

ANROWS

AUSTRALIA'S NATIONAL RESEARCH
ORGANISATION FOR WOMEN'S SAFETY
to Reduce Violence against Women & their Children



MEDIA RELEASE

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System for enforcing parenting orders is ineffective and needs to align with children's best interests, ANROWS research finds

Giving children an opportunity to participate in family law decision-making and remaining flexible and responsive to their changing needs over time are critical to ensuring parenting arrangements are in the best interests of all children.

A new study published by ANROWS, *Compliance with and enforcement of family law parenting orders: Final report*, has found that the majority of professionals and parents it surveyed consider the existing scheme for enforcing family law parenting orders to be ineffective. For example, the professionals said that the financial costs, personal costs, and the complexity of court processes mean the contravention scheme does not meet the needs of families.

The large mixed methods study, led by Australian Institute of Family Studies researchers Dr Rae Kaspiew and Dr Rachel Carson, found an inherent tension in the contravention scheme between acting in the best interests of child(ren) and upholding the authority of the court.

One element of the study was a survey of parents and carers, which found that 88 per cent of parenting orders had reportedly not been complied with, with 80 per cent of the breaches characterised as serious.

Eighty per cent of parents attributed non-compliance to vindictive, abusive or controlling behaviour, with another 16 per cent citing children's views as the primary reason for non-compliance. A mother and survey participant from one part of the study exemplified this, stating:

If a child is being abused by a parent, they should not be forced to see them by way of a court order. My child was fearful of her father's controlling behaviour and when she stood up to him, she was abused and would not return.

This research demonstrates that when parenting orders do not take children's views into account, or family violence makes them unsafe to comply with, these factors can be drivers of non-compliance.

Despite the reported seriousness of breaches, two thirds of those who indicated their parenting orders had been breached had not taken any action in response to the breach – with this response being more common among women.

Dr Kaspiew emphasised that these matters involve families with complex needs.

“In 92 per cent of matters regarding breaches of parenting orders, case files included evidence or allegations of family violence, child abuse, child protection or safety concerns. In addition, half of all matters had a current or past protection order on file with mothers being the protected party in 79 per cent of cases”, Dr Kaspiew said.

Across the study, which included an examination of court files and published and unpublished judgements, it was found that families who did pursue parenting order contraventions in the court had an average of six court processes in total. This made for an average duration of 54 months between the initial parenting orders and the end of the contravention proceedings.

“Think of the way these children have grown up with these intense conflict and litigation taking place around them, taking resources out of the family budget”, said Dr Kaspiew. “It is not surprising that two thirds of participants who indicated that parenting orders had been breached did not take any action in response.”

Several reasons were cited for the lack of formal action being taken including the impracticality of pursuing multiple breaches, the view that legal action would not be sufficient to address the breach, a lack of financial resources and a fear of retaliatory violence.

To the extent that non-compliance is being driven by children themselves, ANROWS CEO Padma Raman PSM noted that an emphasis on child-inclusive practice would allow children to express views on their own safety.

“This research demonstrates we need a shift in the response to complex families in the family law system, particularly in terms of providing trauma-informed and child-centred responses. Some of this shift should take place in improving screening and assessment in family law matters, focusing on identifying the predominant aggressor, alongside making more careful consideration of children’s needs arising from trauma and what parenting arrangements might best suit their recovery”, Ms Raman said.

For further information, contact Johanna Gleeson at ANROWS on +61 426 529 959 or email johanna.gleeson@anrows.org.au or speak to researchers Dr Rae Kaspiew and Dr Rachel Carson at the Australian Institute of Family Studies on +61 3 9214 7834 or email rae.kaspiew@aifs.gov.au or +61 3 9214 7815 or email rachel.carson@aifs.gov.au

About ANROWS

Australia’s National Research Organisation for Women’s Safety Limited ([ANROWS](https://www.anrows.org.au)) is a not-for-profit independent national research organisation. ANROWS is an initiative of *Australia’s National Plan to Reduce Violence against Women and their Children 2010–2022*. ANROWS was established by the Commonwealth and all state and territory governments of Australia to produce, disseminate and assist in applying evidence for policy and practice addressing violence against women and their children. ANROWS is the only such research organisation in Australia.

About AIFS

The Australian Institute of Family Studies (AIFS) is a Melbourne-based, independent Australian Government statutory agency established in 1980 under the *Family Law Act 1975* (Cth). With four decades of demonstrated research and evaluation expertise, AIFS is the nation's key agency undertaking research on the wellbeing of children and young people, families and communities.