Family Law

Plain English Guide to Parenting Plans

The law encourages separating parents to reach agreement about matters concerning their children. Parents are encouraged to; take responsibility for their parenting arrangements and for resolving parental conflict; to use the legal system as a last resort rather than first resort; to minimise the possibility present and future conflict by using or reaching agreement; and to regard the best interests of the child as the paramount consideration.

To assist parents to reach an informal agreement concerning their children, the Family Law Act makes provision for parenting plans.

What is a parenting plan?

A parenting plan is an agreement between the parents of a child in writing that is signed and dated by the parents. The agreement may deal with a variety of matters including:

- Who a child is to live with;
- What time a child is to spend with another person or couple;
- Who is to have parental responsibility for a child;
- If two or more people share parental responsibility for a child, how they are to consult with each other;
- The communication a child is to have with another person or other people;
- The maintenance of a child;
- How disputes about the terms of operation of the parenting plan are to be resolved;
- How a parenting plan is to be changed to take account of the changing needs or circumstances of a child or the child's parents; and
- Any aspect of the care, welfare or development of a child or any other aspect of parental responsibility of a child.

How do I find out about parenting plans?

The Family law Act places certain obligations on advisors, including lawyers, who are advising or assisting their clients in relation to parental responsibility for a child following a breakdown of the relationship between the parents of the child. They must inform their client's that they could consider entering into a parenting plan in relation to the child and inform their client's about where they can get further assistance to develop a parenting plan and the content of the plan.

What do I need to think about if I want a parenting plan?

The Family Law Act sets out what information advisors must give parents who are seeking advice about a parenting plan.

That information is as follows:

- Decisions made in developing parenting plans should be made in the best interests of the child.

- If it is reasonably practicable and in the best interests of the child to spend equal time with each parent, parents could consider an arrangement of this kind.
- If it is not reasonably practicable or not in the best interests of the child to spend equal time with each parent, they could consider the option of an arrangement which involves the child spending substantial and significant time with each parent, provided that this is reasonably practicable and in the best interest of the child.
- If there is a parenting order in force in relation to a child, the order may include a provision that the order is subject to a parenting plan.
- If parents are to share parental responsibility for a child under a parenting plan, then it is desirable to include in the plan provisions as to how they are to consult with one another about decisions to be made.
- It is desirable to include in a parenting plan a process for resolving disputes about the terms or operation of the plan.
- It is desirable to include in a parenting plan a process to be used for changing the plan a process to be used for changing the plan to take account of the changing needs or circumstances of the child or the child's parents.
- Programs are available to help people who experience difficulties in complying with a parenting plan.
- Section 65DAB of the Family Law Act requires a court to have regard to the terms of the most recent parenting plan in relation in relation to the child if it is in the best interests of the child to do so.

What is the effect of a parenting plan?

A parenting plan is an informal Agreement. It is not binding nor is it enforceable. This means that if one party reneges on the agreement, a court cannot intervene to enforce the agreement. However, if an application is made to a court for orders in relation to a child, the court is required to have regard to the terms of the most recent parenting plan that has been entered into between the child's parents if doing so would be in the best interests of the child. A parenting order may be varied by a subsequent parenting plan between the child's parents.

How can Mills Oakley help you?

At Mills Oakley we have a number of family lawyers and Accredited Specialists in Family Law who practise exclusively in the area of family law. We have particular expertise in dealing with a wide array of parenting arrangements, and also have other specialist lawyers in the firm who are able to contribute their capabilities in areas such as commercial, taxation and property law where such issues need to be considered.

We aim to provide the service that is right for you, whether that be simply advising you as to your rights and obligations, assisting you in negotiating a resolution of issues in dispute or representing you in contested proceedings in the Family Court.

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