



# PARENTING PLANS

## What is a parenting plan?

A parenting plan is an agreement between co-holders of parental responsibilities and rights about the exercise of their parental rights and duties.

## Who can make parenting plans?

Parenting plans will most often be made between parents of a child who do not live together, particularly if they were never married. Parenting plans might be used by parents who have divorced, if the divorce order did not include sufficient detail on all of the child-rearing issues which concern them. Parenting plans might also be made between a parent and a foster parent who has acquired some parental rights by virtue of the court order for foster care.



**Can a parent make a parenting plan with a friend or family member who is looking after the parent's child?** No. A parenting plan can be used only between people who have parental rights and duties. But a parent can make a kinship care agreement with a friend or family member. This is covered in a different chapter of the Act.

## What does a parenting plan contain?

A parenting plan might include agreements on:

- ① where and with whom the child lives
- ① the payment of maintenance
- ① contact with the child by the parent who does not live with the child, or by other persons such as members of the parents' extended family
- ① the schooling and religious upbringing of the child.

These are just some examples. Parenting plans can also cover other parenting issues.

Parenting plans are optional and voluntary.

## Why are parenting plans useful?

Parenting plans are intended to help parents co-operate in raising their children. Parenting plans can help families make decisions before problems occur, to reduce the potential for conflict and protect the best interests of the child. They can also help prevent disputes because they serve as a written record of what has been agreed.

For example, perhaps parents who have never been married are disagreeing about the father's access to the child. They could make an agreement saying that he will visit the child every other weekend, and that the child will spend one Christmas holiday with the mother's family and the next one with the father's family.



## Making a parenting plan

Parenting plans can be made independently or with help from a lawyer, a social worker, a traditional leader or someone with experience in mediation.

The viewpoint of the child should be considered when the plan is being made, according to the child's age, maturity and development. The plan must be signed in the presence of two witnesses.

## Finalising a parenting plan

There are three different avenues for concluding parenting plans:

- (1) Parenting plans can be **kept private** within the family.
- (2) Parenting plans can be **registered at the children's court**.
- (3) Parenting plans can be **made into a court order**. Before a parenting plan is made into a court order, the court must attempt to contact all of the important people in the child's life, such as the parents of the child, the care-giver, and anyone else the court or a social worker has identified as having an important role in the child's life.

These different approaches give the parenting plan different degrees of weight and permanence.

## Enforcing a parenting plan

What can the parties do if the parenting plan is not being followed?

- (1) If the plan *has not* been registered with the court or made into a court order, the parties can negotiate between themselves or ask a social worker or another person trained in mediation for help.
- (2) If the parenting plan *has* been registered with the court or made into a court order, the parties can apply to the court for assistance with enforcement if the plan is not being followed. The court will focus on the best interests of the child in resolving the dispute. The court may try to get the parties to resolve the dispute through mediation first, or it may order a social worker or some other professional to investigate the child's circumstances.
- (3) If a parenting plan contains an agreement about the payment of maintenance *and* it is registered at the court or made into a court order, the agreement on maintenance has the same weight as a maintenance order. This means it can be enforced in the same way as a maintenance order.

## Changing or cancelling a parenting plan

- (1) Parties to a parenting plan that *is not* registered with the court or made into a court order can agree to change or cancel the plan at any time. They can approach the children's court to decide what is in the child's best interests if they cannot agree.
- (2) Parties to a parenting plan that *is registered* with the court can agree to change or cancel the plan on their own, but they must notify the court about this within seven days. They can approach the children's court to decide what is in the child's best interests if they cannot agree.
- (3) Parties to a parenting plan that *is made into a court order* must apply to the court in order to change or cancel the agreement. The child or someone acting in the best interests of the child can also apply to the court for the parenting plan to be changed or cancelled.

