

# Parenting Agreements



# INTRODUCTION

## WHAT IS A PARENTING AGREEMENT?

A parenting agreement is where separated parents or guardians set out their own arrangements for looking after the children.

Parenting agreements usually deal with one or more of the following –

- **arrangements for day-to-day care** – the parents or guardians might agree, for example, that they will share day-to-day care of the children equally, or that one of them will have day-to-day care most or all of the time
- **arrangements for contact** – if only one parent or guardian is to have day-to-day care of the children, an agreement can record the arrangements for the children to spend time with the other person, including on special days such as birthdays and Christmas
- **other parenting issues** – an agreement might address issues to do with the children's care, development and upbringing, such as school, religion, education and travel



## THE BEST OPTION – PARENTS MAKING THEIR OWN ARRANGEMENTS

The Care of Children Act 2004 encourages parents and guardians to agree on their own arrangements for the care of their children. Generally it's the best option for everyone – especially the **children**.

When an agreement isn't working the Act also encourages parents and guardians to sort out their differences themselves. The Family Court arranges free **counselling** if necessary, to help them come to a new agreement. Only as a last resort will the Court get involved and settle the disagreement by making a **parenting order**.

## PARENTING AGREEMENT MAY BE THE BASIS FOR A COURT ORDER

A parenting agreement **cannot** be enforced in the same way that a Court order or a commercial contract can. However, parents and guardians can apply to the Family Court to have a parenting agreement made into a Court order. The terms of the agreement can then be enforced like any other Court order.

## MAKING A PARENTING AGREEMENT

Parents or guardians can make a **parenting agreement** simply by writing down the arrangements they've agreed to about how each will contribute to the care of the children, and what they have agreed about other important matters concerning the children. The agreement doesn't have to cover every possible situation, but it should at least cover day-to-day care.

One type of parenting agreement is a **parenting plan**. A **Parenting Plan** booklet is available free from your nearest Family Court or on the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)). You can use this booklet as a guide to help you sort out arrangements for your children.

It may be helpful to talk to a family lawyer about a parenting agreement as they will have a good idea of the kind of things it might be sensible to include. Also, they can help in writing it all down in a clear way.

### AGREEMENTS REACHED THROUGH COUNSELLING

If parents or guardians are having a difficult time agreeing on some things, they can ask the Family Court to help by arranging free **counselling** for them. A trained counsellor will help them work through the issues and try to reach agreement on them.

Parents and guardians are free to arrange their own counselling if they want to, but will have to pay for this themselves.



# MAKING PARENTING AGREEMENTS WORK

## WHAT IF A PARENTING AGREEMENT ISN'T WORKING?

If there's a dispute about a parenting agreement, either person can ask the Family Court to help by arranging free counselling, in the same way that they might have used counselling to reach agreement in the first place. The aim of the counselling would be to help get the agreement back on track, perhaps with a few agreed changes.

If counselling doesn't work, then either parent or guardian can apply to the Family Court for a **parenting order**. For more information, see the pamphlet **Parenting Orders**.

If the Court is asked to make a parenting order after an agreement has broken down, the first and most important issue it will take into account is the welfare and best interests of the child. It can be expected that the Court will carefully consider what was in the parenting agreement.

## WHAT HAPPENS IF SOMEONE BREACHES THE PARENTING ORDER?

The Court has a range of options available to it. It can refer the parties to counselling to help them work out the problems or issues themselves, for example, or require one party to pay money to the Court as a bond, which they could then lose if they continue to disobey the order. The Court can also change (vary) or cancel (discharge) the order. As a last resort, the Court can issue a warrant if necessary to enforce a person's right to have the day-to-day care of, or contact with the child.

## CAN I ENFORCE A PARENTING AGREEMENT IN THE COURT?

No. Parenting agreements do not give legal rights that can be enforced in the Courts. In this way they are different from commercial contracts and other agreements about property and money.

# AGREEMENTS IN REPRODUCTIVE TECHNOLOGY CASES

## AGREEMENTS FOR CONTACT BETWEEN DONORS AND CHILDREN – CAN THEY BE ENFORCED?

When children are conceived using Assisted Human Reproduction (AHR) technology, agreements are sometimes made about whether the person who gave the semen or egg – the donor – will have contact with the child, or any say in the child's upbringing.

These agreements **cannot** be enforced legally. But one of the parents or the donor can apply to the Family Court for it to make an order based on the agreement, and that order can then be enforced.

The Court won't make the order unless **every** parent and donor who made the agreement agrees that it should do so.

## WHAT HAPPENS IF SOMEONE BREACHES THE COURT ORDER ?

A Court order giving a donor a right to contact with a child can be enforced as if it were a parenting order.

The Court has a range of options available to it. It can refer the parent and the donor to counselling to help them work out the problems or issues themselves, for example, or require one of the parties to pay money to the Court as a bond, which they could then lose if they continue to disobey the order. It can also change (vary) or cancel (discharge) the order. As a last resort, the Court can issue a warrant to make sure the donor's contact with the child happens.

If other parenting issues have been agreed on and put in an order, the Court can also make directions on any of those that are in dispute.

## NEED MORE INFORMATION OR ADVICE?

For more information or advice about parenting agreements and parenting orders, look on the Family Court website ([www.justice.govt.nz/family](http://www.justice.govt.nz/family)), or contact a family lawyer ([www.familylaw.org.nz](http://www.familylaw.org.nz)), a community law centre, or the nearest Family Court office.

## LEGAL AID

Anyone who needs a lawyer but can't afford one may be able to get **legal aid**. This is where the Government pays some or all of the lawyer's bills (sometimes you may have to pay some or all of it back).

You can get information on legal aid by –

- contacting the local Legal Services Agency office (see the blue Government pages at the front of the phonebook)
- visiting the Legal Services Agency website at [www.lsa.govt.nz](http://www.lsa.govt.nz), or
- seeing a lawyer and discussing legal aid with them.

Legal aid is available for all Family Court cases, except dissolution of marriage (divorce).





MINISTRY OF  
**JUSTICE**  
*Tāhū o te Ture*

[www.justice.govt.nz/family](http://www.justice.govt.nz/family)