



Parenting plans vs parenting orders

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There are several key differences between a parenting plan and parenting orders which may determine the more appropriate option for your circumstances. Generally speaking, parenting plans are entered into in a less formal way, and are cheaper than parenting orders. They are not, however, legally enforceable.

This blog explores the differences between parenting plans and parenting orders, as well as the advantages and disadvantages of each.

Types of parenting arrangements

What is a parenting plan?

Parenting plans are agreements that are made between parents that relate to the care of their children. They generally have the following features:

- They are written, signed and dated by both parties; however, they do not have to subscribe to any specified format.
- They help provide clarity in relation to parents' rights and obligations relating to their children after separation has occurred.
- They are not formally approved by the [Federal Circuit and Family Court of Australia](#) ("the Court") and as a result, will not be legally binding.

Parenting plans may be developed independently between parents or upon successful completion of Family Dispute Resolution ('FDR').

Whilst parenting plans are not binding, they may be produced during the course of further negotiations and/or Court proceedings. They may be relied upon as evidence as to the intention of the parties at the time they entered into the parenting plan.

What are parenting orders?

Parenting orders are orders made by the Court either as a result of consent between both parties or by a decision of Court Judicial Officer. The Court will be able to make parenting orders whether or not parents agree to care arrangements for their children.

The Court is able to make parenting orders in the following ways:

- **Consent orders** - Consent orders are orders that are agreed upon between parents before being filed with and approved by the Court. After being approved, they are treated the same way as any other orders of the Court.
- **Parenting orders** - If parents do not agree to an appropriate post-separation parenting arrangement for the care of children, they may still apply to the Court to hear their matter and make parenting orders that the Court considers to be in the best interests of the children.

Advantages of parenting plans

- **Cost** - It is cheaper to enter into a parenting plan than to have parenting orders made by the Court.
- **Time** - It is also generally quicker to enter into a parenting plan than to have parenting orders made.
- **Legal representation often isn't necessary** – Because parenting plans are made outside of court, you may be able to enter into them without the need for legal representation. This may be the case whether you enter a parenting plan independently, or with the assistance of FDR.

Disadvantages of parenting plans

Parenting plans may be inappropriate where parents are not confident that the plan will be respected by both parents (remember, they are not legally binding). They may be more appropriate in circumstances where your relationship with the other parent has remained amicable since separation.

Advantages of parenting orders

- **Enforceability** - Because parenting orders are made by the Court, a party may make an application to have the Court [enforce the parenting order](#) where the other party has not abided by one of the orders.
- **They do not require consent** – If you are unable to agree to care arrangements with the other parent for your children, an application to the Court may be the only way in which a binding determination as to your rights and obligations relating to your children can be made.

Disadvantages of parenting orders

- Because parenting orders are only able to be changed in limited circumstances, they may be inflexible in circumstances where your children's needs change suddenly or without warning.

- The cost of having parenting orders made can sometimes be significant.
- There may be a long period between an application to the Court for parenting orders and final orders being made.

How a family lawyer can help

Smith Family Law is able to assist you in determining and preparing the parenting agreement that is most appropriate for your circumstances.

Contacting Smith Family Law

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