

Parenting Plan

Vs Consent Orders?



Family Law Parenting Plan vs Consent Orders Guide



After a family law agreement is reached between parents for arrangements for children, the next decision is what type of formality the parents wish to give that agreement.



Parenting Plan Vs Consent Orders?

The different options for agreements for children in most cases are:-

- 1. Court Orders; or**
- 2. A Parenting Plan.**

Both options can have advantages and disadvantages depending on the circumstances of the family.

Court Consent Orders

Court Consent Orders are Court Orders that the Court makes formally binding at the request of the parents. The Court will only make the Orders if satisfied the Orders are in the best interests of the children.

The parents (or in most cases their family lawyer) draft their agreement into Court Consent Orders which are then granted and sealed by the Family Law Court or Federal Circuit Court.

Once made, Court Orders are then binding upon the parties. This means that if the Orders are breached, the party who has breached the Orders can risk a sanction or punishment being imposed by the Court for the breach, unless they have a reasonable excuse for the breach.

Court Orders being binding on parties may be an advantage in some circumstances where there have been previous difficulties with one or both parents not doing what they have agreed.

Court Orders last until the children turn 18 years old, until any future Court Order overrules them, or in some Court Orders there can be specific time frames for the Orders to be reviewed.

The case of Rice v. Asplund stated that Family Law Courts should not allow Court Orders to be changed by parties unless there is a significant change in the circumstances, and it is in the best interests of the children.

Because of the binding nature of Court Orders, and the difficulties which may occur in changing them, it is important to seek advice from a family lawyer before making Court Orders.

In some cases where flexibility is desired a Parenting Plan may be preferable.

Parenting Plan

A Parenting Plan is an agreement that is written out and signed by the parents. The Parenting Plan will usually include detailed terms of the agreement, but it is not a binding document for Family Law Court purposes.

Not binding means that parents can not apply to the Court for sanction or punishment against another parent who has not complied with the Parenting Plan.

If problems develop and it becomes necessary for the parents to go before a Family Law Court then any prior Parenting Plan would be considered and can be shown to the Court, but it is not a binding document.

A good Parenting Plan usually contains the same terms and amount of detail as Court Consent Orders.

Because a Court may in the future look at a Parenting Plan as being a prior agreement by the parents, it is also important to have the advice of a family lawyer when drawing up a Parenting Plan.

The benefit of a Parenting Plan can be that the parties can alter the agreement without need to return to a Court.

However, in some circumstances there is a real need for an agreement to be binding on the parents to ensure they will comply with the terms of the agreement, and in that case Court Consent Orders would be needed.

This article is only intended to be a very basic description of the advantages and disadvantages of family law Court Consent Orders Vs Parenting Plans and is not intended to be relied upon in the absence of legal advice.

It is very important for legal advice to be specifically given for each different family circumstance.

Please do not hesitate to contact one of our family lawyers on 13 58 28 to discuss your matter at an initial free consultation.

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Each situation in family law work is usually different to every other to some degree. Most families are different to each other and children are individuals, and therefore this brief overview is intended only as a basic introduction and not to be relied on in place of legal advice.

The Family Law Act, previous family law cases, and other associated practice directions of the Court contain procedural rules and legal principles that are quite complicated and for this reason it is recommended that the advice of a lawyer is obtained prior to taking your matter to Court.

