

# Advice for separated or divorced parents denied access to children

Edinburgh lawyers say that a worrying trend is developing, with parents using the Coronavirus lockdown to prevent ex-partners from seeing their children.

Edinburgh-based Gilson Gray's Family Law team has received an increase in enquiries from concerned parents since the beginning of lockdown, with many highlighting how one party has taken advantage of the current circumstances to refuse contact.

Legal Director Denise Laverty is advising parents that they should communicate and work together to find practical and reasonable solutions so that parents and children can make the most of their time together during lockdown.

Denise said: "Shared Parenting Scotland is reporting that 61% of separated parents are experiencing reduced time or even no contact with their children since the beginning of lockdown, with an increase of 16% of parents who have been blocked from seeing their children at all.

"There is no doubt from the enquiries I have received since lockdown started that there are some parents who are taking advantage of the current unprecedented times to refuse contact without justification.

"There will be some parents where, in all the circumstances, a refusal is reasonable and there will also be parents who are

genuinely concerned about the increased risk to their children and to other family members if their child is allowed to move between two homes.

“This is frustrating for all parties involved – parents and children. Many parents who are currently being denied contact will probably already have endured months of solicitor involvement in order to get contact in the first place, with some having to go through the courts.

“We’re advising parents to try to come to an agreement which supports their children and takes their welfare into consideration. It’s as important as ever that children and parents can continue to spend time together, virtually or in person, during this difficult time.”

In Denise’s experience, communication can often address the majority of concerns from parents. She advises parents to agree to adopt the same practical measures in both households, from where daily exercise and walks can take place to cleaning standards.

She added: “It might seem to one parent that the other is being overly anxious and their measures are extreme, but if all it takes for you to see your child is to agree and adopt the measures, surely this is a better solution than being denied contact?

“There will be instances where parents won’t be able to communicate directly, resulting in frustration and rows. If this happens, another option is to involve an online mediator to help you come to a sensible agreement together.”

The Courts have issued guidance on how to comply with court orders in relation to parental responsibilities and rights.

Denise says that this guidance states parental responsibility rests with the parents of a child, not with the Government

or the Courts. The Government advice has been for parents to communicate openly, and record any changes to pre-existing arrangements or court orders in a note, email or text message.

She said: "If you make a decision unilaterally not to comply with a court order and your child's parent takes action, the Courts will look at whether you acted reasonably and sensibly in light of the Government advice at the time, taking into account your family circumstances."

"The Courts remain open for 'urgent and necessary' civil business during lockdown. Recent guidance from the courts service has confirmed actions for contact or residence will be dealt with if they are urgent.

"Where a parent is being denied all contact, without good reason, and the longer lockdown is in place then it does seem that the courts have accepted there will be cases where they should intervene, where appropriate.

"Indeed, today we were successful in having a writ seeking a contact order warranted by the court, and a hearing date assigned. This is an excellent result for our client, and I'm sure there are many parents out there in a similar position being denied all contact during lockdown."

The Family Law Team at Gilson Gray will continue to publish news on its website <https://gilsongray.co.uk/news-insights/>

Gilson Gray's Family Law Team consists of experienced, 'Comprehensive Accredited Lawyer Mediators' (CALM) accredited mediators specialising in every aspect of separation and divorce. The firm offers all of the technology to ensure mediation is available throughout the Coronavirus lockdown.