



## Parenting Plans vs Parenting Consent Orders

**Date: Monday January 25, 2021**

We are often asked what the difference is between a parenting plan and parenting consent orders. This blog will provide an overview of parenting consent orders and parenting plans and how each option may affect parties.

### What is a Parenting Plan?

A parenting plan is a less formal way of you and your former partner agreeing, in writing, about arrangements for your child/ren. There is no set form and the document doesn't get filed in Court.

It can range from being short and simple to extremely detailed, so long as it is clear. Importantly, it must deal with matters relating to the care, welfare and development of a child, such as:

- who the child will live with;
- the time a child spends and communicates with the other parent;
- how parents are to make decisions on major long-term issues relating to the child; and
- considerations for the child's day to day life.

A parenting plan is a written document that you can use to rely on instead of a verbal agreement and without the need to go to Court. Parenting plans are flexible and can be changed any time upon written agreement by both parties.

For a parenting plan to be valid it must be;

- in writing;
- dated; and

- signed by each parent.

## Limitations of Parenting Plan

The limitation of a parenting plan is that it is not a legally binding document, unlike a parenting consent order. Therefore, if you break a parenting plan you are not breaking the law and accordingly, you cannot be forced by the courts to abide by the plan unless it is made into an Order.

## Benefits of a Parenting Plan

If the other party fails to comply with a parenting plan and court proceedings are later initiated, the court must consider the terms of the parenting plan to determine the previous intentions of the parties.

For example, if one parent unilaterally withholds a child, that parent will have to provide evidence to the court justifying that withholding. This could be done, for example, by demonstrating substantial changes in the other parent's ability to care for the child after the parenting plan was made.

A parenting plan is significantly cheaper and more cost effective than consent orders.

However, the court is not bound to the terms of the parenting plan and may make significantly different orders in accordance with what the court considers to be in the best interests of the child.

A parenting plan is significantly cheaper and more cost-effective than consent orders.

Going through the court system can be stressful for all parties, including the children. If parents wish to avoid the court system but still want to maintain control over their parenting arrangements, a parenting plan may be a worthwhile option to consider. This can work particularly well if both parents are amicable and able to freely communicate about issues pertaining to the child.

## What are parenting consent orders?

A parenting consent order is a written agreement which must be approved by the court. Anyone who is concerned about the care, welfare and development of a child, can apply for parenting orders.

Parents who have not commenced court proceedings with respect to their children can obtain parenting consent orders by filing an Application for Consent Orders with the court. The proposed orders will be considered by the court and will be made if it is deemed to be in the best interests of the child. The filing fees for your Application for Consent Orders at the time of writing is \$170.

Parents who have current court proceedings for childrens' matters will not need to file an Application for Consent Orders.

# Breaching consent orders

Unlike parenting plans, consent orders are more formal in their drafting and are legally enforceable as they have previously been considered by the court. Therefore, if you do not follow the orders you may be penalised by the court.

Consent orders obligate you to do everything the order says and you must take positive action and reasonable steps to put the order into effect. You can read more about your obligations to consent orders in our article [“My child does not want to spend time with my ex. Can I force them to?”](#)

# Benefits of consent orders

Although consent orders can be costly (from \$2,000 to \$5,000 depending on the complexity of the matter and the amount of negotiation required with the other party or lawyer), they do provide certainty and security.

Consent orders provide certainty and security.

It is worthwhile considering entering into consent orders if you believe the other parent may be likely to break any informal agreement and you wish to have some enforceability.

They can also be more beneficial if the relationship with your former partner is not amicable or you are unable to communicate reasonably.

# How long does a consent order last?

[Section 65C of the Family Law Act 1975 \(Cth\)](#) states all parenting court orders cease when the child turns 18 years of age, marries or enters into a de facto relationship.

Once parenting orders are made by the court they cannot be changed unless both parties agree to the change. Without reaching an agreement, the courts are only able to vary parenting orders if it is satisfied there is a significant change in circumstances.

# Which is right for me?

The answer to this is not a “one size fits all”.

Every family is different and so is the relationship between both parents. Therefore, it is important to consider all your individual circumstances when deciding which is right for you.

Since consent orders require an Application to be filed with the court as well as formal drafting of the orders in the appropriate form, lawyers are usually involved. Not having lawyers involved in the process may cost you more down the track if you find that your parenting orders are not sufficiently appropriate.

It is important to note that even though a parenting plan is not a court order, a parenting plan that is signed after a consent order is made may override the consent order. Accordingly, if the parenting plan is different to the consent order, you cannot rely on the consent order or allege that a consent order has been breached by the other parent.

## Hall Payne no longer provides services in family law

If you require assistance with your family law matter, we recommend you contact the relevant Law Society in your State or Territory for a referral:

- **Queensland:** [1300 367 757](tel:1300367757)
- **NSW:** [02 9926 0333](tel:0299260333)
- **Victoria:** [03 9607 9311](tel:0396079311)
- **Tasmania:** [03 6234 4133](tel:0362344133)
- **South Australia:** [08 8229 0200](tel:0882290200)
- **Western Australia:** [08 9324 8600](tel:0893248600)
- **Northern Territory:** [08 8981 5104](tel:0889815104)
- **ACT:** [02 6274 0300](tel:0262740300)

---

*This article relates to Australian law; either at a State or Federal level. The information contained on this site is for general guidance only. No person should act or refrain from acting on the basis of such information. Appropriate professional advice should be sought based upon your particular circumstances. For further information, please do not hesitate to contact Hall Payne Lawyers.*