



Information Pack

What is Family Dispute Resolution (FDR)?

Family Dispute Resolution (FDR) is a special type of mediation for helping separating families to come to their own agreements. During FDR families will discuss the issues in dispute and consider different options, while being encouraged to focus on the needs of their children. FDR uses a neutral and accredited Family Dispute Resolution practitioner. The main objective of FDR is to assist participants to make a parenting plan setting out the agreed future parenting arrangements. It is a practical and low-cost way for separating families to sort out future parenting arrangements with professional help.

Is FDR Compulsory?

FDR is voluntary, however if a participant decides not to participate a 60i certificate might be issued stating their non-attendance [see further information below].

An attempt at FDR is compulsory under the Family Law Act before applying to a family law court for parenting orders.

There are exemptions to this requirement, including:

- when you are formalising an agreement through ‘consent orders’
- where family violence or child abuse is a factor
- when you are responding to an application to court
- urgent issues
- a person is unable to participate effectively (for example, due to incapacity or geographical location), or
- a person has contravened and shown a serious disregard for a court order made in the last 12 months.

Who are Family Dispute Resolution Practitioners (FDRPs)?

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An FDR practitioner is an independent person trained in mediation and negotiation and specialising in family disputes. They are neutral and don't take sides with any of the people involved in the mediation. They will facilitate the process by encouraging people to talk about the particular issues in dispute.

They are trained in working in a family law environment and in responding to domestic and family violence, however, they cannot give legal advice. They are also trained in creating a supportive environment, particularly for the safety of vulnerable people. They should provide a safe environment to allow people to openly discuss and clarify issues as well as allow them to feel safe to disagree.

Are things said at FDR confidential and can they be used in court?

Everything you say in front of an FDR practitioner is confidential – except in certain circumstances, such as to prevent a serious threat to someone's life or health or the commission of a crime. What is said during FDR cannot be used as evidence in court. However, an FDR practitioner must report child abuse, or anything said that indicates a child is at risk of abuse, and this may be used as evidence in some circumstances.

What is Suitability?

The FDR practitioner will assess if FDR is suitable for the family situation during the intake appointment. The assessment considers issues such as family violence, safety, equality of bargaining power, risks to children, the emotional and psychological health of participants and any other issues that they think may make FDR unsuitable.

What if I feel unsafe?

It's important that you feel safe, and are safe before, during and after FDR. If you have concerns about your safety or the safety of your children, you should tell your FDRP as soon as possible. This may mean that FDR stops or does not proceed. However, if the parties agree, they can participate in FDR without being in the same room. There is no requirement to undertake FDR if there has been family violence or child abuse.

What is a 60i Certificate?

If a party decides not to participate in mediation or if the mediation is not successful for whatever reason, a 60i certificate can be issued to allow an application to be made to a family law court. A 60i certificate can also be issued if FDR is not appropriate for the particular situation. This could mean there are concerns about family violence, the safety of the parties

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and risks to children, the ability for each party to be able to negotiate, or other issues the practitioner feels are relevant.

The Section 60I certificate will say one of the following things:

- the other party did not attend.
- you and the other party attended and made a genuine effort to resolve the dispute.
- you and the other party attended but one or both of you did not make a genuine effort to resolve the dispute.
- the FDR practitioner decided your case was not appropriate for FDR, or
- the FDR practitioner decided it was not appropriate to continue part way through the FDR process.

Will the children be involved in FDR?

FDR is commonly only between the parents or relevant family members. However, some models of mediation can be 'child-inclusive', with a child consultant that talks with the children and provides the child's views back to the parents during the mediation. Child-inclusive mediation remains at the discretion of the FDRP.

What happens during the Joint Mediation Session?

The FDRP will help parties to identify the issues that need to be resolved and encourage each party to listen to the other's point of view. The FDRP will try to keep each person on track and focussed on the child/ren. Ideas and options will be shared with the aim of coming up with workable solutions that are in the best interests of the child/ren. The participants will be helped to develop a parenting plan to set out arrangements for the children. An FDRP will also check that everyone understands what is being said and agreed upon.

What is a Parenting Plan?

A parenting plan is a written record of an agreement between the parents about the care of the children that is also signed and dated. However, it is not a legally enforceable agreement. There is no required format for a parenting plan. Making a parenting plan is cheaper and less stressful than going to court for a parenting order.

Information: [Family mediation and dispute resolution](#) | [Family Relationships Online](#)

Process Flowchart:

