

Untying the Knot



PARENTING PLANS

What is a parenting plan?

A parenting plan is a voluntary agreement setting out parenting arrangements for your children. It can be changed if you both agree. To be a parenting plan under the Family Law Act, it must be in writing, signed and dated. It must also be made voluntary and free from duress, threat or coercion.

Who can make a parenting plan?

Under the Family Law Act 1975, a parenting plan must be made and signed by both parents of the child. However, other significant people taking on a parenting-type role can be included.

Is a parenting plan legally binding?

A parenting plan is not legally enforceable and is different from a parenting order, which is made by a court. However, you can choose to make your parenting plan into a consent order which is then legally binding and enforceable.

If one of you chooses to go to court later, the court must consider your most recent parenting plan and whether or not you have been following it. If you have a court order after 1 July 2006, you can agree to a variation of those orders by using a parenting plan.

If you want to rely on a parenting plan, as a legal document, you should get legal advice.

What do we put in our parenting plan?

The best parenting plans are those which are clear so that both parents can understand them and work from them. It is important that you regard the best interest of your children as the paramount consideration when making a parenting plan.

There are many things you might want to include and you should consider:

- The time your children will spend with each parent
- How parental responsibility (decision making) will be allocated and if shared, how you will consult with each other about decisions
- Your children communicating with you when they are with the other parent. This may include letters, telephone, email and other electronic means
- How your children will move between households
- How school holidays will be shared
- How you will resolve any future disagreements
- The process you will use to take into account changing needs or circumstances of the child or parties to the plan

How do we know what arrangements will be best for our children?

Best interests of the child

Your children and their needs come first, including ensuring their safety. In considering what parenting arrangements are in the best interests of a child, you should consider the following factors (which must also be considered by the Court if you cannot reach agreement):

- a) what arrangements would promote the safety (including safety from family violence, abuse, neglect, or other harm) of the child; and each person who has care of the child (whether or not a person has parental responsibility for the child)
- b) any views expressed by the child

the developmental, psychological, emotional and cultural needs of the child

- c) the capacity of each person who has or is proposed to have parental responsibility for the child to provide for the child's developmental, psychological, emotional and cultural needs
- d) the benefit to the child of being able to have a relationship with the child's parents, and other people who are significant to the child, where it is safe to do so
- e) anything else that is relevant to the particular circumstances of the child.

Family Violence

Family violence (current or past), abuse and neglect are important matters that are also relevant to determine parenting arrangements.

Aboriginal or Torres Strait Islander children

The Court is also required to consider the right of Aboriginal or Torres Strait Islander children:

- a) to enjoy their culture by having the support, opportunity and encouragement necessary:
 - (i) to connect with, and maintain their connection with, members of their family and with their community, culture, country and language; and
 - (ii) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and
 - (iii) to develop a positive appreciation of that culture; and
- b) the likely impact any proposed parenting order under this Part will have on that right.

Parental Responsibility

Parental responsibility can be joint or separate, unless a Court orders otherwise. There is no longer a resumption of equal shared parental responsibility.

Difficulties complying with a parenting plan?

If you have problems with your parenting plan and can't reach agreement, there are counselling and dispute resolution services which can assist you. You could return to mediation with Untying the Knot.

Or you could contact the Family Relationship Advice Line on 1800 050 321 for information and advice, including referrals to services in your local area that can help, such as a Family Relationship Centre.

Need help to develop a parenting plan?

You can work with Untying the Knot to develop a parenting plan.

A range of other services are available to help parents reach an agreement about their children, such as counselling and dispute resolution. These services are offered by a range of organisations including Family Relationship Centres.