

JENNY RIMMER MEDIATIONS

Mediation and Family Dispute Resolution Services

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INFORMATION ON FAMILY DISPUTE RESOLUTION (FDR)

Regulation 63 of the Regulations requires family dispute resolution practitioners 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 family dispute resolution practitioner is also a legal practitioner).
- The family dispute resolution practitioner's confidentiality and disclosure obligations under section 10H of the Act (**as detailed below**).
- The generally inadmissible status of communications made in family dispute resolution (**as detailed below**).
- The qualifications of the family dispute resolution practitioner 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 family dispute resolution practitioner in respect of the family dispute resolution (My fee is **\$4,740.00 per day plus GST to be paid in advance of the mediation and any additional fee incurred for room hire**).
- The family dispute resolution must be attended if required under section 60I of the Act, before applying for an order under Part VII of the Act (**as explained above**)
- That, if a person wants to apply to the court for an order under Part VII of the Act, the family dispute resolution practitioner may provide a certificate under subsection 60I (8) of the Act, including a certificate to the effect that the person:
 - * did not attend family dispute resolution due to the refusal, or the failure, of the other party or parties to the proceedings to attend, or
 - * attended family dispute resolution with the other party or parties to the proceedings but that person, the other party or another of the parties did not make a genuine effort to resolve the issue or issues, or
 - * did not attend family dispute resolution with me and the other party or parties to the proceedings because I consider, having regard to the matters mentioned in subregulation 25 (2), that it would not be appropriate to conduct the proposed family dispute resolution, or.
 - * began attending family dispute resolution with me and the other party or parties to the proceedings but I considered, having regard to the matters mentioned in subregulation 25 (2), that it would not be appropriate to continue the family dispute resolution.

- If a certificate under subsection 60I (8) of the Act is filed, the court may take it into account in considering whether to make an order under section 13C of the Act referring the parties to family dispute resolution or to award costs against a party under section 117 of the Act.
- 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 Queensland Law Society Telephone 3842 5888. There is a mechanism for handling complaints.**

SERVICES THAT ASSIST RECONCILIATION

Part IIIA of the Act sets out the obligations of specified individuals to inform people about non-court based family services and other important matters relating to family relationships.

Section 12G of the Act requires family dispute resolution practitioners who deal with a married person who is considering instituting proceedings for a divorce, or considering going to court in relation to proceedings about their children or their finances under the family Law Act, to give that person (and, in appropriate cases, that person's spouse) documents containing information about family counseling and family dispute resolution services available to help with a reconciliation between parties to a marriage.

Information on relevant services can be obtained by searching family relationships Online at 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 60I of the Act imposes a general requirement on people to attempt to resolve their disputes about children's matters (that is, matters that are dealt with under Part VII of the Act) before commencing a court process. The act provides a number of 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 or by contacting the Family Relationship Advice Line on 1800050321

INFORMATION ABOUT PARENTING PLANS – FACT SHEET

What is a parenting plan?

A parenting plan is an 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 schools children will attend.

A parenting plan, in itself, 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.

Similarly, prior to 14 January 2004 it was possible to 'register' a parenting plan with the court. A registered parenting plan also has the same legal effect as a court order.

If parents proceed to court at any time, the court will be required to consider the terms 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. In order to be recognized 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.

CONFIDENTIALITY AND ADMISSIBILITY REQUIREMENTS

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

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

A family dispute resolution practitioner **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).

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

- a) protecting a child from risk of physical or psychological harm,
- b) preventing or lessening a serious and imminent threat to the life or health of a person,
- c) reporting the commission, or preventing the likely commission, of an offence involving violence or a threat of violence to a person,
- d) preventing or lessening a serious and imminent threat to the property of a person,
- e) 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
- f) assisting an independent children's lawyer to properly represent a child's interests.