

## Parenting Plan or Consent Orders?

When parents separate things can feel painful and confusing for children. Separation may mean that the living arrangements of the children need to change so that they can still enjoy meaningful relationships with all those important to them.

Parents are encouraged to work out parenting matters without going to Court. It is desirable to have any agreement reached between the parties recorded in writing and in a manner that is consistent with the Family Law Act.

**Parenting Plans and Consent Orders are two documents that we can draft when it comes to recording agreements reached between parents about:**

- ✓ How important decisions will be made for the children (for example, decisions about education, health and religion);
- ✓ Whom the children will live with during school terms, school holidays and on special occasions;
- ✓ Whom they will spend time with;
- ✓ How frequently and by which means the children will communicate with their parents and other family members of significance; and
- ✓ Any other important issues regarding the health and wellbeing of the children.

### Why write a Parenting Plan?

A **Parenting Plan** is a voluntary agreement. For a Parenting Plan to be valid under the Family Law Act, it must be in writing, signed and dated by both parents and, if applicable, anyone else who can make decisions for the children while providing care for the children in accordance with the plan.

A Parenting Plan is not legally enforceable, but may be provided to the Court in any future Court proceedings regarding the children's care arrangements. The benefit of a Parenting Plan is that it can be updated more easily than Consent Orders.

Before you sign a Parenting Plan, we recommend that you obtain our legal advice to assist you to consider all of the issues that you might wish to have included in your Parenting Plan. It may also be desirable to invite the other parent to attend a mediation with a qualified family law mediator to assist you to come to an agreement with the other parent.

Our Principal Solicitor, Fiona Kennedy, is a qualified Family Law Mediator and would be happy to help you negotiate with the other parent and assist you to write your Parenting Plan.

### Why apply for Consent Orders?

**Consent Orders** are Orders made by the Family Court of Australia. While they may cover similar issues to a Parenting Plan, they are legally enforceable and one parent may have grounds to make an Application to the Court if the other parent breaches the Order. Consent Orders can only be amended by further Order of the Court and only if there have been significant changes to the circumstances of the children or parents, or if there is risk to the children.

We recommend that you have your Consent Orders drafted by a qualified Family Lawyer before you sign and file your Consent Orders in the Family Court. Our experienced Family Law solicitors can assist you to reach agreement with the other parent and file Consent Orders with provisions that the Court can approve and that the parties can follow.

**When deciding whether you need a Parenting Plan or Consent Orders to formalise your Agreement, you should consider the following issues:**

- ✓ Do I need an agreement that is flexible or enforceable?
- ✓ Are there any safety issues for the children?
- ✓ Is there conflict between the parents?
- ✓ Can we communicate effectively when it comes to issues relating to the children?
- ✓ Am I confident that the other parent will follow the agreement?
- ✓ Would it be in the best interests of the children for the arrangements to change as they grow older?

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