



Parenting Plan or Consent Order – what’s best for me?

Date: Friday September 15, 2023

After separation, one of the key tasks to attend to is parenting arrangements where there are children of the relationship. It may be that you and your former partner have reached an agreement in relation to parenting arrangements for your children after separation. If that’s the case, congratulations. The next step is to decide how your agreement should be documented and formalised. In this article, we look at the two ways to formalise a parenting agreement; parenting plans and parenting consent orders.

If you have not yet reached an agreement with your former partner, you should read our earlier article, [“6 steps to manage negotiating parenting arrangements with your ex”](#) for some helpful tips and practical advice on how to navigate this process smoothly.

What is a parenting plan?

A parenting plan is an informal written agreement usually made between parents. The parenting plan can cover a range of issues, including:

- the time that children are to spend with each parent (including arrangements for school holidays and special occasions);
- how the parents are to communicate with the children and each other;
- arrangements for interstate and overseas travel; and

- each parent's obligations with respect to the children's education and medical care etc.

Once agreed, the parenting plan should be signed and dated.

Notably, a parenting plan is not formalised by the Court and is not legally binding, meaning there is no penalty for breaching the parenting plan.

If, however, things between you and your former partner become less amicable and parenting proceedings are issued in Court, the parenting plan can be used as evidence in these proceedings.

If you and your former partner need help drafting a parenting plan, there are several government-funded Family Relationships Centres around Australia who will be able to assist with this. Alternatively, a family lawyer can assist. Either way, it is always a good idea to seek legal advice before signing off on any parenting plan.

[Get help from an experienced family lawyer: 03 9006 8907](tel:0390068907)

Is a parenting plan a good choice for me?

A parenting plan offers flexibility and can be updated with the consent of both parents, however, it's not necessarily the best choice for everyone. A parenting plan may be a good choice for you if:

- you have an amicable relationship with your former partner;
- the children are young, and you anticipate that you will need to update the parenting arrangements as the children grow;
- you have recently separated and wish to trial arrangements for the children to see how the children manage a change in their routines;
- you know that work schedules (yours or your former partners) may change in the near future or frequently and that childcare arrangements may need to be renegotiated.

Be cautious about entering into interim arrangements, like a parenting plan, for the children that you do not feel are appropriate or in the best interests of the children. While parenting plans can be changed, interim arrangements set a status quo which can be difficult to change in the future if your former partner does not agree to your proposed change.

If you're unsure about the proposed agreement, get advice from a family lawyer.

What are parenting consent orders?

A consent order is a formal agreement that is signed by the parties and approved by the Court.

A parenting consent order can cover the same issues as a parenting plan, however, once approved by the Court, the agreement will become legally binding. The Court can impose penalties if you or your former partner breach parenting orders.

How do I apply for parenting consent orders?

If an agreement has been reached about all parenting issues, obtaining consent orders is usually a straightforward process. The following three documents will need to be prepared and filed with the Court:

1. Application for consent orders

The application for consent orders sets out the personal information relevant to your case and the proposed arrangements for the children. This includes living arrangements, supervision (for example, who will look after the children if you or your former partner are at work), financial support and any medical needs.

This information will assist the Court when determining whether to approve the agreement reached. An example of this form can be found on the [Family Law Court's website here](#).

2. The consent order terms agreed to

The consent order sets out the terms of the agreement and how it will be carried out. The orders drafted (usually by your family lawyer) are tailored to the parenting agreement reached between you and your former partner.

3. Notice of child abuse, family violence or risk

The notice of child abuse, family violence or risk is a document that sets out any risk concerns that you have for the children.

Under the *Family Law Act 1975* (Cth), the Court has a mandatory obligation to report certain information to child welfare authorities which includes:

- allegations of child abuse or a risk of child abuse; and
- allegations of family violence or a risk of [family violence](#) that amounts to abuse of a child.

This form is a way to ensure that, where appropriate, allegations of child abuse are reported to child welfare authorities and that families and their children receive appropriate and targeted early intervention and assistance.

Can I change parenting orders?

Having consistency and stability in children's lives is important for their general development and well-being. For this reason, once consent orders are approved by the Court, it is the intention that these arrangements will be in place longer term.

The Court will only consider a change to parenting orders if you and your partner agree or if the Court has considered that there has been a 'significant change of circumstances' since the making of the orders and found that it is in the child's best interest to reconsider the final orders.

Is a consent order a good choice for me?

Parenting consent orders offer certainty and recourse should your former partner breach the terms of the agreement.

A consent order may be a good choice for you if:

- you are happy with the current parenting arrangements, and you do not anticipate any change to the arrangements;
- there is a risk that your former partner may seek to change the arrangements in the future, whereas you want certainty;
- the parenting arrangements have been in place for some time and are working well.

How a family lawyer can help

We appreciate that every case is different and that you may wish to speak to a lawyer to understand the process further when determining whether a parenting plan or a parenting consent order is the best choice for you. At Emera Family Law, we offer an initial free consultation, so it costs you nothing to find out where you stand.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.