



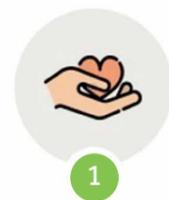
# Mediators For Families



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## Family Dispute Resolution

### Our 4 Step Process



#### Let's Chat

Call Us for a Free initial consultation on 1300 LETS CHAT

1



#### Intake & Assessment

Complete a 1 hour formal consultation with a registered Family Mediator

2



#### Joint Mediation

Based on our resolution plan we proceed to mediation with both parties

3



#### Draft Agreement

If successful, we will draft agreements for you or your lawyer

4

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# Welcome

Thank you for choosing Mediators for Families™ to assist you with your family matters. We understand that divorce and separation are a difficult and confusing period in a person's life and we aim to relieve some of this burden by providing you with some information about the process and by delivering a service that is prompt, cost effective and professional. Our practitioners will support and assist you towards reaching an agreement about both financial and parenting matters.

All information provided in this booklet is provided as information disclosure under the regulations and is not legal advice.

## Overview of FDR

Family Dispute Resolution (FDR) is a process in which parties in conflict are supported to communicate with one another about what is important for them and how to make decisions relevant to resolving their dispute.

The FDR process is mandatory, meaning that people wishing to resolve their disputes must attend FDR and make a genuine effort to resolve those issues before they can enter the court system. There are exemptions which include family violence, child abuse and when matters are of extreme urgency which are assessed by the court system on a case-by-case basis.

If you wish to apply for a parenting order, you will need a certificate from a Family Dispute Resolution Practitioner (FDRP) that certifies that a genuine effort at FDR was made.

Family Dispute Resolution Practitioners provide parties with

the necessary support to identify and resolve issues that lead to mutually acceptable and sustainable agreements.

Our Practitioners will guide parties through the FDR process by:

- Identifying and isolating the issues requiring resolution
- Providing an environment where the voice of each party can be heard
- Sharing relevant and useful information
- Providing and engaging professional referrals where necessary
- Exploring ideas and options
- Testing possible solutions
- Reducing decisions and agreements into writing

# Benefits of FDR

The FDR process has many benefits such as:

- Time and money saving over entering the court system
- Promotes cooperation and communication for future parenting
- Provides a structure of resolution for current and future disputes
- Parties have more control in FDR than in court
- Less stress and ordeal than court proceedings
- More effective means of conflict resolution
- Agreements made are generally sustainable given self-agreement



# Family Dispute Resolution (FDR)

## What is Family Dispute Resolution?

Family Dispute Resolution (FDR) is the name used in the Family Law Act 1975 to identify the legal process that helps parties come to an agreement in respect of parenting and property matters.

FDR is an informed method of family mediation that can only be conducted by a Family Dispute Resolution Practitioner (FDRP). An FDRP is an accredited and qualified practitioner that is authorised by the Attorney General of Australia that is able to work in this specialised area of family law.

FDR refers to the work of an FDRP Practitioner and their supporting practitioners which commences from engagement and continues to where an agreement is reached. The FDR process includes initial intakes, assessments, conferences, advice, coaching and agreements. FDR Conferences are where the FDRP assists you negotiate an agreement. The FDRP acts as an impartial third party and facilitates the process between the parties rather than directing it.

FDR creates an environment where parties have control as to the outcome in contrast to court matters where control of the end result resides with the judge and the judge only. A judge's determination is rigid, fixed and determined on the evidence before them. The court process does not have the ability to provide creative solutions, unlike what parties can achieve from FDR. Additionally, parties have their voices heard, and their needs met where agreements are created tailored for and mutually agreed by the parties.

Our FDR process has an informed structure, timetable and dynamics that general negotiation lacks. It is where the experience and the postgraduate qualifications of registered FDRP's comes into action. Depending on your circumstances, the format of FDR can be tailored to meet your needs. Some options we offer are engagement of an additional FDRP, online FDR, joint or shuttle FDR, child inclusive/enhanced and legally assisted FDR.

Not all matters are suited for FDR and before a matter can proceed to an FDR conference, the FDRP must assess whether FDR is appropriate given the circumstances of the parties. Our FDRP's will interview each party separately to assess whether

FDR is appropriate and whether any special sessional planning needs to be undertaken to increase the effectiveness of the FDR conference. When the FDRP makes an assessment as to whether FDR is suitable, they will consider whether the ability of any party to negotiate freely in the dispute is affected by:

- a. any history of family violence
- b. likely safety of the parties
- c. equality of bargaining power between the parties
- d. the risk that a child may suffer abuse
- e. the emotional, psychological, and physical health of the parties

Additionally, the FDRP's can consider any other matter they consider relevant to the proposed FDR.

When considering the above factors should the FDRP be satisfied that FDR is not appropriate, the FDRP must not provide FDR. For parenting matters they may issue a section 60I certificate on request and at their discretion.

In the event you are concerned about threats, violence and controlling or aggressive behaviour please discuss them with your FDRP as these will be considered as to FDR suitability in addition to us being able to ensure you have appropriate information as to where to find help when needed.

When there are current court orders you must present them by email to your FDRP as soon as reasonably practicable so they can be checked as to whether FDR is permissible under the terms of the order.

Our FDRP's will work with each party (individually) to guide, coach and navigate you through the FDR process.

The process of FDR is voluntary and either party may terminate from the process at any time. Additionally, the FDRP may suspend or terminate the process at any time if he or she considers that FDR is no longer appropriate. The FDRP can at their discretion on request issue a s 60i certificate.

## Family Dispute Resolution Practitioners (FDRP)

FDRPs are accredited by the Attorney General under s.10A of the Family Law Act 1975 and the FDRP register is maintained by the Commonwealth Government.

FDRPs are independent from the parties and will remain impartial throughout the FDR process. This means an FDRP will not promote the interests of one over the other. An FDRP facilitates the process by providing support to each of you whilst taking reasonable steps to assist in the safety of each party. An FDRP will facilitate discussions where the priority is focused on the children of the relationship, being consistent with the object of the Act.

An FDRP must not conduct FDR where there is a conflict of interest that arises from a personal, commercial, or professional relationship with either of the parties. An FDRP can commence FDR with the parties when the FDRP has disclosed the conflict of



interest and that conflict is not related to the disputes in question. For FDR to proceed the parties must acknowledge that the conflict of interest exists and must consent to proceed having known of and about the conflict of interest.

It is not the role of FDRP to provide legal advice other than that related to general legal information about the FDR process and information about parenting and financial advice following separation. You ought to seek legal advice and it is your right to obtain independent legal advice before, during and after the FDR process. Additionally, it is strongly recommended that you obtain legal advice prior to commencing FDR and prior to signing any agreement.

## Confidentiality

Communications made by you in FDR will not be disclosed by a FDRP outside the FDR process unless required or authorised by law to do so:

- The FDRP must disclose a communication made in FDR if he or she reasonably believes that disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory.
- Additionally, an FDRP may disclose a communication made in FDR if he or she reasonably believes disclosure is necessary for the purpose of:
  - Protecting a child from the risk of harm (whether physical or psychological)
  - Preventing or lessening a serious and imminent threat to the life or health of a person
  - Reporting the commission, or preventing the likely commission, of an offence involving violence or threat of violence to a person
  - Preventing or lessening a serious and imminent threat to the property of a person
  - Reporting the commission, or preventing the likely commission, of an offence involving intentional damage to property of a person or a threat of damage to property
  - If a lawyer independently represents a child's interest under an order pursuant to the Act.

An FDRP can disclose communications within the FDR with the consent of both parties.

You should not disclose to any person other than your professional advisors for the sole purpose of legal advice a communication made in FDR unless compelled by law to do so.



## Admissibility

Evidence of any manner of anything said, done or any admission made during an FDR intake and assessment or FDR conference except for a Parenting Plan or signed Terms of Settlement, is confidential and is not admissible in legal proceedings or in the court to the extent that the law permits. Additionally, this extends to anything said by or in the company of a professional to whom yourself or your children had been referred to for the purposes of FDR. If an admission has been made by an adult that a child has been abused or is at risk of abuse or disclosure made by a child that a child has been abused then that admission or disclosure may be used admissible as evidence in legal proceedings.

## Steps of the FDR Process with Mediators for Families™

Our FDR program is conducted by a team of highly trained individuals of whom possess a wide range of postgraduate and undergraduate qualifications in law, counselling, psychology, social work and family therapy. Additionally, all FDRPs are accredited and have undertaken specialist postgraduate training and supervision in family dispute resolution.

The Mediators for Families™ 4 Step FDR process is as follows:

### Step One: FDR Intake

- a. You contact us for a free initial consultation
- b. Complete a 1hr formal consultation with a registered Family Mediator
- c. We will invite the other party to participate in the process
- d. If willing the other party also completes a formal consultation with us

### Step Two: FDR Assessment

- a. The FDRP makes a final assessment on FDR suitability and notifies parties of whether suitable or unsuitable. Where a matter is deemed as unsuitable for FDR a s.60I can be issued upon request.

### Step Three: FDR Conference

- a. The FDRP will provide both parties with available dates for pre-mediation conference
- b. The FDRP will send both parties information related to the mediation conference
- c. Both parties will return all signed documentation and make payment for the conference
- d. The FDRP and both parties will attend the FDR conference

### Step Four: FDR Documentation

- a. The FDRP will draft agreements and forward to each parties solicitors (if requested)
- b. The FDRP will issue a s.60I certificate (if requested).

The time taken to complete the FDR process is wholly dependant on the parties participating in each step promptly. Some clients have been able to complete the process in as little as two days and some parties over the course of a few months.

It is recommended to discuss FDR with the other party so the invitation to participate does not come as a surprise. Many clients have found this booklet to be helpful for each of the parties to understand the FDR process, their rights and obligations and associated costs.

# PARENTING MATTERS

Separation and divorce can be a challenging, stressful and an emotional time for all parties involved. It is at this time that decisions also need to be made in regards to the children where they can feel secure and in the short and long term whilst ensuring that they feel loved now and in the future. Parents must ensure any decisions made must provide a safe and secure environment for their children with the greatest amount of predictability and certainty as possible. When developing Parenting Plans, the best interests of the child(ren) must always be at the forefront of discussions, decisions and agreements

## Parenting Plans

### What is a Parenting Plan?

A Parenting Plan is a dated written agreement signed by both parties, that sets out the care of the children of the relationship and must address the care, the welfare and the development of a child to be recognized as a Parenting Plan under the Family Law Act.

A Parenting Plan is flexible to the extent that both parties agree to the changes which is documented i.e. signed by both parties and dated.

### How do Parenting Plans work?

Parenting Plans are not enforceable until they have met the requisite legislative conditions and they have been made into a consent order by the court, at which point they will be enforceable the same as a Parenting Order.

Should you and the other party end up in court in the future, the court will have regard to the most recent Parenting Plan made and its terms.

made. The Family Law system encourages parents to come to an agreement regarding parenting matters which can be reflected in a Parenting Plan.

Prior to the FDR conference we will provide you with:

- a parenting plan guide
- an information sheet outlining how the courts address parenting matters
- an information sheet detailing the children in the separation and divorce process

A typical Parenting Plan covers time spent with each parent, where the child will reside in addition to forms of communication and the practical effects of a child's daily routine. Some plans may cover how the parents will make joint decisions in the future (medical, education, special days). Significant others are commonly addressed in the Parenting Plans which could include grandparents and step parents.

It is important to note that a Parenting Plan overrides a Parenting Order where they conflict. When a Parenting Plan changes a Parenting Order you may not be able to enforce those parts of the Parenting Order where they are inconsistent with the new Parenting Plan.

## What can be included in a Parenting Plan?

Parenting Plans can deal with all aspects relating to the care, welfare and development of a child. As a guide, some things that are commonly included in a Parenting Plan include:

- sharing of parenting responsibility
- where the child will reside
- time the child spends with each parent
- time the child will spend with significant others
- how and when the child will communicate with the other parent
- arrangements for special days

- making changes to Parenting Plan
- how parties will resolve conflict in future
- maintenance of child(ren)
- other issues related to parental responsibility, care, welfare and developmental needs and wants of the child.

You can also include things such as property or spousal maintenance in your Parenting Plan, however you must ensure these are formalised, please seek independent legal advice with respect to this.





## Parenting Plans and impact on Child Support and Family Assistance Payments

**W**hen caring for children there may be an impact to child support and family assistance payments. If a Parenting Plan exists, then the Child Support department can assess your obligations based on those outlined in a Parenting Plan.

If child support payments have been agreed in a Parenting Plan, Child Support cannot enforce it unless

it is accepted as a child support agreement, agreed both parties. There may be implications as to eligibility of Family Tax Benefits. You should seek advice from a legal practitioner, a qualified financial planner and accountant in regard to changing obligations and entitlements with respect to Parenting Plans.

## Things to take into consideration

**W**hen making decisions about a child, their needs must come first and any arrangements must be reasonably practical. Every child has the right to have a meaningful relationship that is free from harm with each parent. You must consider the safety of the child and any views the child has expressed and any relationships with significant others in addition to practical complications of proposed arrangements.

The law also presumes that there shall be shared parental responsibility (exemption includes matters of violence and abuse). This means that parents must have an equal role in making decisions related to short and long-term issues affecting the child.

When considering time spent with each parent, for those parties that are cooperative and civil an equal time arrangement may be appropriate considering that it is in the best interests of the child and is reasonably practicable. In circumstances where equal

time is not practicable, an arrangement could be made where the children spend significant and considerable time with each party when in the best interests of the child and where practicable. This could include time with both parents on weekend, general weekdays and evening and holidays. Additionally, parents can be involved in significant events (weddings) and special days (birthdays).

As noted above, it is important to ensure agreements met are reasonably practicable. You should consider factors such as:

- distance between the parent's homes
- ability to meet the obligations in the arrangements
- the level of communication between the parties and any effect on meeting the arrangement
- what impact the arrangements will have on children

## Reaching an Agreement

**W**hen an agreement is reached in the FDR process it is not automatically enforceable. Parties should take steps to make the agreement enforceable by applying to the court to have it recognised as a Consent Order. This is commonly undertaken by your legal practitioner.

Alternatively, you may enter into a Parenting Plan and whilst not legally enforceable, it does have the ability to override existing Orders and can be taken into account by the court at a later date if the court decides it is in the child's best interests to do so.

## s.60I Certificates

**F**amily Dispute Resolution (FDR) is compulsory for parties wishing to make an application to the court in respect of parenting matters. There are exemptions which include where there is a risk of child abuse, family violence or matters of extreme urgency. Notwithstanding the exemption's parties will need to present a s.60I certificate issued by an accredited and registered Family Dispute Resolution Practitioner.

An FDRP can issue one of five certificates:

1. one of the parties did not attend FDR (refusal or failure)
2. FDR was not appropriate
3. FDR was attended and the parties made a genuine effort
4. The parties attended but did not make a genuine effort
5. The parties attended but the FDRP decided it would not be appropriate to continue FDR

Section 60I certificates are issued on request and at the sole discretion of the participating FDRP only and if issued a copy will be issued to the other party.

When a certificate has been filed by a party in the court, the court may take into consideration when deciding whether to refer the parties back to FDR or when awarding costs against a party.

## Child Enhanced FDR

When progressing and navigating through FDR with our clients, we maintain a strict focus on the children of the relationship with all discussions and decisions focused on the care, welfare and developmental needs of the children.

There are occasions in the FDR process which prompt the child's voice to be heard so parents remain on track when making arrangements for their care, welfare and development. It is not practicable, advisable or ethical to bring the child directly within their parents dispute, so care has been taken to facilitate their voice in discussions regarding their care, welfare and development which is Child Enhanced FDR which is beyond a child focused approach, where the child's voice is heard.

Child Inclusive FDR exists to bring that voice into discussions between the parents and is facilitated by engaging a child consultant to talk with the child to get a better understanding of what is happening with them and how they are dealing with the matter. The qualified consultant will engage the child through activities that prompt their expression of feelings relative to their age, gender and interests. Activities could include playing, talking, drawing or making up stories which can provide the consultant with

the necessary information to prepare advice for the parents and the FDRP in a feedback session where developmental needs may be discussed.

After discussion with their FDRP should parents proceed with Child Informed FDR then the following process will apply:

1. Signed consent forms are returned to the Child Consultant
2. The parents participate in a conversation with the Child Consultant so an assessment can be made as to whether the process is suitable for the matter
3. Each child spends an hour with the Child Consultant independently of their parents
4. In the following FDR session, the Child Consultant provides feedback and support to the parents.

It is important to note that child inclusive FDR is not counselling. No reports are provided to the parents and the process is wholly confidential and is inadmissible under the same regulations as FDR. Feedback provided is formulated after discussion with the child(ren) as to what they are comfortable with the consultant disclosing to the parents.



## PROPERTY MATTERS

Prior to commencing your property mediation conference, we will provide you with:

- a property checklist
- assets and liabilities schedule
- an information sheet outlining how property matters are determined pursuant to the Act.

It is important to be aware that arrangements made with respect to property may include:

- financial support for the children
- financial support for the other party
- redistribution of your property
- Parties should always consider what is just and fair in the circumstances when making agreements, however both parties ought to seek legal advice from a suitability qualified legal practitioner to discuss any potential impact that property may have on you in addition to what issues may be

pertinent on property settlement which could include:

- individual contributions to assets
- individual contributions to developing assets
- assets and liabilities bought into relationship
- obligation to provide and care for the children
- the length of the relationship
- financial and non-financial contributions to the relationship

Additionally, you should seek advice on the issues of the future needs of the parties which could include:

- future earning capacity
- respective incomes
- future employment opportunity
- existing health issues
- age considerations
- re-partnering
- obligations to third parties.

## Agreements

Any agreement made in the mediation process is not automatically binding. Any agreement made can be made into an enforceable document by obtaining a Consent Order or by entering into a Binding Financial Agreement.

As part of our service, we can draft agreements of which are forwarded to your legal practitioner.

# RIGHTS AND OBLIGATIONS

## Disclosure

You must fully and honestly disclose all information and documents, whether personal or financial that is relevant to discussion of the matters at hand. If you do not fully and honestly disclose any agreement made may be set aside at a later date.

## Confidentiality

No communication made by you in FDR will be disclosed by a FDRP unless disclosure is consented by you and the other party where both parties are aged 18 years or older or when required or authorised as follows:

- The FDRP must disclose a communication made in FDR if he or she reasonably believes that disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory.
- Additionally, an FDRP may disclose a communication made in FDR if he or she reasonably believes disclosure is necessary for the purpose of:
- Protecting a child from the risk of harm (whether physical or psychological)

- Preventing or lessening a serious and imminent threat to the life or health of a person
- Reporting the commission, or preventing the likely commission, of an offence involving violence or threat of violence to a person
- Preventing or lessening a serious and imminent threat to the property of a person
- Reporting the commission, or preventing the likely commission, of an offence involving intentional damage to property of a person or a threat of damage to property
- If a lawyer independently represents a child's interest under an order pursuant to the Act
- You should not disclose to any person other than your professional advisors for the sole purpose of legal advice a communication made in FDR unless compelled by law to do so.

## Inadmissibility

You shall not at any time (before, during or after the mediation) contact the FDRP as a witness in any legal or administrative proceeding concerning the dispute or the mediation. If the FDRP receives a subpoena order of similar effect from you or any entity associated with you, you shall pay the Mediators legal and professional costs, disbursements in relation to and including opposing the subpoena and indemnify

and hold harmless the Mediator in respect of all orders for costs that may be made against the Mediator in relation to the subpoena. When you engage the services of the mediator you agree to the above.

## Privacy and Confidentiality

Mediators for Families™ are committed to providing you with quality services in addition to managing your confidential and personal information. Information collected is for the primary purpose of providing our services to you. As Australian FDRP's, Mediators and Lawyers are governed by laws regarding the use and disclosure of your personal and confidential information where your information may be disclosed where:

- a. You consent to its disclosure and/or use;
- b. We are required or authorised by law to do so.

Your personal information is stored in a manner which reasonably protects from disclosure, modification, misuse, loss and from unauthorised access. When your personal information is no longer needed for the

purpose of which it was obtained, we will take steps to deidentify you or to destroy the information obtained from you. Most information can be held in a client file for a minimum period of seven years.

It is important to us that information held is accurate and up to date. We will take reasonable steps to make sure that your Personal Information up-to-date, accurate and complete. Should you find that the information held is not up to date or accurate, please contact us as soon as reasonably practicable so we can update our records. This ensures that we can continue to provide you with quality professional service.





## Our Fees

Our professional charges are determined by either fixed fee packages or by hourly increments.

To ensure we can offer a quality service that is value for money, we constantly benchmark our pricing against the market that offers a service that is benchmarked against our service delivery and quality.

Our current fixed fee packages are available at

<https://www.mediatorsforfamilies.com.au/fees>

## Complaints

Mediators for Families™ aim to provide prompt, cost efficient and professional mediation services. In the event you are dissatisfied with any aspect of the service you have received, please raise this concern with your FDRP in writing. If you are unable to resolve your concern with the FDRP you may then bring your concern to the attention of the principal of Mediators for Families™. We aim to resolve all concerns with empathy in a prompt and professional manner. If the complaint remains unresolved, please request the details of the our complaints handling body.

## RESOURCES

### Useful Links

#### Personal Counselling & Support

Lifeline 131 114 [www.lifeline.org.au](http://www.lifeline.org.au)

Relationships Australia 1300 364 277 [www.relationships.org.au](http://www.relationships.org.au)

Domestic Violence Help Line (Women) 1800 811 811 [www.dvconnect.org](http://www.dvconnect.org)

Domestic Violence Help Line (Men) 1800 600 636 [www.dvconnect.org](http://www.dvconnect.org)

Men's Help Line 1300 789 978 [www.mensline.org.au](http://www.mensline.org.au)

#### Children's Support Services

Kid's Help Line 1800 551 800 [www.kidshelpline.com.au](http://www.kidshelpline.com.au)

#### Safety Services: Personal and Children

Lifeline 131 114 [www.lifeline.org.au](http://www.lifeline.org.au)

Domestic Violence Help Line (Women) 1800 811 811 [www.dvconnect.org](http://www.dvconnect.org)

Domestic Violence Help Line (Men) 1800 600 636 [www.dvconnect.org](http://www.dvconnect.org)

Suicidal Call Back Service 1300 659 467 [www.suicidcallbackservice.org.au](http://www.suicidcallbackservice.org.au)

Department of Child Safety (QLD) 1800 177 135 [www.csyw.qld.gov.au](http://www.csyw.qld.gov.au)

Department of Child Protection (NSW) 132 111 [www.facs.nsw.gov.au](http://www.facs.nsw.gov.au)

Department of Child and Youth Protection Services (ACT) 1300 556 729 [www.communityservices.act.gov.au](http://www.communityservices.act.gov.au)

Department of Child Protection (VIC) 131 278 [www.dhhs.vic.gov.au](http://www.dhhs.vic.gov.au)

Department of Child Safety Services (TAS) 1800 000 123 [www.communities.tas.gov.au](http://www.communities.tas.gov.au)

Department for Child Protection (SA) 131 478 [www.childprotection.sa.gov.au](http://www.childprotection.sa.gov.au)

Department of Communities: Child Protection (WA) 1800 622 258 [www.dcp.wa.gov.au](http://www.dcp.wa.gov.au)

#### Mental Health

Beyond Blue 1300 224 636 [www.beyondblue.org.au](http://www.beyondblue.org.au)

#### Drugs and Alcohol

Department of Health 1800 250 015 [www.health.gov.au](http://www.health.gov.au)

Alcohol Anonymous Australia 1300 222 222 [www.aa.org.au](http://www.aa.org.au)

Narcotics Anonymous Australia 1300 652 820 [www.na.org.au](http://www.na.org.au)



## CONTACT US

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