

NAGALRO GUIDANCE TO MEMBERS DURING THE SECOND LOCKDOWN

The imposition of the second lockdown may leave members in England uncertain about the nature and extent of the work which they can undertake during this time. These notes are intended to provide some general guidance.

The first point to make is that you must protect your own health and that of others with whom you live. These notes are, therefore, to be read subject to any specific vulnerabilities which you or a member of your household may have.

The first document to look at is the message issued by the Lord Chief Justice and Senior President of Tribunals on 1 November 2020. That tells us that ‘the work of the courts and tribunals will continue to be exempted’ from the lockdown measures. The message continues, by explaining that:

‘The legal profession, the parties, jurors, witnesses, judges, magistrates and court staff are all key workers, vital to the continued running of the courts and tribunals in this proposed period of renewed significant restrictions’

The restrictions are set out in the second document, which is The Health Protection (Coronavirus Restrictions) (England) (No. 4) Regulations 2020. Regulation 5 prohibits people from leaving their homes ‘without reasonable excuse’. Regulation 6 gives a list of circumstances which may amount to a reasonable excuse, but regulation 5(2)(a) makes it clear that ‘a reasonable excuse’ *includes* these; they are not an exclusive list. The Lord Chief Justices message, above, would also be relevant to determining whether there was a reasonable excuse.

The list of exceptions from the requirement to remain at home, includes, at regulation 6(4), where it is reasonably necessary for you to leave home for the purposes of work, where it is not reasonably possible to work from home. The exception also includes leaving home to fulfil a legal obligation, including attending court. Where ISWs have been ordered to carry out assessments and prepare reports for the court, these would seem to permit this, although the requirement to conduct your business in a COVID-safe fashion remains.

Regulation 6(12) deals with children and, as with the previous lockdown, exempts child contact arrangements. The new regulations additionally (at regulation 6(12)(b)) also exempt sibling contact arrangements where one or more of the children is either looked after by a local authority or children to whom the local authority has continuing duties under section 23A Children Act 1989.

Arrangements for prospective adopters to meet children are also exempt under regulation 6(12)(c) where the visit is ‘provided for by an adoption placement plan drawn up in accordance with the Adoption Agencies Regulations 2005’.

Subject to a list of exceptions, indoor and outdoor gatherings are prohibited for the duration of the lockdown. Here, however, the exception list is exclusive. The

exceptions are to be found in regulation 11. By regulation 11(3)(a), a gathering which is reasonably necessary for work purposes is permitted, as is (regulation 11(4)) a gathering where you are fulfilling a legal obligation or participating in legal proceedings.

To match-up with the contact exemptions to being outside your home, regulation 11(16) has exemptions relating to children. Gatherings are permitted where they are reasonably necessary for child contact arrangements and sibling contacts. There is also an exemption for children meeting with prospective adopters and members of the prospective adopters' household.

In summary:

- If you are able to carry out work remotely, you should do so;
- Where face-to-face work is required, this can still be carried out, provided you take steps to work safely by using masks, social distancing and sanitizing of surfaces and hands.

The regulations will continue up until and including Wednesday 2 December 2020.

Rodney Noon on behalf of Nagalro Council

6 November 2020