

How to Make a Parenting Contravention Application

1. Think About What You Are Trying to Achieve

- If your ex has breached the parenting Orders you have in place you should consider what your ideal outcome is. You may want to have the Orders enforced and your ex punished for their breach. If that is the case filing a Contravention Application may be the right path for you.
- Other options that you should explore and discuss with a lawyer include varying the parenting orders, engaging in mediation or filing a fresh Application in the Court. There are many options available and you need to obtain specialised family law advice on the best option for you. We can help.

2. Consider if your ex could defend your application – do they have a reasonable excuse?

Your ex may have a reasonable excuse to have breached the Order if:

- They believed they had to, to protect someone's health or safety;
- The breach continued for no longer than was necessary to protect the health and safety of a person; or
- They didn't understand that they were breaking the Order at the time.

The Family Court in Sydney recently considered a Contravention Application made by the Father alleging the Mother failed to facilitate the child's time with the Father interstate during the COVID-19 pandemic. The Mother considered she had a reasonable excuse for not facilitating the child's time with the Father as she had concerns for the child's health and safety and she and the child would have had to self-isolate for 14 days upon returning to Sydney.

While this was not the main issue of the case, the Court considered that would have been a reasonable excuse for not facilitating the child's time with the Father. You can read the full case [HERE](#).

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3. Seek legal advice

- Obtain legal advice as to your options.
- If your ex's non-compliance with the Orders is ongoing and intentional and they do not have a reasonable excuse you may have good prospects in the Court forcing compliance and punishing your ex.

4. Prepare your application

- In parenting matters you will need to file an Application and an Affidavit. Normally you will also need to have tried to mediate unless you have a reason why that was not appropriate.
- The purpose of the Affidavit is to set out the reasons why the Court should make the Orders you have listed in your Application. You will need to include evidence of the breach occurring, which could include, for example, text messages from your ex refusing to facilitate the child's time with you.
- Your ex is not required to formally respond to your Application. If your ex claims to have a reasonable excuse for breaching the Orders they may file an Affidavit setting out their evidence.

5. Attend Court

- You will be required to attend Court to prosecute your Application. Your ex will be given a chance to respond and file any evidence they want to rely on.
- When your matter is heard by a Judge they will determine based on the evidence whether a contravention has been established and if it is appropriate to vary the Orders and/or punish your ex.