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## INFORMATION ON FAMILY DISPUTE RESOLUTION (FDR)

FDR is a process in which a Family Dispute Resolution Practitioner (FDRP), independent of the parties, helps people to resolve some or all their disputes arising from separation or divorce (see Part II, Division 3 of the Family Law Act 1975). FDRPs are trained in assisting people to resolve disputes, but they do not give legal advice or impose a decision.

The Attorney-General's Department maintains a register of all accredited FDRPs which can be searched. This register includes the details of private FDRPs who conduct FDR for varying fees.

Persons who have a parenting dispute about matters that may be dealt with by an order under Part VII of the Family Law Act or Part XIII A, must make a genuine effort to resolve that dispute by FDR before filing a parenting application for a Part VII order to the Court unless they are granted an exemption from participating in FDR. See section 60I(9) for the reasons an exemption can be granted.

FDRPs are to ensure that consumers receive information to enable them to understand the important elements of family dispute resolution. This information must be provided prior to commencing family dispute resolution and must include the following information:

- That it is not the role of the family dispute resolution practitioner to give people legal advice (unless the FDRP is also a legal practitioner).
- The FDRP's confidentiality and disclosure obligations (**as detailed below**).
- The generally inadmissible status of communications made in family dispute resolution (**as detailed below**).
- The qualifications of the FDRP to be a family dispute resolution practitioner. **I am registered with the Federal Attorney General's Department. I am also a Nationally Accredited Mediator with the Queensland Law Society.**
- The fees charged by the FDRP in respect of the family dispute resolution. My fees are outlined in the Schedule of Fees.
- The family dispute resolution must be attended before applying for an order under Part VII or Part XIII A of the Family Law Act (**as explained above**)
- That, if a person wants to apply to the court for an order under Part VII or Part XIII A of the Act, the FDRP may provide a certificate under subsection 60I (8) of the Act, including a certificate to the effect that:
  - \* the other party did not attend,
  - \* both parties attended and made a genuine effort to resolve the dispute,

- \* both parties attended, but one or both did not make a genuine effort to resolve the dispute,
  - \* the FDRP decided that the matter was not appropriate for Family Dispute Resolution, or
  - \* the FDRP decided it was not appropriate to continue when it was part way through the dispute resolution process.
- Information about the complaints mechanism that a person who wants to complain about the family dispute resolution service may use. Any complaints can be referred to The Resolution Institute where they have an approved mechanism for handling complaints. [https://resolution.institute/FDRP/Complaints\\_Policy\\_for\\_FDRPs\\_Approved\\_April\\_2025.pdf](https://resolution.institute/FDRP/Complaints_Policy_for_FDRPs_Approved_April_2025.pdf)

### **SERVICES THAT ASSIST RECONCILIATION**

FDRPs must give a married person who is considering a divorce, or considering going to court about their children or their finances, information about family counselling and FDR services available to help with reconciliation.

Information does not need to be given if the FDRP believes they already have the relevant information or they believe that there is no reasonable possibility of reconciliation.

Information on relevant services can be obtained by searching family relationships Online at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au) for family counselling services or by contacting the family relationship Advice Line on 1800 050 321.

### **INFORMATION IN CASES INVOLVING FAMILY VIOLENCE OR CHILD ABUSE**

As set out above, section 60J provides several exceptions to this requirement, to ensure that people are not required to attend family dispute resolution in circumstances where it may not be appropriate, such as:

- where people are applying for a consent order;
- where an application has been made for procedural or interim orders while the main proceedings are happening;
- where there has been, or there is risk of, family violence or child abuse;
- in cases of contravention within 12 months of a court order. The court must be satisfied that a person has shown serious disregard for his or her obligations under the order;
- where the matter is urgent. This may cover an application to give immediate protection to a child, or for the urgent location and recovery of a child, including cases of child abduction; and
- where a party is unable to participate effectively in dispute resolution. This covers circumstances such as incapacity or physical remoteness.

Section 60J of the Act aims to ensure that people who are not required to attend family dispute resolution due to child abuse or family violence obtain information about the services and options available to them.

An applicant for an order concerning children will be required to indicate in writing whether they have or have not received the information.

People are not required to obtain this information where there is risk of child abuse or family violence if the matter is delayed getting to court.

Information on relevant services can be obtained by searching family relationships online at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au) or by contacting the Family relationship Advise Line on 1800050321

## **WHAT HAPPENS AFTER FAMILY DISPUTE RESOLUTION FINISHES**

When a dispute resolution conference has finished, even where agreement has been reached, the Registrar or practitioner convening the conference must complete the prescribed Certificate of Dispute Resolution which will indicate whether:

- the matter has resolved in whole or in part,
- the parties attended, and
- the parties made a genuine effort to resolve issues.

That certificate must be provided to the Court.

When agreement is reached at dispute resolution, you and the other party can ask the Court to make orders by consent or enter into a parenting plan.

## **INFORMATION ABOUT PARENTING PLANS**

### **What is a parenting plan?**

A parenting plan is a written agreement that sets out parenting arrangements for children. A parenting plan covers the day to day responsibilities of each parent, the practical considerations of a child's daily life, as well as how parents will agree and consult on important, long-term issues, such as which school's children will attend. There is no standard template for a parenting plan.

A parenting plan is not a legally enforceable agreement, and is different from a parenting order, which is made in court. Parties to a parenting plan can ask the court to make 'consent orders' in the terms of that plan.

The court will only make a consent order if it is satisfied that the terms of the plan are in the best interests of the child. Once made, consent orders are legally binding – they have the same effect as any other order made by a court.

If parents proceed to court at any time, the court will be required to consider the term of the most recent parenting plan when making a parenting order in relation to a child, if it is in the best interests of the child to do so. To be recognised by the court, a parenting plan must be in writing, dated and signed by both parents. It must be made free from any threats, duress or coercion.

In addition, when considering the best interests of the child, the court will also consider the extent to which both parents have complied with their obligations in relation to the child, which may include the terms of a parenting plan.

The type of information you must be given by the FDRP depends on whether you are generally discussing the arrangements for your children after separation or specifically providing information in connection with making and entering into a parenting plan.

Generally, parents who are discussing parental responsibility for their children after they separate need to understand:

- they can consider entering into a parenting plan, and
- information about the services to assist them in developing a plan.

When parents are entering into a parenting plan then the FDRP must inform people:

- Their paramount consideration must be what is in the best interests of a child. Each child is different, and has different needs, depending on their age and stage of development.
- The matters that can be dealt with in the parenting plan, including:
  - \* who the child will live with,
  - \* what time the child will spend with each parent,
  - \* what time the child will spend with other people, such as grandparents,
  - \* how parental responsibility will be allocated (whether parents will make joint decision making for major long term issues),
  - \* consultations that should occur if the parents are to make joint decisions (such as the school the child will attend),
  - \* what process can be used to change the plan or resolve any disagreements about the plan, and
  - \* any other decision about the care, welfare and development of the child.
- That the terms of the Plan may alter a previously made court order about the child.
- That it is desirable to include in the Plan, information about how people will consult and resolve disputes about the plan and the process for changing the Plan.

### **CONFIDENTIALITY AND ADMISSIBILITY REQUIREMENTS**

Section 10H of the Act sets out the circumstances in which communications made in family dispute resolution must be disclosed.

FDRPs must not disclose a communication made in family dispute resolution unless the disclosure is required or authorized under the Act.

A FDRP **must** disclose a communication made in family dispute resolution if he or she reasonably believes that the disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory (e.g. to comply with legislation requiring mandatory disclosure of suspected child abuse).

An FDRP may disclose a communication made in family dispute resolution if he or she reasonably believes that the disclosure is necessary for the purpose of:

- protecting a child from risk of physical or psychological harm,
- 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 a 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 the property of a person or a threat of damage to property, or
- assisting an independent children's lawyer to properly represent a child's interests.

## **INADMISSIBILITY**

Communications made in FDR are not admissible in any court or proceedings in any jurisdiction (unless they involve child abuse). An admission or disclosure that indicates a child under 18 has been abused, or is at risk of abuse, may be admitted as evidence in a court unless there is already sufficient evidence of the admission or disclosure available to the court from other sources.