside Central and Fife with immediate effect.

General

Unless otherwise provided for in this guidance, the court will make the orders set out below without the necessity of appearance. Any documents lodged electronically which would normally attract a fee must be accompanied by the account number to which the fee is to be charged. All new actions, summary cause applications, simple procedure causes and summary applications should be sent in the normal way to the local court. Any action in which time bar may be an issue and which emanates from Dundee, Forfar and Perth Sheriff Court districts should lodged in Dundee Sheriff Court and those emanating from Alloa, Dunfermline, Falkirk, Kirkcaldy and Stirling Sheriff Courts should be lodged in Falkirk Sheriff Court. The sheriff clerk at Dundee will accept the Perth and Forfar time bar actions for warranting and the sheriff clerk in Falkirk will accept Alloa, Dunfermline, Kirkcaldy and Stirling time bare actions for warranting. Any administrative work relating to the time bar cases will be dealt with in Dundee and Falkirk respectively.

Emergency applications

Emergency applications such as Adults with Incapacity applications, Social Work Referrals, Child Protection Orders and the like emanating from Dundee, Forfar and Perth Sheriff Court districts should all be raised in Dundee Sheriff Court and those emanating from Alloa, Dunfermline, Falkirk, Kirkcaldy and Stirling Sheriff Courts should be raised in Falkirk Sheriff Court until further notice. The sheriff clerk at Dundee will accept Perth and Forfar applications for warranting and the sheriff clerk in Falkirk will accept Alloa, Dunfermline, Kirkcaldy and Stirling applications for warranting. All administrative work relating to these cases will be dealt with in Dundee and Falkirk respectively, however in the current circumstances, there will inevitably be delays in processing until further notice.

Ordinary Proofs

No ordinary proofs will be assigned for a date prior to August 2020. All previously assigned proofs will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020. In each of these cases, the sheriff clerk will assign a pre-proof hearing to take place in July at which parties will be expected to advise the court on preparation for the proof. To ensure that actions are dealt with efficiently and are not constrained by rules of procedure, the sheriff may make such order as the sheriff thinks fit for the progress of the case.

All Motions

Motions will be accepted by email and should be sent to dundee@scotcourts.gov.uk. (please note if you usually use the court’s family department email address, that this is not always monitored at this time and the dundee@scotcourts.gov.uk address should be used instead) Unless the motion is urgent, there will inevitably be delays in processing until further notice. Should a motion be opposed a hearing will not automatically be assigned. In the first instance, parties will be invited to consider whether the motion is urgent and arises out of an emergency situation and if so whether it is capable of being disposed of by way of written submissions. Where a sheriff considers the motion is to proceed by way of written submissions the sheriff will make appropriate orders. If the motion is presented to a court within the sheriffdom which is not the court of origin, the parties must provide the court with an electronic copy of the latest version of the pleadings and electronic copies of all productions and other documents upon which they wish to rely along with the motion. If the sheriff considers it essential to hear the parties’ agents, rather than utilising written submissions, the sheriff clerk will notify agents accordingly but again parties should appreciate that the waiting time for a hearing may be considerably longer than normal.

Social Work Referrals

No proofs will be assigned for a date prior to August 2020. The court will give effect to agreements reached by parties in respect of cases assigned to call within the procedural courts without the necessity of appearance. Parties may communicate agreed positions to the court by email to dundee@scotcourts.gov.uk. All social work referral proofs will be discharged administratively and a new diet fixed for 12 weeks after the date or dates previously assigned. Applications to extend interim compulsory supervision orders will be dealt with administratively if parties are in agreement.

Adoptions & Permanence Orders

All procedural callings of adoption and permanence order cases will be continued for a period of 16 weeks until further notice. All adoption and permanence order proofs will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020.

Family Proofs

All family proofs will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020 and will be subject to a pre-proof hearing.

Other Family Cases

In all family cases in which a proof has not been assigned, any and all existing hearings will be discharged administratively and the case sisted until further order of court.

Email: Dundee|@scotcourts.gov.uk and falkirk@scotcourts.gov.uk

**GRAMPIAN, HIGHLANDS and ISLANDS**

Two courts open: Inverness (transfer from Elgin, Fort William, Tain, Wick and the Island Courts - except Lerwick) and Aberdeen (transfer from Peterhead, Banff and Lerwick)

This guidance sets out the arrangements for the management of civil business in the Sheriffdom of Grampian, Highland and Islands with immediate effect.

General

The court will make the orders set out below without the necessity of appearance. Ordinary Causes and Summary Applications All ordinary causes and summary applications, including, for the avoidance of doubt, family causes and first callings, will be continued for a period of 16 weeks until further notice. In particular, no ordinary proofs or debates or other hearings will be assigned for a date prior to August 2020. All previously assigned ordinary proofs or debates or other hearings will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020.

Social Work Referrals

All social work referral proofs will be discharged and a new diet fixed for 16 weeks after the date or dates previously assigned. Applications to extend interim compulsory supervision orders will be dealt with administratively if parties are in agreement.

Adoptions & Permanence Orders

All procedural callings of adoption and permanence order cases will be continued for a period of 16 weeks until further notice. All adoption and permanence order proofs will be adjourned to a date to be hereinafter fixed, which will be no earlier than August 2020.

Exceptions

Notwithstanding the foregoing guidance, the court will consider any matter which it regards as urgent on cause being shown, including the lodgement of caveats, applications for child protection orders, applications for interim interdict and applications in relation to adults with incapacity. In addition, the court will consider any application by way of initial writ, summary application, motion or otherwise where a statutory or common law time limit applies to the cause of action and steps are required to ensure compliance with same, in which case unless on cause shown the court will take the minimum steps required to ensure such compliance, but otherwise continue the cause of action until a date afterwards to be fixed, but not before August 2020.

Email: inverness@scotcourts.gov.uk and aberdeen@scotcourts.gov.uk

**NORTH STRATHCLYDE**

Two courts open: Paisley (transfer from Greenock and Dumbarton) and Kilmarnock (transfer from Dunoon, Oban and Campbeltown)

This guidance amends “Coronavirus – Guidance in respect of Civil Business No. 1 of 2020” of 24 March 2020. Ordinary and Family business

All ordinary and family court business will be continued for a period of 8 weeks until further notice. This will include peremptory diets. Subject to this modification the guidance contained within Coronavirus – Guidance in respect of Civil Business No. 1 of 2020” of 24 March 2020 continues to apply.

**Coronavirus Sheriffdom of North Strathclyde Guidance in respect of Civil Business No. 1 of 2020**

This guidance sets out the arrangements for the management of civil business in the Sheriffdom of North Strathclyde with effect from Wednesday 25 March 2020.

General

 All hearings where witnesses are required will be adjourned. Where possible these will be discharged administratively prior to the calling date. No new ordinary proofs will be assigned for a date prior to August 2020. The aim is during this period to keep personal attendance at court to the bare minimum. To that end, on 31 March 2020 all proofs currently fixed for April May and June 2020 will be adjourned ex proprio motu to a date to be afterwards assigned. If a party opposes the adjournment and wishes to make representations for a different approach in a particular case they should intimate their written submission to the other party and the court by 30 March.

A sheriff will then consider the submission or submissions and make such order as they determine best serves the interests of justice. Wherever possible ordinary and family civil business without witnesses will continue. Matters calling the ordinary court can be dealt with by agreement and an email confirming any agreed position should be submitted to the court. If matters remain disputed parties are encouraged to agree for the court to determine the matter on written submissions which should be exchanged and then lodged by email at least 48 hours prior to the hearing. Parties should agree timescales for the preparation and exchange of written submissions for debates and advise the court of an agreed position or of their respective views in order and interlocutor may be issued.

The requirement for wet signatures on any document to be lodged is suspended and all documents may be lodged electronically. Where the lodgement of documents will attract a fee the electronic submission must include details of the account number to which the fee is to be charged. Parties are requested where possible to lodge motions by email. Where parties agree to an opposed motion being dealt with by way of telephone conference or on the basis of written submissions this should be clearly confirmed in the email along with the names and contact details for all participants in the case teleconferencing or with written submissions attached. The clerk will seek to identify a suitable time and day for the motion to be dealt with. Documents such as affidavits and productions should be lodged with the court by email to the court's generic in-box wherever possible. The limit in size for any document is 20MB.

Email: paisley@scotcourts.gov.uk and kilmarnock@scotcourts.gov.uk

**SOUTH STRATHCLYDE, DUMFRIES and GALLOWAY**

Two courts open: Hamilton and Dumfries

This guidance sets out the current arrangements for the management of civil business and takes place immediately. This guidance supersedes practice note number 1.

• All new civil applications will continue to be registered today, if staff are available to do so. Please would everyone avoid lodging non-urgent/ non-time barred cases or applications.

• Emergency legislation is being considered to allow applications to be received electronically. Pending this change, from 9 a.m. on 25 March 2020, please email any urgent case/application to one of the Courts noted below and follow that with a hard copy.

• From 9 a.m. on 25 March 2020 any urgent / time barred applications or cases for Airdrie, Ayr, Hamilton and Lanark Courts should be lodged with Hamilton Sheriff Court. Hamilton@scotcourts.gov.uk. Telephone Number 01698 282957. From 9 a.m. on 25 March 2020 any urgent/time barred applications or cases for Stranraer and Dumfries Courts should be lodged with Dumfries Sheriff Court. Dumfries@scotcourts.gov.uk. Telephone Number 01387 262 334. 2 20 March 2020 All urgent business should be conducted by telephone conference call or by written submissions except on cause shown. Please email or telephone one of the two Sheriff Courts specified above to provide contact details (including where possible those of the opposing party) and be allocated a specified time-slot. Please mark your email as urgent.

• All current civil cases will be adjourned for about 16 weeks from the date each case was due to call. Local court loadings will be used to identify new dates, which will be intimated to parties in due course. Please contact one of the two Courts specified above to identify any case which cannot be so adjourned because of its urgent nature. Please do likewise for any urgent interim orders which are required. As noted above telephone conference calls or written submissions should be used for any hearings.

Email: hamiltoncivil@scotcourts.gov.uk and Dumfries@scotcourts.gov.uk

# APPENDIX FOUR

**Template 1 - for parents with existing direct contact whether court ordered or not.**

*The point of this letter is to establish communication. This is a period of emergency so it needs to be the right tone. i.e. don't make it a lecture with references and links to government guidance. [Think of how you would respond if you got a letter like that.] …and don't make it about your rights. By sending it and opening communication you are demonstrating you are taking your responsibilities seriously.*

*If you get a poor response don't snap back. Just leave it and try again next week. The penny may have dropped by then just how exhausting it is to be inside with children 24/7. Whatever happens, don't turn it into an argument.*

*If you end up back in court in the future your constructive approach is likely to be taken into account by most sheriffs, as will a dismissal by the ex. It is very unlikely that any court will give time to any motion alleging non-compliance with an order at this time so don't threaten it.*

Dear [use first name]

I hope that you and [name of child/children and anyone else in the house] are well.

This is obviously a stressful and frightening time for us all – especially children.

I just want you to know I am free and available to take [name of children] at any time, for any length of time, to support [her/him/them] – and to support you - throughout this period. [If you live close enough.]

I know there was some initial confusion about travel after Boris Johnson's TV address on Monday but it has been clarified by the Government and by Nicola Sturgeon in Holyrood that it is allowed for children to move between parents houses to keep contact going. Obviously the precautions on isolation will stay in both homes.

The exception has been made because unless there are symptoms of any sort, it is positively good for children to keep up relationships to reduce their anxiety. More than that, it is good for parents to share the child care to stop one of them from getting exhausted.

The advice is also that if contact isn't possible then increasing contact through phone or Facetime will also preserve a feeling of normality for children and also break up their day with chat or games or activities online.

I hope you will see this as a genuine offer to do our best by [name of children].

Please let me know how we can work together on this.

Just text me whenever you wish to arrange for me to collect [name/names] any time you feel you would like a break.

Look after yourself and stay well.

Yours,

**Template 2 - letter to contact centre.**

*Many of you will have contact with your children using a contact centre. This may have been ordered by court for supervised or supported contact or for handovers. It will be particularly frustrating for anyone who had a number of court-ordered supervised contact sessions to realise that the centre has suspended face to face work and also that the courts are limiting themselves to urgent work so you can't go back and ask for an extension.*

*We are advised that individual contact centres are working out what sort of service they can offer during the COVID-19 emergency. We suggest sending the letter below to your contact centre BEFORE you contact your ex partner. Choose the options that apply to you.*

*We will draft a separate letter to your ex partner dependent on what response you get from the contact centre.*

*If you end up back in court in the future, your constructive approach is likely to be taken into account by most sheriffs, as will a dismissal by the ex.*

*Please let us know what response you get from the contact centre.*

Dear [name of contact centre manager]

I hope that you are well.

You will remember I was using the contact centre for supervised/supported contact or for handover and drop off with my children,[their names].

My supervised/supported conduct was ordered by [name of sheriff court] on [date]. [IF APPLICABLE]

I understand that the COVID-19 emergency has disrupted these arrangements but it has meant that the opportunities for me and my child/children to spend even a brief time together have stopped. I don't know what explanation he/she/they have been given.

I have read that Relationships Scotland has announced that all its contact centres are now open for business again within Coronavirus restrictions. I presume this also applies to contact centres that aren't under the Relationships Scotland umbrella.

Some contact centres in England have begun 'virtual' supervised contact and some are offering mediation between parents specifically to work out how contact can continue or be restarted during the COVID-19 emergency.

You will be aware of the Guidance from the Lord President of the Court of Session that court orders should be complied with. Obviously that will be in situations where both households are symptom free and have been observing isolation. And where contact is not possible it should be replaced with facetime type contact or similar.

I'd be grateful if you could call me to discuss what services you are now able to offer so I can see or talk to my child/children again. My phone number is [number………]

1. <https://www.scotcourts.gov.uk/docs/default-source/default-document-library/coronavirus-guidance---progressing-certain-categories-of-civil-business-29-04-20.pdf?sfvrsn=2> [↑](#footnote-ref-1)
2. <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/practicenotes/sheriff-court/glasgow-and-strathkelvin/pn01_2006.pdf?sfvrsn=11> [↑](#footnote-ref-2)