

PAR PARENTS ADVOCACY AND RIGHTS

ADVICE TO PARENTS OF CHILDREN IN CARE DURING CORONA VIRUS

This is an especially frightening time for parents whose children are in care. Parents are worrying about how children are, if they are frightened, if they are being cared for and not abused, about when you will see each other again

While we understand and support efforts to cut down on rates of infection and protect the NHS from overload, we believe that questions need to be asked of these local authorities about **the legality** and the **necessity** of the **blanket decisions that have been made**.

It seems that many if not all councils have ended direct contact between children in care and their parents and family citing the Corona Virus measures as the reason. Orders made by Children's Hearings for contact have been breached without any consultation with the children or parents concerned. Parents have been told that they can only have contact over facetime or whatsapp. Many parents do not have smartphones, or wifi or do not have any credit left. They are not being provided with equipment or with credit to make contact possible.

But is this legal?

Contact between children and their parents and siblings and wider families is a recognised right under both the ECHR and the UNCRC. The government has recognised the need for children of separated parents to maintain relationships with both parents, and have said that voluntary arrangements and orders should continue to be observed, as long as both parents agree. Parents would be expected to take children's views into account in making the decision and so should social workers. There is no reason why relationships with parents and family should be treated any less seriously for children in care than for children of separated parents.

Local authorities have a duty to promote direct contact between children in care and their parents and family, whether the children are on compulsory orders or voluntary measures. Where children are on orders by the children's hearings, there can be conditions on frequency, length and on whether it is supervised or not. Any order made by a hearing has to be implemented by the local authority.

There is no authority under the emergency powers for local authorities to routinely breach court orders. A local authority may **take emergency decisions to breach any condition of an order only if this is necessary to protect a child from immediate risk of significant harm.** That decision may be to move a child in an emergency or to stop contact taking place if they have reason to believe that contact would put the child at serious risk. They must then go to a hearing within three working days to present their evidence and to have their position agreed or overturned.

At hearings, it is the law that children must attend unless they have been excused. If a child wants to attend, they cannot be excused attendance. It is also the law that parents' and children's views must be heard and taken account of in arriving at any decision. Yes, we know that reality is often far from this, but it is the law that children must be heard.

Now, we have a situation where most hearings have been cancelled, and only emergency hearings are taking place. There is likely to be a big backlog of cases when this ends. So what can parents do now?

Firstly, we believe that the **existing law and guidance means that every case needs to have individual consideration.** Local authorities must take the time now that the initial panic is over to fulfil their responsibilities to consult with parents and children and to consider all the possible options for protecting and promoting relationships. Each case must be judged on its own specific circumstances.

We understand that this is difficult times and due to underlying health conditions of parents, foster carers and children, they may be required to shield for 12 weeks to keep themselves safe. Physical distancing of staff and service users will be required. We want everyone to be safe but we also want for risk assessments to be in place in order that families can still have contact with one another either face to face or virtually.

What can parents do?

1 Write/email the responsible social worker, if possible copying in the head of children's services and the council's legal department, asking

- their reasons for breaching the order for contact – or if the care is on a voluntary basis, the agreement for contact to happen
- what risks they have considered,
- how they have taken your children's views and your views into account
- whether and when they will reconsider the break in your contact,
- what are their proposals for mitigating the harms that will be caused? Can you have a meeting at a distance with older children(who can understand why you can't come closer) than 6 feet? Can you have a direct mobile phone number or email to contact the foster home, or the residential unit directly to send your child messages and photos?
- will they provide the necessary equipment and financing to enable parents to have online contact on Facetime or WhatsApp? This should include making payments to increase data bundles or to get wifi in the house.

Keep a copy of this and ask for a written response within five working days.

2 **Contact your MSPs and local councillors** asking them to take this up with the council and ask the questions above – MSPs are having online surgeries and their offices are dealing with correspondence.

3 **what can you do in the meantime until contact restarts?** Write letters to your child - every day if you can. This can be done by email or by post or hand delivered via the social work office. If you have foster parents' or residential homes' email addresses or mobile numbers then do send photos, messages from siblings, make recordings.

4. **Tell your child's social worker if there are difficulties** in making Facetime, WhatsApp calls. Do not breach physical distancing, visit elderly relatives or friends/family who are shielding to use their wifi or devices to make Facetime/WhatsApp calls or indeed you may not be able to leave the house. It's not your fault that you do not have an expensive smart phone or iPad or have a cheap data bundle on your phone. Tell your child's social worker your difficulties ask them politely to find solutions for you in order to keep quality contact at this time.

5. Be prepared to complain if your child's social worker blames you for not having devices or data bundles that makes contacting your children virtually impossible. If your child's social worker says "*if you want to keep contact with your children you'd make sure you have the right apps or get access to a phone that works*" (or something similar) this is a breach of the Scottish Social Services Council Code of Practice. This is why it is important to have everything in writing.

5. Please do not panic, we know this is a scary time for you and your children too. Hopefully, hearings and courts will start again, but right now it's important that you stay in touch with your children's social worker so there is a record of your contacts and all your attempts to keep contact with your children.