

Hon Andrew Little

Minister of Justice

Minister for Courts

Minister for Treaty of Waitangi Negotiations

Minister Responsible for the NZSIS

Minister Responsible for the GCSB

Minister Responsible for Pike River Re-entry



Deborah Mackenzie
Co-founder
The Backbone Collective
[REDACTED]

26 March 2020

Dear Deborah

Parenting orders

Thank you for your email seeking advice about how parenting orders will operate in the Level 4 alert. As you will appreciate, the situation is changing rapidly. However, the safety of children and their families remains a priority for the government and for the judiciary.

The Principal Family Court Judge has issued guidance about parenting orders. A copy is appended to this email.

In response to your specific questions:

1. If mothers are told to isolate their children are they still required to send their children on care and contact visits with the other parent as prescribed in their parenting orders?

If a child is under an isolation requirement other than the COVID-19 Alert Level 4 requirement or is otherwise unwell the child should remain in the care of the parent they are currently with. My expectation is that that parent will fully and factually communicate the situation to the other parent. If the relationship between the parents is so fractious that it is not possible to communicate directly then a trusted third party should do so. As the Principal Family Court Judge notes in her guidance, parents need to act in the best interests of the child.

2. If mothers learn that their children (who are supposed to be in isolation) are being taken out into the community by the other parent during care and contact visits/arrangements, what should these mothers do in response? i.e. call the Police? Call the Ministry of Health?

Everybody is required to confine themselves to a single address. Short walks in the neighbourhood are permissible. If anyone acts outside these requirements the Police have enforcement responsibility to ensure compliance.

3. Will mothers be required to take applications to the Family Court to vary parenting orders in order to uphold isolation requirements recommended by the Ministry of Health, and if so will these applications be funded by the Government?

The Principal Family Court Judge has indicated the court's approach to the requirements of the COVID-19 Level 4 Alert response. Where possible, subject to Ministry of Health requirements to eliminate unnecessary travel, and to travel no further than within one's town or community, reasonable efforts should be made to fulfil parenting order requirements. There are exceptions set out in the Judge's guidelines. The Judge says she expects parents to act in accordance with the child's best interests and the wider community and national interest. It is my expectation that parents rise above their personal conflicts at this extraordinary time to do the best. In this respect the Judge says where a child is not able to share time with the other parent in accordance with the parenting order then the parent in whose care the child is for the time being should be generous in ensuring indirect contact by phone, Skype or other means with the other parent. This is not a time for either parent to seek to re-write arrangements but rather to accept that these extraordinary circumstances call for forbearance and patience.

4. How will children be protected if they are forced into isolation with the abusive parent (many children are ordered into care and contact with abusive parents by the New Zealand Family Court - (please see Backbone's report Force) or if the abusive parent refuses to return children to their protective parent using the Covid 19 pandemic as an excuse?

The Police have confirmed that incidents of family harm will be given top priority during the level 4 lockdown period. Family and sexual violence services are essential services and will remain available, even if services need to be delivered in different ways. You can find more information about family violence and sexual violence prevention on the COVID19 website at: <https://covid19.govt.nz/help-and-advice/for-everyone/family-violence-and-sexual-violence-prevention>. If anyone has immediate concerns for a child's safety they should contact Oranga Tamariki or, in an emergency, the Police.

5. If the Government decides to change the school holiday dates in any way or to close schools for a period of time, how should current parenting orders that stipulate dates for care and contact around school times or school holidays be enacted by parents?

The Government has announced that the autumn school holidays have been brought forward and will start on Monday 30 March. Parenting orders that stipulate arrangements for care during school holidays should be observed subject to Ministry of Health Covid-19 level 4 restrictions on travel and isolation described above. Children should not travel between towns and cities to fulfil parenting orders, but guidance about generous contact between children and the parent who would have had care is expected.

Thank you for writing to me.

Yours sincerely

A handwritten signature in blue ink that reads "Andrew Little". The signature is written in a cursive, flowing style.

Hon Andrew Little
Minister of Justice

cc Jan Logie MP
Parliamentary Under-Secretary to the Minister of Justice
(Domestic Violence and Sexual Violence Issues)



PRINCIPAL FAMILY COURT JUDGE OF NEW ZEALAND
TE KAIWHAKAWĀ MATUA O TE KŌTI WHĀNAU
Judge Jacquelyn Moran

24 March 2020

Statement from the Principal Family Court Judge

CHILDREN IN SHARED CARE – AND COVID-19

Clarification regarding the care arrangements of children subject to Family Court orders

In response to questions raised about the management of children from families who have shared care or contact arrangements pursuant to Family Court orders, the Principal Family Court Judge, Jacquelyn Moran, offers the following guidance:

- The overriding consideration is for parents to make decisions that are in the best interest of their children.
- The intent of Alert Level 4 is to prevent COVID-19 spreading within New Zealand. Staying at home will save lives and is key to Alert Level 4.
- Where there is a shared care arrangement and the families are in different towns or communities, the safety of the children and others in their family units should not be compromised by movement between those homes, particularly if there are more than two homes involved.
- Generally, children in the same communities can continue to go between their homes, unless:
 - the child is unwell. In this case the child should not travel between homes until they are well.
 - someone in either home is unwell.
 - someone involved (i.e. the child or people in the home they have been in or will go to) has been overseas in the last 14 days, OR has been in close contact with someone who is currently being tested for Covid-19 OR has been in close contact with someone who has the virus or is being tested.
- Parents and caregivers should discuss if shared custody arrangements would allow COVID-19 to potentially spread without them being aware and reach an agreement. This may mean the child may stay with one parent/caregiver for the initial 4 week period.
- If children are moving:
 - Children should be accompanied by an adult when moving between homes.
 - Private vehicles should be used, where possible. Public transport can be used where there are no alternatives.

- Where children cannot move between homes, the Court would expect indirect contact - such as by phone or social media messaging - to be generous.
- Parents must put aside their conflict at this time and make decisions that are in the best interests of the child and their families and the wider community. This global pandemic should not be seen as an opportunity for parents to unilaterally change established care arrangements without cause or otherwise behave in a manner inconsistent with the child's best interests or the court ordered care arrangements.
- For up to date information, families are referred to the Unite against COVID-19 website (<https://covid19.govt.nz/>)

Judge Moran emphasises that children are precious and that, more than ever, this is a time to focus on their wellbeing, and in particular their safety. It is important that their loved ones are also safe and well, and that children know that, and are able to see their parents and caregivers lead by example.

The Family Court will continue to operate through all pandemic alert levels but on a reduced capacity, dealing with priority proceedingsends

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