

HOW DO I MAKE A PARENTING PLAN?

1 June 2020

Parenting arrangements do not have to be documented. This will usually occur if the arrangement is working smoothly. However, if the arrangement is to be documented, there are two options, either a consent order or a parenting plan. These documents are very different in kind. So, what is a parenting plan and how do you create one?

What is a parenting plan?

A parenting plan is a voluntary agreement that covers the day to day responsibilities of each parent, the practical considerations of a child's daily life, as well as how parents will agree and consult on important long-term issues about their children. It can be changed at any time as long as both parents agree.

Who can make a parenting plan?

To be a parenting plan under the Family Law Act, the plan must be made and signed by both parents of the child. However, other persons, such as grandparents or step-parents, can be included in a parenting plan.

Parenting plans and the law

A parenting plan can take any form, but to be a parenting plan under the Family Law Act it must be in writing, signed and dated by both parents. It must be made free from any threat, duress or coercion.

A parenting plan is not legally enforceable and is different from a consent order, which is made by a court. Parents who make a parenting plan can ask the court to make an order in the terms of that plan. Once made, these orders are legally binding – they have the same effect as any other parenting order made by a court.

If parents end up in court at some later date, the court must consider the terms of the most recent parenting plan when making parenting orders in relation to the child, if it is in the best interests of the child to do so. The court will also consider the extent to which both parents have complied with their obligations in relation to the child, which may include the terms of a parenting plan.

If your parenting plan does change an existing parenting order, you may not be able to enforce those parts of your old parenting order that are inconsistent with the terms of your new parenting plan.

What can be included in a parenting plan?

Your plan will be unique to your circumstances. It should be practical, simple and as concrete as possible.

A parenting plan can deal with any aspect of the care, welfare and development of a child. The kinds of things that may be covered in a plan include:

- how the parents will share parental responsibility and consult about decisions (like

which school the child will attend)

- who the child will live with
- what time the child will spend with each parent
- what time the child will spend with other people, such as grandparents
- how the child will communicate with each parent or other people (eg by phone, email or letters)
- what arrangements need to be made for special days, such as birthdays and holidays
- what process can be used to change the plan or resolve any disagreements about the plan, and
- any other issue about parental responsibility or the care, welfare and development of the child.

Can I include other things in my parenting plan?

To be a parenting plan under the Family Law Act your agreement must deal with an aspect of the care, welfare and development of a child. However, your agreement can still be a parenting plan under the Family Law Act if it includes other things (such as spousal maintenance or property) but those provisions will not be legally enforceable. There are ways to make a legally enforceable agreement about these issues, such as seeking a court order by consent.