

# Is a Parenting Plan legally binding?

## What is a parenting plan?

A parenting plan is used in **Family Law parenting matters** and is an agreement between the parents, grandparents or other persons concerned with the care, welfare or development of a child, that has been recorded in writing and signed by the parties.

Typically, a parenting plan will set out parenting arrangements in relation to issues such as parental responsibility (the term for ‘custody’), what time the child will spend with each parent, special occasions, and other matters relevant to the care of the child.

Parenting plans also commonly cover other specific issues that are important; for example, medical care, school arrangements, extra-curricular activities, travel arrangements or religious issues.

Parenting plans should always be child focussed and in the best interests of the children.

# Are parenting plans legally binding?

No. A parenting plan is not legally binding in the sense that it is not a legally enforceable agreement. For example, if Parent A breaches a parenting plan by failing to stick to what was agreed, Parent B cannot ask a court to impose a penalty on Parent A for that breach or to enforce the agreement.

Parenting plans are recognised under the Family Law Act however and may be used as evidence in court of the agreement between the parties at a particular point in time. Separated parents are encouraged under the law to reach agreement about the arrangements for their children and use court as a last resort. They are encouraged to record that agreement as a parenting plan or if they seek an enforceable agreement, a Consent Order.

In some cases, parenting plans are not recommended because they are not legally enforceable. This may be in the case where one of the parties is not likely to abide by the agreement unless it is legally enforceable.

# How can I make parenting arrangements that are legally binding?

When a court makes an order about children it is called a parenting order. Like other court orders, parenting orders are legally binding and enforceable on the parties involved.

If both parents agree to parenting orders being made, an application can be made to the court for parenting orders to be made by agreement. These are known as ‘consent orders’.

A current agreement which has been drawn up as a parenting plan may be used as the basis of an application for consent orders. It is important to note that a parenting plan is often less formal and less detailed than a consent order and may not deal with a number of matters which your lawyer may recommend be included in the consent order. Parenting plans are more flexible and can be regularly updated, unlike a consent order which is intended to be final.

However, parents do not need to have a parenting plan to make an application for consent orders; simply an agreement about the terms of the orders is sufficient.

It is important to remember that parenting arrangements in a parenting plan or in consent orders must always be in the best interests of the child.

# How can Andersons help?

For more information about your rights and entitlements along with the rights and entitlements of any of your children during your Family Law issue, please contact **Andersons Family Law team,** or call us on 8238 6666.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.